



Compass Chambers

LENGTHY AND COMPLEX TRIALS

CLARE CONNELLY
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WHAT SORT OF TRIALS

- FRAUD IS THE MOST COMMON
- MONEY LAUNDERING TENDS TO BE CHARGED IN CONJUNCTION WITH FRAUD
- OTHER TRIALS MAY BE COMPLEX BUT THE AVERAGE LENGTH OF A CRIMINAL TRIAL IS 5 - 7 DAYS.

What is difficult about Fraud Trials

- They are boring
- They generally involve consideration of detailed financial records and often lots of them
- They can involve complex matters such as Share Purchase Agreements.
- The laws relating to matters such as VAT or tax are impenetrable for the best of us.

MONEY LAUNDERING

- S.327 OF THE PROCEEDS OF CRIME ACT 2002 CREATES ONE OF THREE PRINCIPAL MONEY LAUNDERING OFFENCES, THE OTHER 2 ARE AT S. 328 AND S.329.
- CRIMINAL PROPERTY IS DEFINED AT S.340
- ALL 3 OFFENCES APPLY TO THE LAUNDERING ON AN OFFENDER'S OWN PROCEEDS OF CRIME AS WELL AS THOSE OF SOMEONE ELSE.
- DEFENCES
- PENALTIES

MANAGING LENGTHY TRIALS

- IN 1993, THE THEN LONGEST CRIMINAL TRIAL IN SCOTLAND COLLAPSED AFTER 122 DAYS. PF V GEORGE THOMSON, HAMILTON SHERIFF COURT.
- PF V KUPKA, FOJTIK AND RONDOS, GLASGOW SHERIFF COURT, ENDED MARCH 2013 AFTER 6 MONTHS BECOMING THE NEW RECORD HOLDERS

MANAGEMENT OF LONG AND COMPLEX CASES IN SCOTLAND

- *TRANSCO PLC V HM ADVOCATE* 2005 JC 44
- HM ADVOCATE V MCLAREN AND OTHERS,
UNREPORTED, GLASGOW HIGH COURT,
MAY 2017

ARTICLE 6 AND LONG TRIALS

- A long trial involving complex and detailed evidence that requires to be considered in respect of each charge raises the question of whether a reasonable jury could be assumed to recollect the evidence of the witnesses to a standard that would allow a fair and reasonable assessment of the evidence. Unless this is the conclusion reached, the accused can not have a fair trial.

- JUBILEE LINE CASE
- 7 ACCUSED (6 BY TIME OF COLLAPSE)
- 4 CORRUPTION CHARGES AND 2 CONSPIRACY TO DEFRAUD
- ESTIMATED LENGTH 6-8 MONTHS
- EVIDENCE COMMENCED 2ND JULY 2003
- COLLAPSED 22 MARCH 2005



- REASON FOR DESERTION:

Crown requested the trial be discontinued because the evidence was no longer a "living story" and had lost its "immediacy and impact".

LORD CHIEF JUSTICE'S PROTOCOL

- A Protocol and three new Practice Directions handed down on 22 March 2005
- CASE MANAGEMENT BY THE JUDICIARY- DEDICATED JUDGE THROUGHOUT
- NO CASE TO LAST MORE THAN 3 MONTHS. 6 MONTHS MAXIMUM SAVE EXCEPTIONAL CIRCUMSTANCES
- EARLY TRIAL DATE



- There should then be a real dialogue between the judge and all advocates for the purpose of identifying:
The focus of the prosecution case.
- The common ground.
- The real issues in the case. (Rule 3.2 of the Criminal Procedure Rules.)

THE TRIAL

- The particular hazard of heavy fraud trials
- Judicial mastery of the case
- The order of the evidence
- Case management sessions
- Controlling prolix cross-examination
- Electronic presentation of evidence
- Use of interviews



Compass Chambers

- **Jury Management**
- **Maxwell hours**
- **Livenote**
- **Defence representation and defence costs**

MANAGING A DEFENCE CASE

- RELIANCE ON ELECTRONIC SOURCES
- CLIENT MANAGEMENT
- KEEPING A JURY ENGAGED
- PROTECTING THE ARTICLE 6 RIGHTS OF AN ACCUSED



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