In the courtroom

The views of an anonymous judge

In the courtroom, the no man's land between 2.20pm and 3.10pm is a spiritual wasteland across whose desolate emptiness counsel wearily drudge like the dead. From up above on the bench, the judge sat reposed amidst a chaotic mess of Post It notes and innumerable aides-memoir, struggling with almost superhuman strength to keep her eyes open, willing with every fibre of her being this mind-crushing cross-examination on the 2008 draft accounts to end. Briefly she imagined she was away from this dry, stoney place and next to a babbling brook, in an ancient forest gently buzzing with the hum of crickets and bees; faint strains of The Lark Ascending gently flowed through the airy boughs high above. In this verdant haze she imagined herself holding with one hand, but with such delicate poise, cross-examining counsel's bewigged head in the stream and exhaling calmly, but Note 6 to the balance sheet snapped her back to the empty weariness of the courtroom. Agonisingly, the second hand on the clock had but moved 20 seconds. At this rate, it would literally take an eternity to arrive at the inviting pools of relief which lay in the far distance after 3.20pm when her eyelids, no longer besieged by that oh-so-unwise prawn linguine at lunch, would finally be able to remain open without conscious effort. In that moment of spiritual core collapse, she wondered what had become of Miranda in *Picnic at Hanging Rock* and whether she too would end up wherever it was that Miranda had gone (was it the registry; was *that* where Miranda had gone?). Or would she, instead, like Mrs Appleyard, run screaming from the courtroom and throw herself down a deep ravine (or was *that* the registry?). From where she sat, both had their advantages (what had become of the registrar? – she had not seen him in months).

'Your Honour', senior counsel interrupted her reverie, 'I think I might move on to a different topic'. Not such a bad idea really, she thought to her Honourable self, this topic has certainly been ploughed into the ground with salt. 'In fact, your Honour, I was going to suggest that we might break the cross-examination altogether so that we can outline where we are with the written submissions'. Greeks bearing gifts! Her Honour knew exactly where the parties were with the written submissions. In some infernal workshop not too far from the courtroom, juniors of diabolical intelligence and drive were, even now, crafting the instruments of persuasion from blocks of purest malice. The choice of chastisements available to these ingenious wunderkinder were, in the age of the internet, very extensive. There was, of course, the profession's perennial favourite, popular since the rise of the modern word processor, the very long submission ('VLS'). It always astonished her Honour that many counsel regarded the length of a submission to be a virtue as if it were some kind of medieval battering ram ('like, you know, my submissions were totes long' she once overheard in the coffee shop – totes? really?). Then there was the *light-on-detail* submission ('LODS') in which counsel, in a generous gesture of confidence, would usefully tell her that 'the evidence shows that the meeting did not occur' without dropping even the slightest hint or allusion as to what that evidence might be. This kind of counsel worked on the assumption that facts were like truffles, an expensive delicacy not to be consumed in substantial qualities at all; also, that judges were truffle pigs. And, just as in the case of the poor truffle pig, the judge never got the good end of the deal.

By far the worst of all kinds of submissions, however, were those resulting from a twisted conspiracy between opposing counsel to harm the judge by making their written submissions bear no relation to each other. One would discuss estoppel, the other contract; one would launch a spirited attack on the witness Jones, the other would not mention him at all and so on. Often this induced in a judge a destabilising psychological effect, not dissimilar to waterboarding or other enhanced techniques. When this happened to her Honour, as it had on frequent occasions, she often felt that she had heard two, quite unrelated, cases. Unravelling such monstrous cacophonies had sent many judges, including her Honour's immediate predecessor, mad (or, perhaps, in some well-known cases, madder).

Regardless of the content of the written submissions, it was to senior counsel that her Honour would eventually be required to listen in this turgid sideshow. Her Honour was not optimistic. Based on previous encounters she knew that what this silken showman said usually bore little, if any, relation to the written submissions prepared by his much more able juniors. Indeed, his relationship with the submissions was, to use a word he kept using over and over again in the present case, exiguous (at least he was not wearing a chausette). In many ways, he seemed to her to bear the same relationship to the written submissions that vermouth bears to a very dry martini. She wondered, idly, whether he had an atomiser.

At that moment, she looked up. The dissolute youths with the trolleys had arrived and the big hand was nearly on the 12. Immediate relief was at hand. But what would they do to her tomorrow? Only time would tell.

Archon's View is a new column. It provides an opportunity for a current judicial officer to provide an anonymous view of the Bar.