

presided over both the motion court training exercises held for pupils in 1996. There can be no doubt that his participation in these training exercises considerably enhanced the training value of the exercises and it is to be hoped that the training organisers in all the centres will be able to persuade more members of the bench to assist.

Finally, the National Committee has decided to hold another national teacher training workshop in July in Johannesburg this year and is hoping to persuade as many judges and senior members of Bars around the country to become involved in advocacy training and attend this workshop. It is hoped that it will be possible to invite

two senior advocacy trainers from England to be a part of the training panel. (It has cunningly been planned for the Thursday and Friday before the Saturday Tri-Nations match between South Africa and the All Blacks in Johannesburg and efforts are already underway to obtain tickets for as many of the participants as possible!) 

Advocacy training: impressions

Sharise Weiner SC
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I was fortunate enough to be one of the GCB's delegates to the International Advocacy Training Symposium, co-hosted by NITA US (the National Institute for Trial Advocacy in the USA), the Australian Advocacy Institute and the IATC (the Inns of Court Advocacy Training Committee of the Bar of England and Wales), and held at Gray's Inn in London from 6 to 8 January 1997.

I do not propose to say anything about the symposium, as a detailed account of the proceedings appears elsewhere in this issue.

On the two days following the symposium, the GCB delegation was invited to participate in an appellate advocacy workshop, which was being organised by the Continuing Education Committee of Gray's Inn as a pilot exercise in a programme of continuing legal education for junior barristers or "young tenants" as barristers of only a few years' call are called there. The workshop was the first in a series of annual Richard Du Cann Memorial workshops established by Gray's Inn to honour the memory of Richard Du Cann QC, a distinguished member of the English Bar and of Gray's Inn, who had been deeply involved in the development of the advocacy training programme for pupils at Gray's Inn prior to his death in 1994.

Format

The format for the workshop was the following: the 30 junior barristers who

took part (interestingly a number of the original 36 who had enrolled for the workshops had to withdraw under pressure from their clerks not to be away from chambers for two days) were each given "briefs" in two fictitious appeal matters, consisting of the papers one would expect to find in such a brief. One was an appeal to the Employment Appeal Tribunal from a ruling of the Industrial Tribunal and the other an appeal to the Criminal Division of the Court of Appeal against a conviction of rape, where the admissibility of DNA evidence used to convict the accused (and whether such evidence was protected by privilege), were at issue, as well as the directions given to the jury by the trial judge (which had us a bit at sea, but was nevertheless extremely interesting). Remarkably, neither brief contained a record of the evidence, in accordance with practice in the English courts.

Argument

After an introductory talk by Lord Justice Mustill, a member of the Court of Appeal, followed by a talk on the preparation of the skeleton argument (heads of argument) by Lord Justice Mummery, also a judge of the Court of Appeal, the participants were divided up into groups for a case analysis session on the case to be argued the following day and a discussion on the best tactical approach to the appeal, with a view to assisting the tenants in the drafting

of their skeleton arguments, which was their task for that evening. Thereafter, the participants, still in their groups, proceeded to present argument. In the other case, in which skeleton arguments had been given to them with their briefs. Each participant was given about 10 to 15 minutes to present argument for one or other side, before a panel consisting in each case of the presiding judge and two senior practitioners (English, Australian or South African), only two of whom were not silks. The South Africans involved in this capacity were Wallis SC, Ploos van Amstel SC and Ford). A review was then given of each argument by one member of the training panel, on one or more aspects of the argument where there was room for improvement. Reviews were done on such topics as developing an argument in a structured, logical way, use of the skeleton argument, dealing with judicial interventions, use of authorities etc.

The tenants then had the opportunity overnight of preparing their own skeleton arguments in the other case for use in the next set of workshops the following day. The second day consisted of workshop sessions, in groups, in which the tenants presented arguments in the second matter and were reviewed on their arguments. The proceedings ended with a discussion session in which trainers and "students" were asked to give their views on the success or otherwise of the programme.

The Bench

Those South Africans who were not part of the reviewing panels were allowed into the various sessions as observers. Never having taken part in an appellate advocacy training exercise before, we all found it extremely interesting. In particular, we were struck by the ability of the tenants, very few of whom had, in fact, ever argued an appeal before. They were, almost without exception, confident and articulate and able to argue on an impressive

level. Secondly, it was interesting to note the degree to which the English Bench is committed to such training programmes. Among the trainers were Lord Hoffman, a Law Lord, four Lord Justices of Appeal and two High Court judges. The South African contingent were all particularly pleased at the opportunity to meet Lord Hoffman, who is one of two South African-born Law Lords (Lord Steyn being the other), and who started his illustrious legal career at the Cape Bar.

All in all, the general feeling was that this was a most worthwhile training exercise, which can certainly find a place in our own evolving training programme.

We have now decided to include an appellate advocacy workshop in the pupil training programme for the current pupil intake and hope to involve our judges in the workshops to give the sessions a genuine atmosphere and allow the pupils to get an idea of what a real "judicial intervention" feels like! 

Learning the art of persuasion

Dali Mpofo

Membership and Pupillage Committee
Johannesburg Bar

THERE is no greater contribution that a barrister can make to the future and standing of the Bar and to the quality of the administration of justice, than to participation in advocacy training programmes. (Michael Hill QC, Gray's Inn, London)

My favourite anecdote from *The Seven Lamps of Advocacy* is the one about the judge who was proposing that his court would be sitting on Good Friday. The advocate (who obviously had made other plans) replied politely, "As Your Lordship pleases, but Your Lordship will be the first judge to do so since Pontius Pilate". The court did not sit.

Advocacy is the art of persuasion. It is not only an art, it is a skill. These basic truths formed the "grundnorm" of the First International Advocacy Training Symposium held at Gray's Inn, London, on 6 to 8 January 1997. Bar Associations and advocacy training institutes represented came from as far afield as Australia, Canada, Hong Kong, Ireland, Israel, New Zealand, Scotland, Singapore, South Africa and the USA. The ten-person South African delegation representing the South African Advocacy Training Committee (SAATC) of the General Council of the Bar was led by GCB Chairman Malcolm Wallis SC and Johan Ploos van Amstel SC (both of the Durban Bar) and included Gerrit

Grobler SC (Pretoria Bar Council Chairman) and James Goodey (Pretoria Bar); Ben Ford (Grahamstown); Louis Pohl (Free State Bar); Jeremy Muller (Cape Bar) as well as Peter van Blerk SC, Sherise Weiner SC and Dali Mpofo (all of the Johannesburg Bar). SAATC Administrator, Lyn Ploos van Amstel, was also part of the delegation.

International dimension

To say that the experience was educational and an eye-opener would be understating the case. In its international dimension it was profoundly significant. There is already talk of the International Bar Association (IBA) formalising an advocacy training chapter under its major activities. There is a growing worldwide "movement" of practitioners who have dedicated their professional lives to the methodic teaching of advocacy skills. We approached the symposium with the feeling that, in the context of this "movement" and by comparison to the others, we South Africans were the greenhorns. By the time we left the symposium this "feeling" had graduated into a "fact".

Just to give perspective, in January 1997, it was exactly one year since the South African Bar was introduced to the advocacy training method which was the subject of the symposium. The Ameri-

cans introduced it about thirty years ago. The Australians adapted the Americans' version some twenty-five years ago. In Australia the "movement" is led by the very impressive Judge George Hampel (elevated to the Bench in 1976) and his wife, Felicity Hampel QC, both of whom were at the symposium. They have developed, and are running advocacy training courses aimed at all levels of the profession. They have courses to train pupils, articled clerks, juniors and various levels of silks. This is what one may call the vertical dimension of their courses. The horizontal dimension is characterized by specialised courses in leading witnesses, cross-examination, urgent interdicts, case analysis, the expert witness, appellate advocacy, trial management techniques, etc. All this one might call the technical side of advocacy training.

The proverbial other side of the coin consists of something more and very significant. Unlike in our anecdote, the persuasive skills of the advocate are not usually used to achieve the advocate's own ends. At the Bar generally and specifically in the curial setting, the complete advocate is not one who is only technically competent in the sense that he or she never asks leading questions in chief, but one who is constantly and equally mindful of his duty to the >