

'IN'-CAMERA; THE SCALES OF 'IN'-JUSTICE.

The scale balance is a remarkably simple tool. It follows one of the fundamental principles of physics and operates under the “law of the lever”. Every child who has used a playground see-saw is familiar with the physical law that to achieve balance and equilibrium, two weights on opposing sides of a see-saw have to be equal.

Hand held scales, whether used for weighing gold, silver, salt or spices, have been used in trading for over 3,000 years by civilizations such as the Babylonians, the Chinese and the Egyptians. Scales are clearly depicted in drawings found on walls in the pyramids.

The principle and simplicity of physically balancing one weight against another combined with the equally important practice of ‘weighing out’ in the presence and in full view of both parties engaged in trading became universally accepted as the tools of ‘fair trade’. The scales were so respected as a device which measured equality that in Roman times, it was adopted by the State’s Judiciary as the symbol and visual representation of fairness, equality and even handedness.

However, imagine this situation: - the scene is a bazaar back in the time of The Roman Empire, you are about to conduct business with a gold trader. The use of the scale balance is the cornerstone of measuring and agreeing weights and thereby avoiding disputes among trading parties.

Now, imagine that instead of the gold trader measuring the weight of your gold in front of you, he says ‘I’ll just pop out back with your gold and my scales and carry out the weighing there – will you trust me?’
What would your response be?

Since the times of the Greeks, the concept of justice for the individual citizen has required that courts be held in public. There is a widely used phrase *‘Justice must not only be done but be SEEN to be done’* – and therein lies the principle of open courts, public galleries and open doors...all contributing to the democratic belief that public scrutiny is the antidote to corruption.

Imagine a situation where there was no open court; where there were no public galleries and therefore no public scrutiny; where ‘justice’ was dispensed behind closed doors. Would you have any confidence in this system?

Well, there is such a system. It operates right now in 1999. It operates in Ireland. It is used in Family Law hearings. It is called ‘**In-camera**’.

The notion that justice can be administered in secret, by omnipotent autocrats flies in the face of natural justice and democracy and both undermines and destabilizes the justice system as a whole.

The Emperor’s New Clothes is a classic story where a child could clearly see what the Emperor, his courtesans, aides and advisors and subjects – in fact, what the entire population would not see. Whether from vested interests or blind ignorance, they chose not to see or were too afraid to speak out. Yet it was a child using simple observation and honesty who let everyone see that the Emperor was wearing no clothes.

The statue which stands high above the Four Courts, perched over a facade of Greek and Roman civil architecture complete with columns and portico, proudly holds a scale balance in her left hand for all the passing citizens to see. Until the in-camera rule is abolished, the judiciary should take down these scales from public view and place them behind closed doors in some darkened back room where the secrecy of their form of justice is carried out – free from the prying eyes of the citizens of this state.

“The most benign climate for the growth of corruption and abuse of powers, whether by the judiciary or members of the legal profession, is one of secrecy”.

----- Judge Keane, Supreme Court.