



Précis Paper

Advocacy and Theatre

Cases are won and lost in court by more than just the technical, legal argument. The skill of advocacy makes up the differential, which can easily be traced to the art of acting.

Discussion Includes

- The importance of preparation to actors and lawyers
- Understand the "intention in the circumstances" and adjust your advocacy accordingly
- Active listening as an important requirement for the advocate
- Successful advocates are often adopting a 'character'

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Advocacy and Theatre

1. In this edition of BenchTV, Colin McPhillamy, both an experienced actor and director, discusses how theatre might inform the way we think about advocacy. The interview explores the way actors prepare for roles, train their voice, and listen, whilst making analogy to the role of the advocate in presenting a technical, legal argument.
2. For those interested in either acting or the mechanisms of the legal system, the discussion provides a new perspective on advocacy; an area of law that is often understudied and undervalued despite its obvious importance. Mr McPhillamy's connections with and understanding of a number of theatrical advocates such as Rumpole helps to explore the way advocates are *always* adopting a character. In the same way that actors read, observe and respond to each other, solicitors must observe the reactions of the other party and observe what the judge is thinking.
3. The characters and techniques in acting could be used to keep the attention of an audience, whether that be a judge or a jury, or to gain the confidence of a witness when inviting them to disclose information or to make them feel comfortable. The skill of active listening allows the advocate to see behind the technical argument and understand the speaker's agenda or stance. As in theatre, the key is to understand the "intention in the circumstances" and alter your advocacy accordingly.

BIOGRAPHY

Colin McPhillamy

Colin McPhillamy was born in London to Australian parents. He trained at the Royal Central School of Speech and Drama in London. In the UK he worked in the West End, at the Royal National Theatre for five seasons, and extensively in British regional theatre. In the USA he has appeared on Broadway, Off-Broadway and at regional centers across the country. McPhillamy has acted in Australia, China, New Zealand, and across Europe.

Catherine McDonald

Catherine was admitted to practice in 1985 and commenced working with A R Conolly and Company the same year. She was a barrister from 1987 to 1994 when she joined a major national law firm practising in public liability, statutory insurance, professional indemnity and occupational health and safety. She was a partner in a commercial firm from 2000 to 2004 where she managed a high volume insurance litigation practice as well as drafting and advising on insurance clauses in a range of contracts. During that time she was an Arbitrator of the District Court and of the Workers Compensation Commission. She is a trained mediator.