

Hush or He Might Hear You

Oops sorry! I didn't see you there. And you see I find the keyboard a bit intimidating and it's a bit embarrassing being such an incompetent typist and I thought that if I wrote in really little letters that you wouldn't notice the mistakes I will inevitably make - small characters will save me large blushes.

Silly, isn't it? And yet in a frighteningly large number of cases it corresponds to the sort of behaviour on view everyday at the bar table. "Oh dear, I don't really know this brief all that well. If only that damned solicitor had given it to me a day earlier. Perhaps if I mumble the judge won't spot the gaping holes in my knowledge of the facts - or, God forbid, the law. At least it won't be so bad if it's not clear when I stuff up." It really is hard to believe that this is what's going on in the minds of the cream of the legal profession, but it's certainly the impression given.

For the past month or so, I have had the privilege to begin my legal career by observing the courts and their workings. I'm not trying to soft-soap you, I really do count it a privilege. The intricacy of procedure, the surprise of an unexpected revelation, the patience and care of a good cross-examination, the brilliance of the occasional shaft of wit, as bright and sharp as a shard of glass, have combined to educate, entertain and inform me.

But - and here's the sting after all that praise - for the ten years or so before I turned whatever talents I have to the law, I earned my living as an actor. Sadly, I have to report that from a performer's viewpoint, what's on display at the bar table is hugely disappointing. I'm not talking about the preparation of cases or counsel's knowledge of procedure or the law - I'm not quite that arrogant - but of the basic physical presentation of the case. We work in an adversarial system, a system that obliges the parties to persuade the arbiter of the strength, correctness and justice of your case. Part of that persuasion goes beyond the mere words that are spoken and into the way in which they are delivered. To some extent they have got to be interesting to be listened to.

Because I have confessed to my thespian past you will tend to pooh-poo my criticisms. "Silly man wants everything to be like Rumpole - a joke a minute and a quote from Wordsworth every half hour. Life's not like that." All I can say is I know. But there are some basics which common sense says should be observed and which are not. These are not basics that the good advocate is born with, but techniques that can be learned. Actors spend part of every day for years learning them; half an hour a day of the Reading course might be well invested in learning them too. I am not suggesting that there should be a conscious effort to alter your personality at the bar table as I'm sure that could be disastrously disorienting, but I do recommend (and I stress that this is purely from the point of view of a professional performer) that you have a look at your own physical presentation at the bar table to see what you might do to improve. Judges obviously won't be hood-winked by bare-faced theatrics, but you could do a whole lot better than boring them into submission.

As a modest contribution to this process of self assessment, I offer the following check-list based on my observations over the past month:

SPEAK CLEARLY

Diction doesn't have to involve exaggerated jaw bending or lip curling; it's often just a question of having your mouth open when you speak.

SPEAK UP

This doesn't mean shouting, just an acknowledgement that you are engaged in something other than a tête a tête over a coffee table.

STAND UP

This has the effect of improving the quality of sound that comes out and presents a much more appealing and convincing picture to your audience.

STAND STILL

Don't make the judge reach for the sea-sick pills when you get to your feet.

DON'T GET PROP BOUND

Leaning on the lectern, adjusting the wig, pulling down the jacket, pulling up the gown, filling two separate glasses with water all have their place, but become a bit tiresome if it appears that's all you have to offer.

ENGAGE THE BENCH

It's a lot easier to see what the judge might be thinking and how you might better help him/her if you can raise your eyes from your papers.

DON'T HIDE BEHIND JARGON

If you have nothing better to say than "in my respectful submission", then, in my respectful submission, it's probably better to say nothing.

TRY A LITTLE SPEECH COLOUR

Monotony is unsurprisingly dull.

DON'T UPSTAGE

It's really not fair to clank the water jug, to harumph and hurrah when your opponent is making his submissions.

I repeat, I enjoy the courts. I should like one day to earn my living playing an active part in them and I certainly don't want you to think that my check-list applies with equal force to all members of the Bar, but I have nonetheless seen all these basic shortcomings in the short time that I have been around the courts.

It can be done better - and with very little extra effort. □

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