

Public interest law

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In the same spirit, let us yield to the challenge of fighting poverty through litigation and by doing so, give meaningful effect to the deep-rooted traditions of the Bar and its Statement of Intent to provide “access to justice for indigent persons” and the commitment to

“attain justice for all according to the Rule of Law”. Too few of us are presently doing this.

Endnotes

¹ An application for leave to appeal against the order of the high court was heard by the Constitutional Court on 2, 3 and 6 May 2002.

The merits of the application were considered at this hearing.

² At paras 80-81.

³ “Financing Public Interest Law: The Role of the Organised Bar.” Address by Justice Thurgood Marshall to the Award of Merit Luncheon of the Bar Activities Section of the American Bar Association, August 10, 1975.

⁴ Nan Aron *Liberty and Justice for All: Public Interest Law in the 1980's and Beyond* (1989) Westview Press at 3.

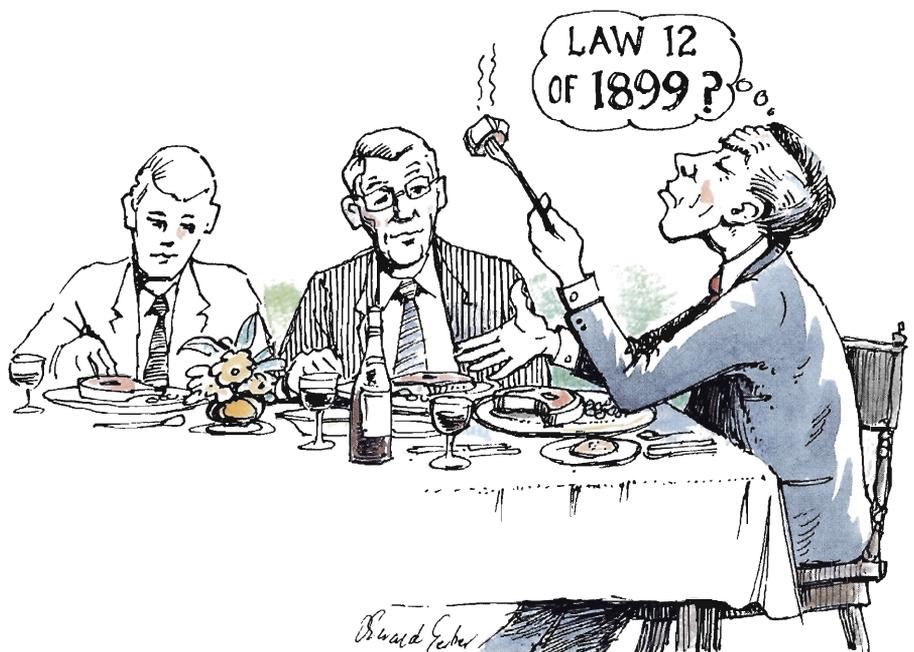
⁵ Legal Resources Centre *Legal Resources Trust Annual Report* 1 April 1998 to 31 March 1999 at p 4. 

Fly on the wall

Fly on the Wall was in motion court in Pretoria on Wednesday 7 August. Ginsberg SC was leader in a matter in which Selvan SC was leader against him. Fly on the Wall started listening when Selvan SC submitted to Van der Walt J that the provisions of Law 12 of 1899 of the Transvaal were the kind of thing Selvan SC would have expected to have been the topic of dinner conversation among the Ginsbergs. Ginsberg SC assured Selvan SC and the court that this was not so. Van der Walt J wanted to know if Selvan SC, of an evening, say over dinner, happened to discuss the merits of Law 12 of 1899 with anybody in particular. Selvan SC conceded that he had not. Indeed, neither party knew of the existence of the Law until its apparently decisive effect upon the dispute between them was discovered, a week or so before the matter was heard, by some impressive research work. Apparently, or so Fly on the Wall came to understand, the effect of this Law was that a party could not tax a bill of costs without notice to the other party. A certain chief justice promulgated a rule of court in terms of which such an *ex parte* taxation was competent. This was done at a time when the powers of the chief justice to do so were subject to the dictates of, inter alia, Law 12 of 1899. So, the argument went, the rule of court was promulgated *ultra vires*. When this was brought to the attention of the party who had availed itself of the (by now well entrenched) opportunity of such an *ex parte* taxation, the point was conceded to be good. It appeared to Van der

Walt J, although he expressly refrained from deciding the issue, that the concession was properly made. So why did Fly on the Wall come to be entertained in the jacaranda city? There was the perennial question of costs. It was a law point, said Selvan SC, and I was entitled to take it without setting it out in the papers. An obscure law point, said Ginsberg SC, and one that ought to have featured in the papers, according to some authority that sounded weighty

to Fly on the Wall. Too true, held Van der Walt J, who said he found Law 12 of 1899 difficult to digest along with succulent steaks over dinner, and that it was not the kind of thing one could expect as part of a case to meet unless expressly mentioned. Costs were then ordered to be shared in a manner that was too complicated to retain Fly on the Wall's attention, which was at that point starting to drift back to the exception he was called upon to argue. Fly did make a note of the fact that one could apparently not tax a bill of costs *ex parte* any longer. This seemed quite important to Fly. 



... difficult to digest along with succulent steaks ...”