

Fly on the wall

Fly heard the oddest rumour the other day. It had attached to it that combination between a hint of excitement and a flutter of disbelief that tends to attend eager and stories that forever elude those flit before their shadows. It was also one of those things that happened to someone close enough to the immediate party delivering the report to overcome over-fastidious objections based on hearsay, yet far enough from that same messenger to render him impervious to subsequent embarrassment if the story should prove to have been nothing more. The same rumour had been whispered a few times, by different sources, lessening, in the process, any potential dangers of self-corroboration, and lifting, at the same time, the weight of the yoke of the cautionary rule that still governs single witnesses, although now in a prim version of its old shape, the days far gone when that rule had all sorts of things to say about the mendacity of those who liked bearing witness about matters sexual.

One of Fly's brethren, so the rumour went, had finished a trial. Of course, it must have been at least two of the brethren (or it could have been a brother and a sister, two sisters, or, Fly supposed, a brother, a sister, and another of a different family also known to be engaged in the business of trying to finish trials). Be that as it might, the trial had (and here it must be emphasised that Fly had no personal knowledge of the truth of the assertion, and reports it with full acknowledgement of the audacity of its mere enunciation) been completed. Friends, friends. Those quick to say, 'yes, of course, but that was a 33(4) that had finally determined four of the ninety-seven issues in the pleadings, and the matter had technically speaking been postponed *sine die* for the remainder of the trial that nobody ever got around to setting down again because judgment was still being awaited on the issue of costs, and the appeal was still pending on that important interlocutory struggle about 'security'; those, as Fly says, who would point out that there were completed trials and then there were Completed Trials, must sit up and listen. This was, indeed, a Completed Trial. Raised eyebrows and knowing slow nods accompanied the portent of the delivery of the news that this one had proceeded through each of the issues pleaded; every intended witness had been called; every question of fact that required resolution had been addressed; all stages of

appeals and reserved cost orders had been left in the wake; and judgment had been delivered. The debt had been paid; there were then no proceedings for a writ; and the parties felt each that, although the points decided against them had been worthy of presentation, ultimately the decision was correct; nobody felt aggrieved, and justice, as some say, had been done. An aspect of the legend that nobody seemed willing, when pressed hard on the issue, to confirm with any constancy, was the notion that a pupil had been present when the instructing attorney had first introduced the matter to the relevant brother, and had attended the first consultation with the witnesses, that the instructing attorneys had indeed first taken a detailed statement from the clients before this first consultation, had attended at the consultation with a paginated bundle of all documents they had thought, at that initial stage, would probably be relevant to the matter, and that this pupil had personally witnessed, during his year of pupillage, the consummation of the whole matter, through the stage of pleadings being drawn (again, the instructing attorneys had drawn a comprehensive draft, accompanied by a file of authorities and a concise, yet full and precise, exposition on the law) to the requesting of further particulars (which had – this is really insisted upon by some – been com-

pleted and answered some five months prior to the hearing date) to the consideration of the discovered documents (there had not been a single occasion when it had proved necessary to remind the clients of the fact that a document that 'pretty much killed the thing' was indeed relevant and discoverable, nor that a dispute that stretched over six decades had to have yielded more than four printed pages of documents that also happened to be the correspondence between the attorneys), to the leading of evidence (there had not been a single postponement, nor one interlocutory application, and there had been a pre-trial conference at which both sides had applied themselves with vigour and conscience to the task of crystallising the issues that were truly at the heart of the dispute), which evidence entailed witnesses testifying to versions that corresponded to instructions noted during consultations, to the delivery of judgement. Some went so far as to add that nobody ridiculed any individual associated with the opposition; everybody felt that all fees charged had been reasonable and all work done the result of conscientious and responsible industry and professionalism; and that the court proceedings were cordial throughout, interspersed by not a single instance of the snide jab or the fit of indignation. And the lifts had worked every day. □



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