ISAAC
CHRISTOPHER
LUBOGO

THE ART OF ORATORY IN JURISPRUDENCE

THE ARTICULATE ATTORNEY AT LAW

The Art of Oratory in Jurisprudence

"The Articulate Attorney at Law"

Isaac Christopher Lubogo

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We will repent for our generation not just for words and actions of the bad people, but also for the appalling silence of the good people

REV. DR. MATIN LUTHER KING JR.

The Art of Oratory in Jurisprudence

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The Art of Oratory in Jurisprudence

DEDICATION

Oh God, Even my God my High Tower, my refuge, my Redemeer, my only source of hope. This and many more is for you Oh God of the mighty universe.

ABOUT THE BOOK

Lawyers often speak before adjudicators, city councils, planning commissions, and give talks to civic groups, business executives, or company employees. They even give media interviews on behalf of clients. For certain individuals, it falls into place without any issues. It's a piece of their characters. In any case, for the individuals who aren't sure or have stage dread can generally work on speaking and oratory skills. It's progressively essential to be a viable open speaker if you mean to be a litigator. Judges and juries will anticipate it. Restricting insight will be prepared to jump if you need certainty or on the off chance that you continually slip up when making your contentions in court. It is a highstress condition and you should be agreeable introducing your case as well as having the option to think and react quickly when being tested by your appointed authority. For attorneys, this is significantly increasingly significant. Individuals believe that since you're a legal counsellor, you're consequently a dauntless and splendid open speaker. We legal advisors all realize this isn't in every case valid. This desire, however, is one motivation behind why it's progressively significant for legal advisors to have great talking abilities than it is for some other experts. As a legal advisor, it's important that you realize how to convince an adjudicator or council, or address a gathering of professionals, investors, or meeting members.

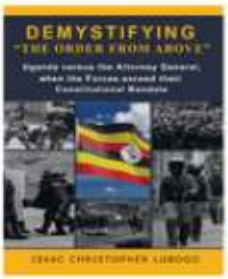
Be that as it may, past this, legal advisors despite everything should be viable communicators in littler gatherings with clients and different lawyers. This isn't "public speaking" as such. All things considered, the core of the lawful practice is speaking to your customer, and you can't exclusively do this through the composed word. Regardless of whether you're a valuebased lawyer, you'll be aware of your client's expectations and understand them to different gatherings and lawyers. You'll have to introduce a certain front regardless of whether you're feeling apprehensive inside. An analysis about the importance and need of forensic oratory in the training of the future professional of the Law major is presented, since this topic has been poorly included in the teachinglearning process of the Law students. Varied classificatory criteria are suggested in order to enhance a better theoretical

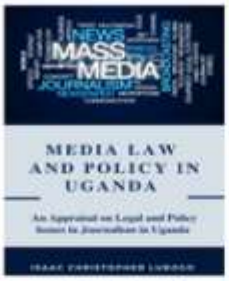
systematization for its learning and also for the development of communicative skills. Its objective is the consolidation of a more comprehensive formative process of the students in different law contexts, considering their professional profile at the university.

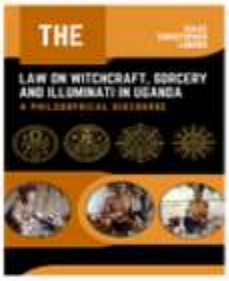
This Book examines representations of courtroom oratory, delivery, and the speaker's body in medieval rhetorical theory and current practice. It contests the view that medieval theorists paid little attention to judicial oratory and that they largely ignored delivery. After looking at rhetorical treatises, procedural manuals, guides to legal deportment, satiric portraits of the lawyerasrobedvulture (etc.), the Book turns to the work of four rhetorical theorists who rewrite (and upend) ancient rhetorical theory: Alcuin of York, Boncompagno da Signa, Guilhem Molinier, and Jean de Jandun. Each offers an animated account of embodied legal expression, a richly detailed evocation of the medieval courtroom, and a distinctive theory of the pleader's body. In their work, law appears not as a set of rules or the sovereign's fiat but as visceral, intimate bodily experience. Here, the body may appear as a divine instrument. Or, alternatively, it may appear as a material thing with a life of its own: indecorous, prone to accident, hopelessly leaky, sublimely obscene.

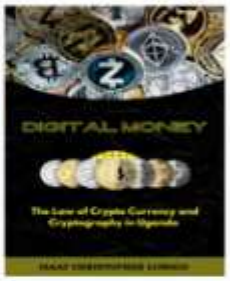
ISAAC CHRISTOPHER LUBOGO'S WORKS

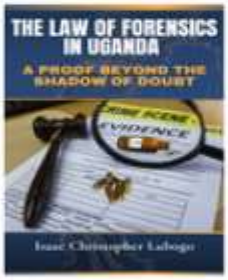


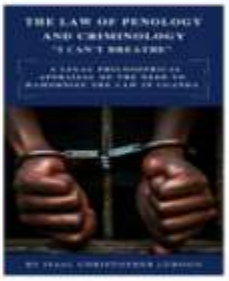



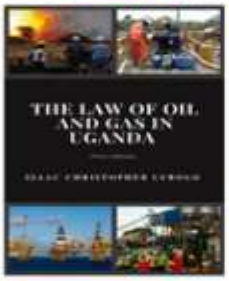


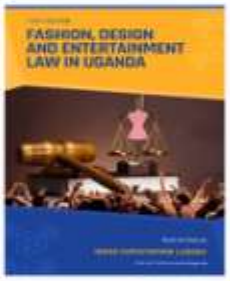


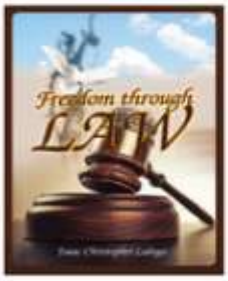


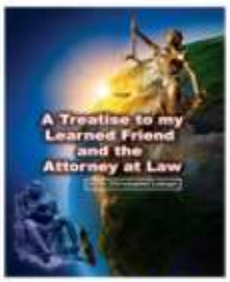


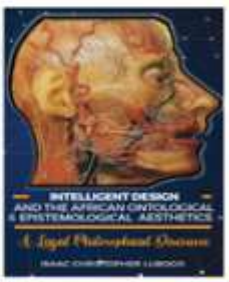


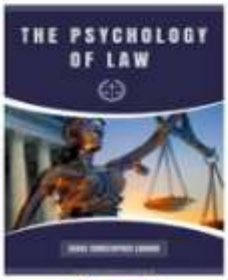


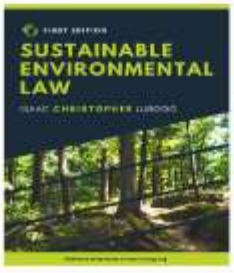


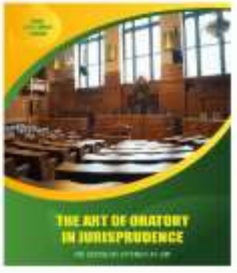












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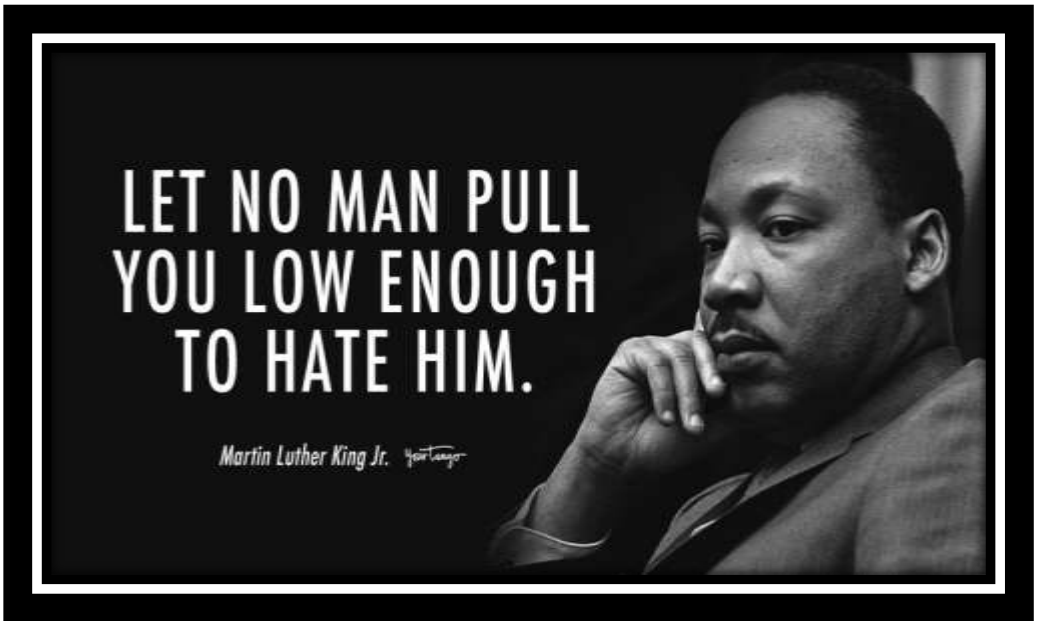
“Let no man pull you low enough to hate him”

Martin Lurther King



TRIAL ADVOCACY

THE ART OF OPENING STATEMENTS

An **opening statement** is generally the first occasion that the trier of fact (jury or judge) has to hear from a lawyer in a trial, aside possibly from questioning during voir dire. The opening statement is generally constructed to serve as a "road map" for the factfinder. This is especially essential, in many jury trials, since jurors (at least theoretically) know nothing at all about the case before the trial, (or if they do, they are strictly instructed by the judge to put preconceived notions aside). Though such statements may be dramatic and vivid, they must be limited to the evidence reasonably expected to be presented during the trial. Attorneys generally conclude opening statements with a reminder that at the conclusion of evidence, the attorney will return to ask the factfinder to find in his or her client's favor.

The opening statement at the beginning of the trial is limited to outlining facts. This is each party's opportunity to set the basic scene for the jurors, introduce them to the core dispute(s) in the case, and provide a general road map of how the trial is expected to unfold. Absent strategic reasons not to do so, parties should lay out for the jurors who their witnesses are, how they are related to the parties and to each other, and what each is expected to say on the witness stand. Opening statements include such phrases as, “Ms. Smith will testify under oath that she saw Mr. Johnson do X,” and “The evidence will show that Defendant did not do Y.” Although opening statements should be as persuasive as possible, they should not include arguments. They come at the end of the trial.

Opening statements are, in theory, not allowed to be argumentative, or suggest the inferences that factfinders should draw from the evidence they will hear. In actual practice, the line between statement and argument is often unclear and many attorneys will infuse at least a little argumentation into their opening (often prefacing borderline arguments with some variation on the phrase, "As we will show you..."). Objections, though permissible during opening statements, are very unusual, and by professional courtesy are usually reserved only for egregious conduct.

Purpose

Opening statements are intended to give the jury a preview of the case. An opening statement describes the parties, outlines the nature of the issue in dispute, presents a concise overview of the facts and evidence so that the jury can better understand the overall case, frames the evidence in a way that is favorable to the counsel's theory of the case, and outlines what the counsel expects to prove.

While a good opening statement is persuasive, it should not argue the facts of the case or ask the jury to make any inferences or judgments.

Waiver

A party may elect to waive their right to make an opening statement, but that generally does not preclude the opposing party from making an opening statement.

The defense may choose not to make an opening statement so that they do not lock themselves into one theory for acquittal, which affords them the flexibility to pursue an affirmative defense or rely on the inadequacy of the opposing party's evidence to meet the burden of proof.

Generally, the party who bears the burden of proof (plaintiff in a civil case or prosecution in a criminal case) begins the opening statements, followed immediately after by the adverse party (defendant).the prosecution in a criminal case and plaintiff in a civil case is the first to offer an opening statement, and defendants go second. Defendants are also allowed the option of delaying their opening statement until after the close of the prosecution or plaintiff's case. Few take this option, however, so as not to allow the other party's argument to stand uncontradicted for so long.

The techniques of opening statements are taught in courses on trial advocacy.[1]The opening statement is integrated with the overall case strategy through either a theme and theory or, with more advanced strategies, a line of effort.[2] Specific tactics that can be incorporated in an opening statement are audiovisual elements, a clear overview of

[1] Lubet, Steven; Modern Trial Advocacy, NITA, New York, NY 2004 pp. 415 et. seq., ISBN 1556818866

[2] Dreier, A.S.; Strategy, Planning & Litigating to Win; Conatus, Boston, MA, 2012 pp. 46–73, ISBN 0615676952

the coming presentation, and using deposition testimony to highlight key information they can expect of upcoming witnesses.[3]

[3] O'Toole, Tom (PhD) & Schmid, Jill (PhD); Tsongas Litigation Consulting. Effective Opening Statements and Closing Arguments.King County Bar Bulletin. Dec. 2010. Accessed Jan. 12, 2017.

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“You weren't born just to live a life and to die; you were born to accomplish something specifically. Matter of fact, success is making it to the end of your purpose; that is success... Success is not just existing. Success is making it to the end of why you were born.”

Myles Munroe

CLOSING ARGUMENT

Only after the jury has seen and heard the factual evidence of the case are the parties allowed to try to persuade them about its overall significance. Closing arguments are the opportunity for each party to remind jurors about key evidence presented and to persuade them to adopt an interpretation favorable to their position. At this point, parties are free to use hypothetical analogies to make their points; to comment on the credibility of the witnesses, to discuss how they believe the various pieces of the puzzle fit into a compelling whole, and to advocate why jurors should decide the case in their favor.

Key Difference

There is a critical difference between opening statements and closing arguments. In opening statements, parties are restricted to stating the evidence: ("Witness A will testify that Event X occurred"). In closing arguments, the parties are free to argue the merits: "As we know from Witness A's compelling testimony, Event X occurred, which clearly established who should be held responsible in this case.".

The opening statement is not the appropriate place to argue rather, it is a place to present the facts. The recitation of facts may be slanted in favor of one party, of course, but it must remain truthful. Although jurisdictions and judges vary in how much argument they will allow in an opening statement, most jurisdictions do not allow much argument or discussion of law during the opening statement. Here is an example of an opening statement:

Good afternoon, ladies and gentleman. My name is Denis Lawyer, and I am representing the plaintiff, Jessica Smith. We are here today to decide if the defendant, John Smythe, is liable for damages caused to Ms. Smith's vehicle as a result of a car accident that took place on June 15, 2003. On that day, Ms. Smith was driving her car down Main Street when the defendant smashed his car into Ms. Smith's car. We will provide police reports that show that Mr. Smythe was driving without a valid driver's license, and that he was intoxicated at the time of the accident. In addition, we will provide the compelling eyewitness testimony of Ms. Sarah Crown, who saw the defendant's car run through a red light and strike Ms. Smith's car. Ladies and

gentleman of the jury, Ms. Smith is a hardworking, honest, and lawabiding citizen. At the conclusion of this trial, it is my hope that in the interests of justice you will find that the defendant is responsible for causing Ms. Smith's injuries and find in her favor. Thank you very much.

Most opening statements take between 10 and 45 minutes, although, depending on the complexity of the case, some may take longer. Some jurisdictions have developed rules for how long opening statements, as well as closing statements, may be. Other jurisdictions leave such time limitations to the judge's discretion.

Opening statements are important because studies have shown that trials are sometimes won and lost just through the opening statement. Studies have revealed that often, jurors make up their minds based on the opening statements. They may consider the evidence, but the impressions the jurors form during the opening statements often greatly affect their final decision.

Burden of Proof

The burden of proof is the "burden" or requirement, placed on a party to show that the factual evidence presented at trial supports an award of a judgment by the court or jury. The burden of proof is generally placed on the plaintiff since the plaintiff is the party bringing the lawsuit and demanding some type of legal or monetary relief. The party seeking relief must provide some information during the trial in the form of witness testimony, documentation, written statements or physical evidence, that supports its demand for relief.

Each cause of action is composed of multiple parts or "elements". In order for a party to carry its burden of proof and obtain a favorable judgment, the party must provide some evidence that establishes all elements of the cause of action. For example:

Marla was suing Toby for breach of contract under the laws of the state of Texarkana. Contract laws in that jurisdiction establish that the plaintiff has the burden of proving that there was an offer to enter into a contractual agreement, that the parties understood the nature of the agreement and accepted the terms of the agreement, and that the parties signed a written and legally binding document to establish that a contract was formed. During trial, Marla's attorney provided documentation of the negotiations, the testimony of Marla's secretary who witnessed the negotiations, and the original written and signed contract.

In the above example, Marla's attorney attempted to satisfy the burden of proof established under Texarkana contract law by providing factual information of the three elements that support the creation of a contract. If the judge or jury finds that Marla's attorney presented sufficient evidence to support each element (an offer, acceptance, and a signed legal instrument), then Marla would have satisfied her burden to prove that a contract was formed. Marla then may proceed to present additional evidence that Toby had breached the contract by failing to abide by the terms of the contract. A party who successfully "carries" his or her burden of proof must provide the presiding judge or jury with sufficient evidence under the applicable law to support its claim. If the statute places the burden of proof on the plaintiff, and the plaintiff fails to carry its burden, then the judge must dismiss the plaintiff's case for failure to adequately establish and support its claim.

See *Hildebrandt v. Ill. Dep't of Natural Res.*, 347 F.3d 1014 (7th Cir. 2003).

However, the burden of proof does not always fall on the plaintiff. Statutes sometimes require that the defendant carry the burden of proof in some instances to establish certain issues. Alternatively, a statute may place the burden of proof initially on the plaintiff to prove certain elements and then "shift" the burden of proof to the defendant to prove the existence of other elements. Examples of elements that the defendant must prove are affirmative defenses such as incapacity, coercion and fraud. For example:

Carl sued Mark under the tort laws of the state of Texarkana for emotional and physical injuries suffered as a result of a bar room fight. Under the laws of Texarkana, a party may recover monetary damages from a physical altercation if they can demonstrate that the injuries were caused by the defendant. The statute, however, provides a defense. If a defendant can demonstrate that the plaintiff was the aggressor and the defendant acted in selfdefense, then the plaintiff is barred from recovering any monetary damages.

In the above example, the statute provides an example of a "shifting" burden of proof. The statute initially placed the burden of proof on Carl, the plaintiff. Carl must establish that his injuries resulted from an altercation with Mark. If Carl adequately presents evidence supporting his claim, then the burden shifts to Mark to demonstrate that even though he did cause the injuries, he has an applicable defense that is recognized under the statute. Therefore, if Mark can present evidence that he was not the aggressor but was merely trying to protect himself, then he can escape from liability. The burden to prove this fact would fall on Mark. If Mark cannot prove that

Carl was the aggressor and Carl cannot prove that he was not the aggressor, Carl would win the case because Mark will have failed to satisfy his burden of proof. **See *U.S. ex rel. Southern Ute Indian Tribe v. Hess*, 348 F.3d 1237 (10th Cir. 2003).**

At the conclusion of the trial, the trier of fact (judge, in a nonjury trial, or the jury in a jury trial) will deliberate. During the deliberation, the judge or jury will consider the evidence presented by the plaintiff and by the defendant. It is also during this time that the judge or jury will determine whether the plaintiff (or defendant) has satisfied its burden of proof.

As a general rule, counsel may not argue during opening. Rather, the opening statement should serve as a preview of the anticipated testimony, exhibits, and other evidence. Think of the opening statement as a forecast, designed to provide a general understanding and provoke further interest, like the kind of preview you might see on the inside jacket of a novel. The jacket text that introduces a novel typically does not confuse the prospective reader with an overly detailed chronology of events; it does not bore the reader with a recitation of the characters' names in the order they will appear in the book; and it does not command the reader to feel a certain way about the story contained in its pages. Instead, the jacket text captures the essence of the book in a way that gives the reader a general sense of the book's theme, entices the reader to proceed further, and leaves the reader to make his own judgment regarding the final meaning of the story. That is the way jurors should be left at the end of the opening statement with an understanding of the case's theme, an eagerness to learn more, and an appreciation for the ultimate judgment they will be asked to make.

Elements of the Opening Statement

(i) Theme of the Case

In the opening statement, a lawyer should provide the jury with a theme that will serve as a framework for every piece of evidence the jury hears during the case. The theme should communicate how the evidence will fit together, and why your client's position in the case is the right one. For instance, a lawyer defending a discrimination case may have a theme of "unheeded warnings" to communicate that the plaintiff had a chance to improve their performance before termination, but failed to take advantage of the opportunity. Plaintiff's counsel in the same case may have a theme of "repeated disciplinary actions, all motivated by race." Obviously, expressing a theme is difficult to do without bordering on argument which is improper in the

opening statement but courts generally allow a lawyer to state a theme at the beginning and end of the opening statement, as long as the rest of the opening is not argumentative.

A good way to develop a theme is to try to describe your case in one summary sentence, without legalese, as you might do if you were explaining your case to a nonlawyer family member. Get to the heart of the issue think about the parties' motivations, and the reasons events unfolded the way they did. Answer the question: What really happened here?

Perhaps the case centers on someone's personality flaw. In the employment context, a plaintiff's lawyer may focus on a sexual harasser who "can't take no for an answer"; a defense lawyer's theme may focus on an employee's "refusal to accept his own failure". Perhaps the theme of the case is a situation, such as "a company where minorities are routinely kept in lower level jobs" or "a supervisor forced to make difficult choices when the company hit hard times." Whatever the theme of your case, make sure it is a concept that resonates with people from all walks of life, and one that is borne out by the evidence you will be presenting during the trial.

Often, the easiest way to present a coherent theme is to state it in a straightforward manner as your introductory sentence: "Ladies and gentlemen, this case is about unfair competition by the defendant." In other situations, the theme may come out more subtly, as you tell a story that slowly unfolds. Regardless of how the theme is presented, make sure it is absolutely clear by the end. Before all of the witnesses and documents are presented to the jury, make sure the jury knows exactly what they should be listening for from your point of view. (While you can't argue your position, you *can* arrange the facts in such a way that only one conclusion is inevitable.)

(ii) Don't Waste Time Getting to the Theme

Many lawyers waste the precious first few minutes of their first impression by shuffling through papers, explaining the purpose of the opening statement, thanking the jury for their time and service to the community, and/or going through lengthy introductions of cocounsel and client representatives. The first impression should be more compelling. Be ready to begin your opening as soon as the moment arrives. Stand up quickly and start speaking with confidence, demonstrating immediately that you are prepared and sure of what you're saying. Tell the jury something interesting in your first few sentences, and then return to the more mundane tasks of introductions and thanks. For example:

The defendant had a contract with Smith Corporation. He promised that, in exchange for three years of employment at a substantial salary, he would not take Smith's customers and employees when his employment ended. The defendant has broken this promise. When his employment with Smith Corporation ended last December, the defendant stole five clients and three employees, and caused Smith Corporation to lose $10 million in business. That is why we are here today. Ladies and gentlemen, my name is John Jackson. Together with my cocounsel Sue Jones, I represent Smith Corporation. Sitting with us at the plaintiff's table is Robert Smith, the President of Smith Corporation. In this trial, we ask you to hold the defendant responsible for his wrongful acts.

(iii) Set the Scene

After introducing your theme, you must set the scene of the case, building upon the framework you have presented. Narrate the scene and introduce people and documents as they naturally fit into the theme of the case do not present a witnessbywitness catalogue of testimony. For instance, tell the jury how they will learn about the plaintiff's poor job performance. Tell them they will hear from the plaintiff's supervisor, who will explain that the plaintiff was warned on numerous occasions that her attention to detail needed improvement. Explain that the documentary evidence will support the supervisor's testimony, as the jury will see four years of increasingly bad performance reviews. Tell them they will hear from a human resources manager who will put those reviews in context, and compare the reviews to others received by employees companywide. Present the people and evidence in the context of a story, and the jury will look forward to hearing the story unfold as the trial progresses. This way, the facts will not seem confusing and unrelated as they are presented during the direct and cross examinations. Instead, the jury will remember your narration and recognize each character of your story as he or she appears in the trial.

(iv) No Argument In The Opening Statement

A JUDGE is not supposed to form an opinion on the case until they have heard all of the evidence. Accordingly, as stated above, arguments are improper during opening statements, because arguments may not precede the introduction of evidence. (Note the meaningful difference between the terms "opening statement" and "closing argument.")

How can a lawyer introduce the case without arguing? Generally, if the opening statement explains what you expect the evidence to prove, you are properly opening the case. Unfortunately, there is a subtle difference between what is a proper opening statement and what is an improper argumentative opening statement. Lawyers should avoid expressing opinions; should not make direct statements as to why a particular piece of evidence is not believable; and should not vigorously attack the opponent's case. Nonetheless, a lawyer's position on the case will come through in an effective opening statement, from the order in which facts and evidence are presented; in the choice of which facts are emphasized and which are downplayed; and in the descriptive terms that are used (were they "lewd jokes" or just "sexual banter in the office"?). You can be an advocate without arguing.

The following test is useful to help gauge whether you are recounting facts and evidence or arguing them. Ask yourself this question: Are you describing to the jury what a witness or document states, or are you drawing a conclusion from the testimony or the document? Only the description is permissible in your opening statement; the conclusion must be saved for your closing argument.

(v) Be Persuasive Without Arguing

Despite the rule against arguments in opening statements, lawyers still can be persuasive. Too many lawyers weaken their persuasiveness by trying to make absolutely clear that they are

not arguing. They repeatedly begin sentences with: "The evidence will show . . . ." This quickly becomes boring for the jury to hear, and it is unnecessary. Instead, tell the jury in the beginning that you are going to describe what the evidence will establish, and then never say that again unless there is an objection.

Let the facts themselves argue your case. Assemble the facts, and present them in a manner that leaves only one conclusion the one you are advancing. If you want to convey that an employee was terminated immediately after complaining of harassment, present the events that way in your opening describe the complaint, and follow immediately with the termination. On the other hand, if you want to separate the complaint from the termination, describe the complaint, then spend a while describing any intervening events, and *then* address the termination. You will have communicated the lack of relationship between the complaint and the termination not only by the facts, but by the timing and order of your presentation.

If you are successful in positioning your facts and evidence, there is no need to argue what the jury must find, what they must conclude, or the verdict they must deliver. The facts will speak for themselves.

(vi) Personalize Your Client

Use the opening as an opportunity to persuade the jury to like your client. Explain your client's motivations, and give the jury reasons to feel camaraderie with your client. If you represent an individual plaintiff, convince the jury of your client's integrity, and persuade them that your client is not just out to make an easy buck; rather, your client suffered real harm. Obviously, a lawyer representing an individual against a corporation may have an easier job personalizing the client, but a managementside lawyer can personalize their client as well, and the need to do so cannot be underestimated. For example, rather than focusing on the corporation itself, a managementside lawyer should tell the jury about the people who comprise the corporation the relevant supervisors, the human resources representative, and/or the company's owner. Familiarize the jury with these individuals' names, and their roles in the drama, so that the jury will be considering the actions of people versus people in the case, rather than a single, sympathetic plaintiff against a huge, faceless corporation.

(vii) Dealing with "Bad Facts"

Should your opening statement address harmful information that is likely to come out at trial? In other words, does an effective lawyer "front" problems in the case? Lawyers inevitably are dealt "good" facts and "bad" facts, "good" evidence and "bad" evidence, "favorable" law and "unfavorable" law. Part of your job is to determine how to face these obstacles.

One option is to address the harmful information before it can be raised by opposing counsel, in order to diffuse the situation. Presenting all issues, good and bad, may ensure your credibility with the jury, and convey that you believe in your case despite any evidentiary hurdles.

A contrary approach is to wait and see whether and how the information comes out before giving it any attention. Jurors commonly do not expect lawyers to say anything negative about their own witnesses, their evidence, or their case. Thus, by focusing on harmful information, you may call greater attention to the damaging information than necessary. Also, remember that once the opening statements have been delivered, the trial itself provides a chance to respond to any charges that the other side makes.

Whether to introduce damaging information obviously is a matter of judgment, and the decision will differ from case to case. A middle ground might include introducing harmful information, but spending only a passing moment discussing it. Or, introduce all positive information first, and only after such information has been laid out for the jury, address the negative information and explain why it is not persuasive, thereby emphasizing its insignificance to the case.

Importantly, defense counsel has the advantage of going second. If the jury did not learn the harmful information during the plaintiff's opening, then the need to deliver the information during the defense's opening is decreased. While the plaintiff may decide to introduce the negative information into evidence later in the trial, consider the possibility that the plaintiff may decide not to introduce the evidence at all; the court may decide not to admit it; or the evidence may come in weakly, without the power you expected. Thus, it may be wiser for defense counsel to avoid discussing any "bad facts" in the opening statement that plaintiff's counsel has not already raised.

(viii) Visual Aids

It has been said that a picture is worth 1,000 words. Thus, keep in mind that effective opening statements need not be limited to words. The use of exhibits and visual aids can enhance the value and effectiveness of counsel's opening statement. (Just make sure that you have followed your court's rules on the subject, and have a "plan B" if the court decides not to allow your visual aids.)

Remember, the purpose of the opening statement is to explain what the evidence will show, and a good explanation may include some of the evidence itself. Lawyers generally are allowed to read from, or display, documents and other exhibits that they expect to be admitted into evidence. Less is more in this situation, however counsel should include only two or three of the most important exhibits, and not confuse or overwhelm the jury with too many details. Use a pointer so the jury can follow as you indicate what the exhibit reflects. To the extent that the evidence includes important photographs, maps, and/or charts, use them. If your case hinges on a performance review, a letter, or a contract provision, enlarge it and show it to the jurors.

Visual aids, which may summarize or analyze the evidence, such as charts, graphs, and chronologies, also are tools that may enhance the opening statement, as they can help jurors understand the eventual trial evidence. As long as the visual aids are not misleading or argumentative, such as "Five reasons why the plaintiff should lose," they

should be acceptable for use during the opening statement in most courts. Counsel should remember, however, to

show opposing counsel any visual aids in advance, and to obtain advance permission for their use from the court.

Finally, exhibits that are not visual also may be used during the opening statement. In the right types of cases, it might be advisable to use tape recordings, for example, if they will later be offered into evidence. The key is to get the jurors interested in what you have to say. Visual and other sensory aids will help keep jurors attentive, interested, and informed.

(ix) Plaintiff's Opening vs. Defendant's Opening

Delivering an opening statement on behalf of a plaintiff presents different challenges than delivering an opening statement on behalf of a defendant. Plaintiff's counsel must determine whether to anticipate and respond to expected defenses. Defendant's counsel must decide whether to react to the plaintiff's opening.

In the employment context, plaintiff's counsel faces particular difficulty when it is expected that the defendant will present an affirmative defense. Affirmative defenses raise issues that go beyond the plaintiff's own case. Accordingly, if you are plaintiff's counsel, you must decide whether to ignore the affirmative defense and lose the opportunity to reply to it until later in the case, or respond to the defense in advance. If you choose to address the affirmative defense in your opening, be sure to avoid getting the jurors fixated on the negative aspects of your case. Reject the affirmative defense quickly and for a solid reason. Be firm, unapologetic and straightforward. If you seem overly concerned about the defense, it will suggest to the jurors that you have a weak case.

Another tough question for plaintiff's counsel is whether to address damages. Generally, asking for specific damages in the opening statement is premature, and may turn off the jury. Save it for closing, when the jury will be entirely convinced of the defendant's misconduct and ready to consider the financial consequences.

Defendant's counsel faces different issues when delivering their opening statement, caused by the advantage and disadvantage of going second. If you are defense counsel, by the time you begin your opening statement, both you and the jury will have listened to the opening by plaintiff's counsel. The jury will be waiting for your take on the dispute to which they have just been introduced. After all, the plaintiff's

opening statement is essentially an accusation, and the jury will be wondering if the plaintiff's allegations about your client are true. As defense counsel, you must respond with a clear denial, as anything short of a denial will be seen as an admission of fault. It is also important that you respond, to some extent, to the plaintiff's version of the evidence. Simply telling your independent version of the story is not sufficient, as that will not help explain why the facts that support your version of the story are superior. Instead, as you set forth the evidence in your opening statement, note on occasion how the evidence contradicts the plaintiff's theory of the case (without crossing the line into argument). For instance, "Plaintiff's counsel told you that Ms. Clark did not have an adequate opportunity to improve her job performance. But in this case, you will see no less than five performance, reviews, over a period of five years, in which Ms. Clark was specifically advised to pay closer attention to deadlines."

Additionally, it is perfectly permissible to point out evidentiary gaps in the plaintiff's opening statement, and if appropriate to your case, you should do it. For example, "Plaintiff's counsel accused my client of sending her offensive emails every day for six months. Where are those emails? In this trial, plaintiff will not have even one email to show you."

Finally, defense counsel must respond to comments concerning the credibility of defense witnesses. Silence may be seen as a tacit admission. Use the opening to protect and defend your witnesses, by introducing them to the jury with facts that demonstrate their integrity, trustworthiness, and/or lack of bias.

(x) Omissions by the Other Side

Listen for what is missing from opposing counsel's opening. Is there something opposing counsel is afraid of? Is there a "bad fact" that opposing counsel intentionally avoided discussing? Often, the silence may provide more clues about opposing counsel's plan for the case than what is actually discussed. Use the omissions to help you strategize as the case proceeds.

(xi) Discussing the Law

The judge will explain the legal questions for the jury's consideration when the jury instructions are given, usually at the close of the evidence or after counsel's closing arguments. Thus, the opening statement generally is not the time to tell the jury what legal questions will be the subject of their deliberations. Sometimes, however, a lawyer must reference legal questions in the opening statement to give the jury some context for the subject of the trial. For instance, a lawyer may tell the jury they will be asked to

decide what kind of conduct constitutes sexual harassment, or whether a company's response to a harassment complaint was sufficient. As long as the legal questions are broadly framed, the judge likely will allow the lawyer some latitude.

(xii) Exaggeration

The opening statement should be straightforward and direct. Avoid exaggerating or misstating the facts, and don't overdo the emotion. If a lawyer relies on exaggeration to appeal to the jury, he or she will certainly hear about "broken promises" in opposing counsel's closing arguments. Moreover, counsel should remember to be sensitive to any issues which the jury may find uncomfortable, and should avoid attacking witnesses too harshly as they are described. Jurors may react with sympathy for the witnesses, and might hold it against the lawyer and, consequently, the lawyer's client.

Nonetheless, a lawyer should not be afraid to use exaggeration to his or her advantage. Sometimes, for example, reading from the other party's own pleadings is helpful if the pleadings have exaggerated the facts, and the opposing party will never be able to prove the statements they have made.

(xiii) Movement

Your opening statement may be more forceful and effective if you move about the courtroom during your delivery (assuming the court's rules do not restrict you to a podium or table). Movement can be used to transition from one topic to another, or to emphasize a particular point. For example, to highlight a change of subjects during the opening, take a step or two to the side, and pause. This will signal to the jury that one subject has ended and another is about to begin. The motion also will refocus the jurors' attention on you if their mind has temporarily wandered.

Deliberate movements also can attract the jury's attention and emphasize an important point. Should you want to stress a critical fact, take a few steps towards the jurors. The faster and more purposeful your movements, the more emphasis is placed on the point you are making. Use a transition sentence while moving toward the jury, then come to a stop, and deliver the important point while standing still. The contrast will emphasize the point.

Too much movement can be ineffective, however. Don't move so much that the jury notices your movement more than your words. Do not run, and do not hover over the jurors. The invasion of their space may be seen as threatening, claustrophobic, and

overbearing. Also, don't pace. Pacing distracts the jury and deprives the lawyer of the ability to use movement for emphasis.

(xiv) Do Not Read Your Opening

Do not read the opening statement. You must become comfortable talking directly to the jurors, as there is little more uninspiring and dull than a lawyer who reads the opening statement. While reading the opening may help you avoid forgetting any of your points, and may ensure smoothly flowing sentences, an opening that is read is essentially a waste of time, as the content undoubtedly will be overshadowed by the poor delivery. Jurors want to see a lawyer's concern and familiarity with the case. Relying on a script conveys the opposite a lack of true belief in the case, and a lack of familiarity with the events at issue. Notes in outline form are a different story, however notes may be referred to in between pauses without dampening the effect. Moreover, it may be helpful to write out the opening statement in full during the preparation stage, and practice delivering it from the script, getting progressively less and less reliant upon the written words. When the real moment comes, however, a lawyer should put the script away. Don't even bring it to the courtroom, as you may be too tempted to use it.

Look at the jurors while making the opening statement, and show them you care about your case, and what they think. Connect with all of the jurors don't just focus on a select few, no matter what reactions you are getting. Jurors will appreciate the attention and interaction, and will be more receptive to your presentation. Do not forget the importance of a friendly demeanor. Do your best to give the jurors a favorable impression of you as a person, in addition

to you as a lawyer. Don't be afraid to laugh at your own mistakes, if you misspeak or fumble with your words for a moment. Jurors generally appreciate lawyers who are humble, and do not take every single moment seriously. Moreover, jurors, like most people, do not like hostility and anger. Lawyers who demean, insult, or bait the other side are inviting the jury to dislike them, and to extend sympathy to the other side. Acting courteously toward opposing counsel, witnesses, the judge, and courtroom personnel is never a mistake.

(xv) Bench Trials

Lawyers often agree to waive the opening statement in bench trials, but waiving the opening generally is not a wise move. Just like jurors, a judge needs an overview of the case before the evidence is presented, so that the evidence will have some context.

Thus, unless the case has been assigned to the same judge for a long time, and you are certain the judge (and the judge's clerk) knows your case extremely well, do not waive the opening just make it shorter and less dramatic. Also, feel free to address more law during your opening in a bench trial. Clarify for the judge what legal questions will govern the case, and what standards the judge will need to apply.

Concluding Your Opening Statement

A simple, smart way to conclude your opening is to tell the jury exactly what you would like from them at the end of the case: "After you've heard all the evidence, we will ask you to return your verdict for the plaintiff, Sally James." Such an ending may not be dramatic, but it gets your ultimate point across effectively. Or, consider ending with an expression of thanks for the jurors' time and attention. If you can do it sincerely, a statement of gratitude may be the best way to curry jurors' favor before you embark upon the next stage of the trial.

Above all else, conclude confidently, and with an unambiguous message. Leave the jury with a clear understanding of your client's position in the case, a basis for believing your side, and an appreciation for their role in the rest of the trial.

Opening statements introduce the Court to the parties' competing theories of the case. Opening statements generally are fairly short, and focused on the key facts each party will present. They are told in chronological order, as much like a story as possible. They help the Court understand the nature of the dispute, focus on the key evidence, and place witnesses and exhibits in their proper context.

Our laws provide for opening statements both in criminal and civil cases as follows;

Opening statements in criminal cases before the magistrates' court

Section 131(1) of the magistrates' act cap 16 provides for opening and closing of the case for prosecution and defense, the prosecutor and the accused person shall be entitled to address the court at the commencement of their respective cases.

Before the High court

Section 71 of the trial on indictment act provides for the opening of the case for the prosecution, where the assessors have been chosen the advocate for the prosecution shall open the case against the accused person and shall call witnesses and adduce evidence in support of the indictment.

Section 74(1) of the trial on indictment act provides that the accused person or his or her advocate may the open his or her case stating the facts or law on which he or she intends to rely, and making such comments as he or she thinks necessary on the evidence of the prosecution, and the accused person may then give evidence on his or her own behalf or make an unsworn statement and he or she or his or her advocate may examine his or her witnesses, if any, and after their cross examination and reexamination, if any , may sum up his or her case.

Opening statements in civil matters under order 18 the civil procedure rules

Rule 2 is to the effect that on the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his or her case and produce his or her evidence in support of the issues which he or she is bound to prove.

Rule 3, the other party shall then state his or her case and produce his or her evidence and may then address the court generally on the whole case.

An advocate needs to prepare to make an open statement for the following reasons.

It helps the advocate to formulate and be in position to present a clear picture of the case;

- its major events, participants, instrumentalities, disputes and contentions.
- It helps the advocate to plan an approach that will arouse the interest of the Court in his or her case and general theory so that the Court remains alert to the evidence. If the Court becomes bored (or worse, if it becomes antagonistic), it may be inattentive while the advocate presents his or her witnesses.
- It helps the advocate to plan an approach that will build rapport with the court, addressing the court in a way that communicates the advocate's sincere belief in his or her cause.

- For the defense, the opening statement presents the opportunity to keep the court reminded that there will be or are two sides to the case so that the Court does not make up its mind too soon.
- It provides the first opportunity to package and present one's case as a cohesive whole.
- In this context, preparing one's case as if one will be required to make an opening statement helps the advocate in planning a strategy that will direct the attention of the court to the nuances of the proposed evidence in such a way as to make the usual piecemeal presentation of testimony more understandable as it is received.

The nature and content of an opening statement

Proper opening statements are not arguments. Opening statements are supposed to be limited to informing the court of the facts the advocate intends to prove. It is not an opportunity to tell the Court that you have the evidence on your side, but to show / demonstrate it.

The purpose of an opening statement is to inform the court in a general way of the nature of one's case so that it will be better prepared to understand the evidence. The advocate is supposed to limit himself or herself to a discussion of the anticipated evidence and what the main issues are.

The advocate may not argue about how to resolve conflicts in the evidence, nor discuss how to apply the law to the facts, nor attempt to arouse the emotions of the court.

To avoid turning into a witness when giving this evidence, phrases "The evidence will show", "We shall call Mr. Mukasa who will testify that ....." or such similar phrases in the future tense may be adopted by an Advocate when introducing facts that will be testified on by an advocate when introducing facts that will be tested on by witnesses.

The Prohibition Against Argument

The most basic rule of opening statements is that "argument" is prohibited. There are two tests;

(I) whenever an advocate makes a statement, which is of nature that a witness could take the stand and make the same statement, it is not argument. However, if the rules of evidence would prevent such testimony, or if no such witness exists, the remarks are argumentative.

(ii) If it is something the advocate intends to prove, it is not argument. If, however the advocate makes a statement that is not susceptible of proof, it is argument. As long as opening remarks will assist the court in understanding the evidence, they are permissible.

However, when they turn distinctly partisan asking the court to resolve disputes, make inferences, or interpret facts favorably to the speaker, the remarks are argumentative.

For example, an advocate cannot refer to his or her witnesses as "good and truthful", discuss how the evidence will satisfy a legal standard, make negative judgements about the adversary or refer to the other party in scurrilous terms.

The Prohibition against Exaggeration and misstatements

The advocate is expected to make a full and fair statement of the party's case and the facts the party intends to prove. The most basic rule is that an advocate may not misstate or exaggerate one's evidence. The advocate cannot promise evidence he or she cannot deliver.

An advocate should not use colorful labels that characterize facts in a way distinctly favorable to one's side. For example, the prosecutor cannot characterize a crime as a "rampage of terror" or "unspeakable evil'.

Limited or no discussion of the law

It may contain a brief statement of the main legal issues on which the case depends, but not a detailed discussion of the law. One should not go further and argue how the law is supposed to be interpreted. In the same vein, pleadings may be referred to only if doing so will explain the procedural posture of the case, clarify the factual contentions, or help identify which issues are contested and which have been admitted.

Discussion of the facts

Opening statements are supposed to be limited to summaries of the basic facts one intends to prove. Three rules follow from this:

i. **one may not misstate, overstate or exaggerate the evidence**.

The most common mistake in an opening statement is overstatement: An advocate can make no greater mistake in an opening statement than deliberately or carelessly to overstate his or her case.

The deliberate inclusion of matters which cannot be established by admissible evidence.

Overstatement takes several common forms: discussing the opponent's case, discussing evidence of doubtful admissibility and discussing the testimony of uncertain witnesses, where one doubts about exactly what a witness will say, or even if the witness will show up at all.

ii. **one may not refer to inadmissible evidence**, and

iii. **one may not discuss evidence one expects the opponent to introduce that will not be part of one's own case**.

An advocate may not refer in an opening statement to evidence that would be inadmissible at trial.

An advocate may refer to any evidence that he or she has reason to believe is admissible and intends to offer.

An advocate may not anticipate the opponent's defenses nor talk about the facts the opponent intends to prove and how he or she will rebut them, except if the party represented plans to offer the evidence.

This is because in that situation, one lacks a goodfaith basis that the statements will be supported by testimony, since one has no control over whether the opponent will call a particular witness or elicit testimony on a particular defense.

Exhibits;

An advocate may be permitted to use exhibits during opening statement. Exhibits that the advocate reasonably believes will be introduced during the trial logically are evidence just like witness testimony, and should be allowed to be disclosed them to the court.

Exhibits that will be offered during trial, such as weapons, autopsy photographs, and bloody clothing may be permitted at court's discretion.

Other objectionable content of an opening statement

Making emotional appeals for sympathy for one's own client, or antipathy toward the adverse party.

Although an advocate can discuss facts that have emotional content, such as the extent of a plaintiff's injuries, one cannot go outside the relevant evidence.

For example, a plaintiff's advocate in a personal injury case may discuss how the plaintiff has suffered because there is a claim for compensation for pain and suffering.

The advocate though may not discuss how hard it has been on the plaintiff's family Appealing to racial, ethnic or other cultural prejudices.

This is usually done by linking one of the parties to a disfavored group, e.g., suggesting that the accused is a member of a street gang.

Discussing wealth, poverty, insurance, or anything else connected to a party's ability to pay damages, e.g., that the defendant was not a large corporation, but a small family owned business. Personal attacks

on the opposing advocate, e.g., that defense counsel would try to confuse the Court.

Referring to other similar cases or one's own experience, e.g., informing the court that the defendant had previously lost a similar negligence case.

Structure of Opening Statements

Introductory remarks

An advocate usually begins an opening statement by introducing himself/ herself and the client(s), and conveying the purpose of the opening statement.

One will frequently use an analogy to explain what an opening statement is, such as, "an opening statement is like the cover of a jigsaw puzzle box that previews what the finished puzzle will look like."

They also commonly include the disclaimer that what is said in opening statement is not evidence.

Present the Case theme

A good presentation of an opening statement needs a central theme. Themes can be found in the elements of your case or in the characteristics of your client that arouse natural sympathy or coincide with universally admired principles.

Themes should be positive, reflecting the strengths of one's case. In general, one should stay away from "negative" themes which focus on a weakness in the adversary's case.

Negative themes may seem petty. For example, if one represents an accused in a criminal case where the victim's identification is shaky and the police did a poor investigation, one may be tempted to focus on the weaknesses of the State's case with the theme "the blind leading the

blind."

However, if the accused has a plausible alibi, one is probably better off with a less clever, but more positive theme, such as "You can't be in two places at once."

A summary of the case told as a story/Theory of the case

The body of the opening statement is the client's version of the story of what happened. It is a narrative of the facts from the client's point of view. One should bear in mind that this is an introduction. It must be simple rather than complicated, and focus on the important facts rather than the peripheral details.

One must bear in mind also that one is recreating an event that happened a number of months or years ago. The focus is on the past event; who did what to whom, what were their reasons, and what was the consequence. The focus is not on the trial to come. It does not matter how one will prove the facts, but focus on the facts themselves.

A straightforward, chronological order is the safest, easiest, and most natural way to tell a story. A chronology is not just a recitation of facts. The advocate's main task is to paint a vivid mental picture of what happened.

The words one uses and images one creates should be chosen not only for their technical accuracy, but also for the effect they will have on the mind of the Court.

If the advocate can create effective images that the Court will understand and remember; they will bring the story to life. This is especially important for conveying an accurate picture of emotions, pain, or a complex series of events difficult to describe in simple words.

Remarks that summarize the nature of the case, state the advocate's theme of the case, and arouse the interest of the Court.

"On 12th July, 2015, John Mugabi walked into Bukasa New Health Clinic through the front door to have a minor operation to remove a growth on his arm. One week later, 19th July, he was carried out of the back door, dead.

What happened in that short week to turn a routine operation into a life and death struggle, and why it never should have happened, is what this case is all about."

Introduction of Actors, Places and Instrumentalities

The advocate should then introduce his or her client and other important witnesses and set the scene. By giving this background information first, the advocate does not have to interrupt the summary of events to explain who certain people are or to describe a location or instrumentality. The advocate should devote considerable thought to what he or she will say

about his or her client that personalizes and humanizes him or her, and makes the court sympathetic toward the client at this stage.

The purpose of opening statement is to describe the incident, not to describe the upcoming trial. Therefore, the advocate should introduce the Court to the people who actually played out the crime or other event, not the witnesses who will later describe it.

In doing so, the advocate should bear in mind that the role they played is important to the Court's understanding of who they are.

Compare the following two examples:

1. Another important witness will be Mukasa Kalema. Mr. Kalema is married, lives here in Nakawa, and works at the National Water and Sewerage Corporation Office in Bugolobi. He will describe what happened at the scene of the accident.

2. Another important person is Mukasa Kalema. Mr. Kalema was driving the National Water and Sewerage Corporation Pickup truck which was smashed it the back by Kagoro's truck.

The first tells the Court nothing that is important about the case; the second introduces the Court to one of the critical people involved, the man who caused the wreck. The Court also will be better able to understand the events if they know the goals and motives of the participants, and any obvious factors affecting credibility. The advocate should add any of this additional information only if he or she can do so briefly. For example;

"Another important person is Mukasa Kalema. Mr. Kalema was driving the National Water and Sewerage Corporation Pickup truck, trying to reach quickly at the Jinja Road Roundabout, where a broken heavyduty water pipe had caused a serious traffic jam, when his car was smashed by Kagoro's truck."

The advocate should familiarize the court with the important locations, times, and instrumentalities involved. The same kinds of considerations apply. One's goal should be not just to mention them, but to make them real to the Court.

Locations can be pictured from the perspective of the client or eyewitness; instrumentalities and machines can be made to appear as complicated devices, difficult to control, or as simple extensions of the will of the operator; and times can be related in terms of memorable events such as holidays or mealtimes.

"*Let me set the scene for you: It is 7:45 on Monday morning. People are driving from home to their offices. Mukasa Kalema gets into this Pickup truck [holding up a photo] and drives to the Jinja Road Roundabout [displaying diagram of the scene]. This is where the accident happened."*

IDENTIFICATION OF THE DISPUTES

It is helpful to describe the main factual disputes between the parties in an opening statement. It is usually acceptable to mention the points of contention in order to help the Court focus on the real disputes, but not to start arguing about how they should be resolved.

For example;

We are claiming that Kagoro's injuries were caused by the defendant. We will offer evidence to show that the defendant was did not check his rear mirror before joining the road when he colluded with Kagoro's boda boda seriously injuring him and sending him to the hospital.

In the pleadings filed before trial, the defendant asserted that he was driving safely and is therefore not responsible for Kagoro's injuries. Thus, you will have to decide one central question — was the defendant driving carelessly? That's the issue we will be focusing on.

Address the weaknesses

Every case taken to trial will have some inherent weaknesses; gaps in the evidence, witnesses who lack credibility, the absence of corroboration on an important issue, unavailable witnesses, and so forth.

Trial practitioners unanimously agree that weaknesses one's case

should be disclosed in the opening statement. By bringing them out oneself in as positive a manner as possible, one takes some of the sting out of them, appears honest, and lessens the negative impact when the opponent points them out.

This does not mean one should tell the Court about every piece of conflicting evidence, every possible line of impeachment, or anticipate disputes the adversary may raise. These are not weaknesses in one's own case. Rather, one must bring out and explain away key weaknesses that will emerge from one's own presentation of evidence or that inhere in one's theory of the case, regardless of what the opponent does.

For example, suppose that your client is accused of being at fault in an accident, and had just left a restaurant where he had consumed a couple of beers. This is a major problem that you must deal with but not overemphasize.

One could say;

"At 9:00 pm, Kagoro left Kati Kati, and got into his car to head home. The car was

in good condition, and Kagoro was alert and not tired. He had drunk two beers with his dinner, but was still in full control of his faculties. He would not have driven if he had been feeling any effects from the beer. Kagoro won't even drive with a cell phone on"

Conclusion and request for a decision

The conclusion should summarize the theme of one's case and ask the Court for a specific decision, but it cannot be argumentative. This is a difficult line to draw. It is usually permissible to suggest that the evidence adds up to a favorable verdict, as long as this is done simply and not at great length.

“

“We love to hear stories. We don’t need another lecture. Just ask your kids…”

Isaac Christopher Lubogo

Ethics of Telling a Client's Story;

A Final word on telling a persuasive story is in the words of the **Honorable Sir Malcom Hilbery in his book Duty and Art in Advocacy.**

In the majority of cases, however, it is not in the seclusion of chambers that a man hopes to pass, or does pass his professional life. Rather, it is in the practice of advocacy in open Court.

Here it is that he will find himself daily and hourly called upon to be obedient to the code. Here he must perform his twofold duty, on the one hand his duty to his Client, and on the other his overriding duty to the court.

For the Client, he must present the Client's story as attractively as it can be put. But it is the Client's case, not something of his own invention, which he must present. His duty is to make the best of the material with which he is provided.

The facts will be put before him in his instruction, and in the proofs of the witnesses. If he may inadvertently by design suggest to the witnesses what their evidence ought to be if the cause is to be won. The result may be that the Court is deceived and an injustice is done.

THE ART OF PERSUASION

PERSUASION

Conceptual definition**. The concept of persuasion** is also significant to this study though not a variable. There are several ways of defining persuasion available. For example, one could approach the matter from a general stance. To persuade is defined as follows" 'to cause to do something, especially by reasoning, urging; to convince' (Agnes, 1996). However, communication scholars have taken a more socialistic approach to defining persuasion, defining it as" intentional influence that is more voluntary than coerced" (Griffin, 2000)

Public speaking experts also classify persuasion uniquely. Persuasion is defined by rhetoricians as a 'speech designed to influence, convince, motivate, sell, or stimulate action' (Sprague & Stuart, 2000). As the main focus of this study is the significance of persuasion evidenced by speech formation, its definition will center on the role of speech structure. **Therefore, for the purposes of this study, persuasion will be**

defined as the influence of speech design on the behavior or attitude change of the audience.

In an ethnographic study done in Philadelphia, Pennsylvania, Bettyruth Walter (1988) found that lawyers' most common answer to the question 'what is the main thing you are trying to do during summation?' was 'to persuade' (p. 21). In Modern Trial Advocacy, Steven Lubel (1993) stresses the importance of the closing argument in a trial: 'final argument is the moment for pure advocacy" (p. 385)

While persuasion is the objective of the closing argument, different advocates approach the obstacle of persuasion in various ways, and, accordingly, there are many persuasive strategies available both for general public speaking occasions and for trail law. Many courses in the field of both Communication and Law present to their students prescribed strategies to use when composing persuasive speeches.

Acknowledging the significance of persuasion in the practice of trial law, some professors of law recommend to their students that they further pursue knowledge of and practice in persuasion outside of the curriculum of law classes. Thus, there are public speaking, rhetoric, and even acting classes across the country with a high enrollment of law student (G. Hench, personal communication leave something to be desired

Simon (1970) investigated the correlation between reasonable doubts, believed probability that the accused had committed a criminal act, and verdict outcome. Sealy and Cornish (1973) found that jurors returned as many guilty verdicts when they found that it was 'more likely than not" that a defendant was guilty as they did when they were 'sure and certain' of his guilt (p. 209). Two studies, one by Eagly (1974) and the other by Calder, Inkso, and Yandell (1974) examined the effect of the number of arguments presented in the summation, and concluded that too many arguments lead to juror confusion and disorientation.

Spangenberg (as cited in Rieke & Stutman, 1990) studied the way in which a closing argument designed to agree with and enhance the story already in the minds of jurors relates to the verdict outcome. Sheppard and Rieke (as cited in Rieke & Stutman, 1990) analyzed the transcript of closing arguments in a "typical civil case' to determine the type of argument used what the law is, jurors' obligations to adhere to the law, etc. (p.214). Rieke (as cited in Rieke & Stutman, 1990) examined the impact of varied closing arguments both sides arguing, only one side arguing, or neither side arguing one verdict outcome.

However, no study has been found to examine the structure or organizational pattern of the closing argument neither as it relates to verdict outcome nor in any other fashion. Acknowledging this, Rieke and Stutman (1990) remark on the research gap in this area, stating that little research has been done to find what persuasive structure may be most effective. Therefore, this study concerned with the use of such persuasive strategies by criminal trial lawyers during the closing argument.

Closing Argument

Each of the six parts of a jury trial vior dire (jury questioning and selection), opening statements as presented by opposing counsel, evidence as introduced by witnesses, closing arguments as spoken by opposing counsel, the charge to the jury by the judge, and the verdict rendered by the jury following deliberation are crucial to the trial as a whole (Walter, 1988). This is inherently evident in the reality of the trial process if one of the stages were unnecessary or superfluous, it would have been eliminated

Still, there is much debate mas to the precise significance of individual parts, specifically the closing argument. Ball (1997) makes the argument that, because they think they have already made their decisions, jurors barely listen to closing arguments. Another assertion is that oral argument is not the deciding factor in every case, or even in a majority of cases (Fontham, Vitiello, & Miller, 2002). Smith (1982) furthers this contention claiming that, contrary to popular myth, lawsuits are not won as a result of summation, although on rare occasions they may be lost because of it.

Concurrently, however, some proponents praise the impact of the closing argument. "An advocate can be confronted with few more formidable tasks than to select his closing arguments' stated Robert H. Jackson, chief counsel for the United States at the Nuremburg Trial in 1946 (as quoted in Lief, Caldwell, & Bycel, 1998, p.11). Busch (1950) claimed that one could not overestimate the value of the closing argument as an instrument of persuasion. Stryker (1954) purported that the summation is the high point in the art of advocacy. Tarter Hilgendorf (1986) asserted that jurors believe the closing argument to be more important than the opening statement in a trial. Walter (1988) contended that the significance of closing is twofold they are the chronological culmination of a jury trial and the advocate's final opportunity to communicate directly with the jury. Gibson (1991) also maintained that the closing argument is especially important by virtue of its location in the trial process. Lief (1998) concluded the following: "The closing argument is the lawyer's final opportunity to give perspective, meaning, and context to the evidence

introduced throughout a trial. It is the last chance for the lawyer to convince (the jury) why his version of the 'truth' is correct' (p.11). A study that asked what factors most affect deliberation and verdict outcome found that 'jurors ranked the closing statement second only to the questioning of witnesses' (Malton, Davis, Catchings, Derr, & Waldron as cited in Rieke & Stutman, 1990. P 202)

However, after acknowledging that 'efforts to measure [the closing argument's] impact are inconclusive' (Fontham et al., 2002, p. 154), the conclusion one might make regarding its significance could easily follow suit to the following claim: "Law suits are not usually won or lost during any one phase of the trial ' (Smith, 1982, p. 111). The closing argument is just as significant as is every other phase of a jury trial.

Persuasive strategies

Conceptual definition. **A persuasive strategy** is a pattern of speech organization used to maximize communication effectiveness. For the purposes of this study, persuasive strategies also referred to as persuasive formats, formulas, methods, patterns, or techniques include those listed below.

- Monroe's Motivated Sequence outlines the following five sequential steps; attention, need, satisfaction, visualization, and need.
- Chronology pattern arranges main points based on time sequence.
- Issues Format divides argument into a series of specific, factual issues.
- Elements Format revolves argument around specific claims and elements.
- Turning points format focusses the argument on issues likely to be of most importance to the jury.
- Causal pattern illustrate the relationship between an occurrence and either is causes or effects.
- Reflective though pattern outlines the following five sequential steps; locating and defining the problem, describing and limiting the problem, suggesting possible solutions, evaluation that solutions, and adopting the preferred solution.
- Combinations patterns include the use of two or more of the above defined patterns

- Unidentified patterns include any speech pattern not defined above.

Operational definition. The concept was measured by a content analysis of the sample texts. The samples were codes into the nine categories of persuasive strategies defined above. For example, take the following outline of the closing argument of Edward Prindeville, Plaintiff's Attorney for the Black Sox Trial.

1. Introduction
2. Review of events leading up to the World Series
    a. Before the World Series, Eddie Cicotte told Bill Burns that if the White Sox won the pennant there was something he would let him in on.
    b. Cicotte the told of the ten thousand dollars he had under his pillow
    c. The gamblers met on the morning of Game One of the World Series
    d. Joe Jackson then received five thousand dollars after the fourth game.
3. Conclusion
    a. Defendants are guilty of conspiracy and conning the American people based on the sequential order of the evidence presented, this closing argument is an example of the chronology pattern of speech.

This concept was measured by the following item in the code sheet:

Persuasive Strategy Used:

1. Monroe's Motivated Sequence
2. Chronology pattern
3. Issues format
4. Elements format
5. Turning points format
6. Causal pattern
7. Reflective though pattern

8. Combination
9. Unidentified

The study of the technique of persuasive has roots that go back as far in history as the days of Aristotle, the great orator and rhetorician. The implications of successful implementations of persuasion can be found in the examination of many field of knowledge or inquiry. For the purpose of this study, an aggregation of persuasive skills taught in the fields of Communication, Public Speaking, and those presented to students of Law is of interest.

In the Speaker's Handbook (Sprague & Stuart, 2000), commonly used in communication courses focusing on public speaking, specific focus is on three areas of significance; research, reasoning, and persuasive strategies. As stated by the authors, a preliminary guideline for any persuasive speech follows: "inquiry is a prerequisite to advocacy' (Sprague & Stuart, P. 263). Illustrating the significance of the crucial first step any hopeful persuader must take thorough and accurate research of and familiarity with the problem or situation at hand, the quote above also implies an aspect of the persuasive process not considered by many.

Inquiry, or to inquire, means more than merely reading what is available on the topic and reporting that information to an audience. To inquire is to probe, to examine, and to analyze (Agnes, 1996). To find what information is available, to think about it on the contrast of what you know about the situation, and either to make a logical conclusion about the information you have available or to conclude that more research is needed.

Many sources included in this literature review stress the significance of research in the process of persuasion. Not only do trial lawyers, or those providing persuasive guidelines to lawyers, encourage strict research practices prior to attempted persuasion, hey also strongly focus on the relationship of clear, logical reasoning and successful advocacy. Reasoning is arguably the most crucial habit of one who's attempting to persuade are captivated and persuaded by the speaker, for "reasoning links evidence to claim" (Sprague & Stuart, 2000, P. 172)

While all three of the aforementioned steps are crucial for success in trial law, only one is the current focus persuasive strategies. After emphasizing the need to 'base your persuasive efforts on sound analysis" (Sprague & Stuart, 2000, p. 265) and "identify each point in your preliminary speech outline where reasoning is needed to provide an essential link' (Sprague & Stuart, P. 170). The speaker's handbook outlines several

methods of persuasive speech design including chronology pattern, cause effect pattern, topical pattern, and Monroe's Motivated Sequence.

The manner by which the persuasive strategies include were selected is significant to the outcome of the study. After an exhaustive review of relevant literature public speaking instruction from the fields of communication and law those included were the most frequently described. The author of this study left open the possibility that there might be a strategy used that was not most frequently described in the speech instruction literature with the unidentified category. Those methods, along with others, are discussed below.

Monroe's Motivated Sequence

The motivated sequence, developed by Alan Monro, is one of the most widely used formulas for persuasive speech (McCroskey, 1968; Ehninger, Monroe, & Gronbeck, 1978; Sprague & Stuart, 2000; Waicukauski, Sandler, & Epps, 2001). This psychologically based format echoes and anticipates the mental stages through which listener's progress as they hear a speech. In regards to this, Monroe (1978) claims the following: "By following the normal processes of human thinking it motivates an audience to respond affirmatively to the speaker's purpose" (as quoted in Ehninger et al., 1978, p. 143).

The first step of the formula is the attention step, as the speaker must first motivate the audience to listen to the speech (Ehninger et al., 1978). Monroe suggests that merely gaining the audience's attention is not sufficient. The speaker must gain favorable attention and must direct that attention towards the major ideas or points of the speech. Several ways to accomplish this include rhetorical questioning, making a startling stamen, beginning with a famous, relevant quotation, or sharing a humorous anecdote or illustration. The speaker must remember that this step must lead naturally and logically into the remainder of the speech.

The second step is the need step, where auditors must become aware of a compelling, personalized problem (Ehninger et al., 1978). There are several elements that should be included. A statement or description of the need or problem should be clear and concise, enabling the listener to know exactly the problem to be addressed. The speaker should also include one or more detailed evidences to illustrate the need. This could include examples, statistical data, testimony, or any other form of support that shows the extent of the need.

Satisfaction is the third step of the sequence (Ehninger et al., 1978). In this phase, the course of action advocated must be shown to alleviate the problem. The recommended stratifies to achieve this include the speaker stating the attitude, belief, or action intended to be adopted by the audience. This should be explained thoroughly to insure that the proposal is understood. The advocate should also show how the belief or action logically meets, or satisfies, the problem pointed out in the need step. Examples showing that the proposal has worked effectively or that the belief has been proven correct before, such as in past cases, are very effective here.

Visualization is the fourth step (Ehninger et al., 1978). The function of the visualization step is to intensify the audience's desire or perceived need to agree with the speaker to motivate them to believe, feel, or act accordingly. Also, psychologically, it is important that the audience have a vivid picture of the benefits of agreeing with the speaker, or the evils of alternatives. The three variations of this step purported by Monroe follow: projecting a positive picture; projecting a negative picture; or projecting a negative than positive picture, allowing for a contrast of the alternatives.

Finally, action is the fifth step of the Motivated Sequence (Ehninger et al., 1978). The speech should end with an overt call for the listeners to act in agreement with the speaker's pleas. Its purpose is to encourage listener determination to retain the belief being advocated and/ or to urge the audience to take the definite action proposed. Typical strategies of achieving this include a blatant challenge or appeal, a summary of the speech, or a statement of inducement.

Chronology Pattern.

An approach used often in both persuasive and non persuasive speeches is to order the main points of the speech chronologically or based on a time sequence (McCroskey, 1968; Ehninger et al 1978; Lubet, 1993; Sprague & Stuart, 2000; Waicukauski et al., 2001; Fontham et al., 2002). In this method the advocate would address the significant issues at hand in the order in which the underlying events occurred. This strategy is particularly useful when it is important for the audience to perceive time relationships between issues or materials in the message. While historical development is the most common application of this pattern, and perhaps the most logical for the closing argument, alternatives include a past present future arrangement or a step by step description.

Topical Pattern.

While the speaker's Handbook (Sprague & Stuart, 2000) claims that this is the most frequently used speech pattern, the authors also admit that it is the most difficult in that ' you cannot rely on a predetermined structure, but rather must understand the range and limitations of the subject itself in order to select an effective pattern" (p.100).

Arguing that 'seemingly natural' methods of organization, such as chronology, do not present the evidence in its most persuasive form, Lubet (1993) advises the reader that topical organization "allows counsel to determine the best way to address the issues in the case' (p. 410). There are several different varieties of this pattern, including building the argument around issues, elements, and turning points (McCroskey, 1968; Levine, 1989; Lubet, 1993; Bailey, 1994; Sprague & Stuart, 2000; Fontham, 2002) The issues format divides the case into a series of discrete and specific factual or legal issues. Building an argument around large issues, claims Lubet (1993), provides little help due to breadth, whereas the focus on narrow, concrete issues proves to be useful. While agreeing that the body of the closing argument should be structured in the issues format. F. Lee Bailey (1994) suggests a technique to further express the significance of this phase of the trial. Recognized especially for his work in high profile cases such as Dr. Sam Sheppard, Patty Hearst, the Boston Strangler, and the O.J.

Simpson trial, Bailey recommends beginning the closing argument by reminding the jury that this is his last opportunity to speak on behalf of his client, who is unable to speak for himself (p.171) Levine (1989) asserts a formula of persuasion similar to this approach. His version, dubbed marshaling the evidence, entails dealing with each issue separately, reviewing the evidence from witnesses and exhibits dealing with that particular issue, then proceeding to the next issue. He offers this structures in place of chronology, also claiming more effective persuasion as his motive.

Tanford (1993) conveys a slightly different approach to persuasion, also summarized by Gibson (1992). Tanford's method, consisting of six steps prescribed for a successful closing argument, provides the advocated with a precise formula to use when composing an argument around issues. His method follows;

- Introduction
- Brief summary of case
- Identify issues (prioritize)

- Resolution of issues
- Conclusion (Tanford, P. 392)

The elements approach is similar in nature. However, rather than a focus on specific issues of the case, the concentration revolves around elements and / or claims presented throughout the case. Not to be confused with the issues category, the elements umbrella covers those aspects of utmost significance to the case that are perhaps not submitted as evidence or are not issues from the actual incident leading to the case. This method is most appropriately used when advocates need only to challenge a single element in order to win (Lubet, 1993).

Lubet's (1993) major focus in this area, however, is on the turning points organization. Modern cognitive theory, claims Lubet, "tells us that jurors are likely to regard the information in a case as a series of turning points or problems' (Lubet, p. 412). Not necessarily taking into consideration the accuracy of every fact presented in a case, jury members, and people in general, tend to focus on a limited of important issues. Therefore, this formula tells the advocate to focus the closing argument on what will most likely be the pivotal issues for the members of the jury and explain them in a way that that" comports with the Jurors' life experience and sense of reality" (Lubet, P.412)

Causal (causeEffect) Pattern.

This pattern is commonly used to show that events that occur in sequence are in fact causally related (McCroskey, 1968; Sprague & Stuart, 2000); Waicukauski et al., 2001). This structure is best suited for a speech in which the goal is to achieve either understanding or agreement about the specific relationship between an occurrence and either its roots (cause) or its consequences (effects). The logic employed in this strategy can flow cause to effects or from effect to cause, depending on the nature of the arguments at hand.

Reflective Thought Pattern

This pseudo informative pattern is similar to the problem solution strategy described above and suggests to the audience that it is being informed, arather than persuaded, by the speaker (McCroskey, 1968; Waicukauski et al., 2001). That is, the speaker begins the speech not as an overt advocate, but assumes the posture of one who is

merely informing the listener and objectively guiding the audience through a reflective thinking process.

Development by philosopher John Dewey (as cited in McCroskey, 1968), this strategy has five steps; locating and defining the problem, describing and limiting the problem, suggesting possible solutions, evaluating the solutions, and adopting the preferred solution. The effectiveness, supporters of this method claim, lies in the fact that, although the speaker knows the conclusion he will make throughout the speech, the audience is led along the thought path of the argument to the final point. By the time the communicator reaches the conclusion to which he's been building. He has the audience prepared to accept the solution he wants them to accept (McCroskey, 1968; Waicukauski, 2001).

Other Persuasive Patterns

Levine (1989) also mentions a technique where the judge's charge to the jury, which typically follows the closing arguments, is the foundation for the argument, stating that a competent lawyer will know what the charge will be. That is, if the judge were to charge the jury with the decision of whether the defendant is guilty of breaking and entering, the defense counsel would claim in the closing argument that the prosecution had not proved beyond a reasonable doubt that the defendant is guilty. Levine claims there are several advantages of this method. First, if the argument is organized around the same questions the judge presents to the jury, the jury will more readily think of the advocate's answers as answers to the judge's questions. A further advantage of this technique is the credibility projected onto the advocate by the jury for being on the same wavelength as the judge.

Fontham et al. (2002) assert that a combination of chronological order and the issues format both described above is a successful method. The authors further contend that, when addressing the issues, the advocate should use onestep logic the distance between the general point and the supporting ground being a single logical step (Fontham et al., p.164)

As is illustrated by the above review of literature, there are any persuasive formulas available to the advocate. The aim of this study was not to determine whether the lawyer can name and describe the strategy being utilized nor to determine where or how the lawyer learned the formula. Of utmost concern here was the actual use of said strategies by practicing trial lawyers as evidenced by the transcripts of closing arguments and the operational effectiveness of the strategies employed.

Closing argument

While the closing argument was not a variable concept in this study, its precise meaning is crucial. There are six segments of the trial process voir dire or jury selection, opening statements presented by opposing counsel, evidence as introduced by witnesses, closing arguments presented by opposing counsel, the charge to the jury, and the Verdict rendered by the jury. The closing argument is the culmination of a jury trial, therefore taking place after all the evidence has been presented, and thus is the advocate's final opportunity in a trial for communication, more specifically for persuasion, with the jury. In the typical two party suit, the summation phase of the case is divided into three sections;

- The prosecution gives the first argument;
- The defendant gives the second argument;
- The prosecution then gives the final argumenttypically a rebuttal of the defendant's closing argument (Busch, 1950).

For the purpose of this study, closing argument included the first two sections of the summation phase, as they are both composed and structured independently of other arguments. The third section, as indicated above, is typically a rebuttal to the defendant's argument and therefore not as likely to have a format as well developed or planned.

Opposing counsel

Conceptual definition.

The opposing counsel refers to the plaintiff's attorney and the defendant's attorney. The plaintiff's attorney is the advocate representing the party that initiated the case, or the offensive advocate. The defendant's attorney is the advocate representing the party against whom the case was brought, or the defensive advocate.

Operational definition.

Based on information from the trial specific descriptions given with the identification of each case, this concept was measured by the following item in the code sheet;

Opposing counsel:

i) Plaintiff's Attorney

ii) Defendant's Attorney

Verdict Outcome

Conceptual definition.

Verdict outcome is typically thought of as either guilty or not guilty, conviction or acquittal. For the purpose of this study, in order more accurately to assess verdict outcome as it relates to opposing counsel, verdict outcome is defined as either being favorable or unfavorable. If the prosecution is aiming to convict the defendant and the verdict is guilty, the outcome would be considered favorable for the prosecutor and unfavorable for the defense attorney. Likewise, if the outcome in the same case is not guilty, it would be unfavorable for the prosecutor and favorable for the defense attorney.

Operational Definition.

This concept was assessed based on the predetermined results of each specific case as the verdicts have already been decided. This information was found in the case descriptions accompanying each closing argument and was coded accordingly. Thus, this concept was measured by the following item in the code sheet.

Verdict outcome:

1. Favorable
2. Unfavorable

Using the tools of persuasion

How we persuade is how we deliver and tell our story to the judge. Cicero, a great attorney from ancient Rome, set forth "Six Maxims of Persuasion" that can be used and incorporated into any opening to effectively communicate and persuade the court:

(a) Understand that what reaches the mind moves the heart. Passion, as well as reason, must be used.

(b) Understand motives to understand human behaviour. The defendant's conduct is an essential part of persuasion and should come first.

(c) Move from the particulars of the case to universal truths. Social importance of taking action is an important element in the story.

(d) Draw the audience into the story. Tell the story in the present tense as if the judge was watching the events unfold in front of them, rather than hearing a narrative of something that happened in the past.

(e) Expose the flaws in the opponent's position.

(f) Communicate your passion and logic in words the judge will understand.

The content of the presentation and the manner in which it is made is important. Social scientists have studied the impact of messages related to the three primary channels of delivery: verbal (words), vocal (how the message is delivered), and nonverbal (facial expressions, eye movement, body positions).

What is said the words account for only 10% of the impact. Our voice message, inflection and resonance, account for 40%, but by far the most important aspect of the message is nonverbal, which delivers 50% of the impact.

You have to use all three means of delivery if you are going to persuade in your opening.

Consider the following techniques to enhance the power of persuasion in your opening.

Present tense. Consider when you tell the story, telling it in the present tense makes it more real in that the judge is actually with you, participating in the process.

Repetition. Repeat words and your theme. Repeat the theme throughout the opening. Repeating words or phrases can give them more significance and importance.

Rule of threes or use of trilogies. Social scientists again tell us that information is best understood when it is presented in groups of threes. It is important that data be inputted in the form of three pieces of information, for example, the three D's discrepancy, deception, distortion; three blind mice etc.

Voice inflection. The change in the tone of your voice or the speed in your voice. The delivery of your opening. Be careful in opening statements to not go too fast. You

don't want to tell your story so fast that it is similar to getting on an airplane and flying off without the passengers. Be sure that you have connected with the judge and that he is in the plane before you allow the plane to take off. Opening is not a race.

Anchoring. Anchoring is a rhetorical device of which you refer to a certain event, theme, or piece of evidence at a particular place in the courtroom. Every time you come back to it, the judge is anchored by that position.

Rhetorical questions. Questions like "Is that fair? What is it like to not be able to tie your own shoes, to take a fork and eat a piece of chocolate cake? Is that right? Why would a company fail to do that? Why would they not tell the customers about that?" are quite thoughtprovoking, although they should not be overused.

Visual aids. Be careful not to use too many, but several visual aids may be effective in conveying a point. Charts and diagrams can be helpful in understanding. Judges remember what they see and hear better than what they just hear.

Eye contact. Eye contact with the judge solidifies the bonding process. But do not stare.

Use time efficiently and speak with authority

Choose labels for the parties. Parties, whether natural or juridical, have names**.**

Overcoming the Greatest Challenge of Persuasion: Connecting With Your Listener

The most important component in the process of communication is the listener. Other components—such as you, the lawyer, or your carefully crafted argument—while important, are not *as important* as the object of your persuasion, the listener.

Knowing how the judge or jury might process your argument, and decide in your favor, is a formidable challenge. Mastering this challenge is the foundation of successful advocacy.

Study the Process of Decision

Gaining insight into the way a listener thinks allows you to connect with the listener, and the listener to connect with you. Consider the distinguished career of the 19th century English barrister, James Scarlett. He is known for having more success than

other barristers of his time. His secret was knowing how to blend his mind with the minds of the jurors: Their thoughts were his thoughts.

In Scarlett's own memoir, his son related the following quote: "I have it on Lord Chelmsford's authority that the Duke of Wellington said of my father: 'When Scarlett is addressing a jury there are thirteen jurymen.' This is both characteristic of the influence he exercised when addressing juries and of the Duke's terse manner of expressing himself."[4]

For many years, psychologists and other experts have studied the process of decisionmaking and the formation of judgments. While there is no universal agreement, numerous explanations have emerged.

Daniel Kahneman, professor of psychology at Princeton University, focuses on two modes of thinking: one that operates automatically, and one that involves "effortful mental activities."3 Heuristics are automatic conclusions drawn often from experience. For example, two individuals are on trial for murder, and one looks guilty to the jury. A juror says to herself, "Birds of a feather flock together. The second one must also be guilty." As counsel, your task is to intuit this conclusion, and perhaps incorporate it subsilencio by either correcting or supporting it, depending on your side of the case.

Some people react emotionally ("left brain people"), while others are more rational in their decisionmaking process ("right brain people"). Thus, you the advocate cannot make the mistake that all judges will use the same process of decisionmaking. Shape the argument that fits your listeners.

Further, biases relate to attitudes and beliefs that may also influence a decision. Attitudes are predispositions that cause a person to think a particular way. They can be based on prior experience. For example, a negative experience in a hospital can create a predisposition of disbelief of a health care provider testifying in support of a hospital in a negligence case.

1 Memoir Right Honourable James, First Lord Abinger Chief Baron of Her Majesty's Court of Exchequer, Peter Campbell Scarlett, James Scarlett (1877). See also, Ronald J. Waicukauski, Paul Mark Sandler, and JoAnne A. Epps, The 12 Secrets of Persuasive Argument (ABA Publishing 2009).

Beliefs are the degree of truth one assigns to something. Rarely does a listener come before you with a blank slate. The challenge is to identify attitudes and beliefs that might be supportive and to build upon them. For those who are unsupportive of your argument, you must work to erase—or reshape—them.

Obtain Specific Data on How the Listener May Be Thinking

Judges and Arbitrators

Understanding the nature of decisionmaking is one thing, but knowing how your judge, jury, or arbitrator may decide the case is another. When it comes to ascertaining a judge's approach to your argument, read prior opinions relating to the issues in your case. Stop in the court room to observe, and ask other lawyers, former law clerks, and around the legal community. Read comments, if available, on social media.

Learning as best you can about how the judge—or arbitrator—might view the case is helpful in that it will allow you to build upon their presumed outlook on the matter at hand. Consider an example where you are confronting a motion to dismiss a lawsuit. The judge is "on record expressing agitation, when complaint exceeds 15 pages." Your complaint is 32 pages. To attempt to dissolve any hostility, begin: "Your Honor, before I explain why you should not dismiss the complaint, I would like to apologize for filing such a lengthy complaint. There are 35 defendants in this case. I really had no choice. I hope the court appreciates my situation, and I thank you." Hopefully, you establish goodwill and boost your ethos—the listener's perception of your character—an essential ingredient in persuasion.

Appellate Arguments

Participating in moot court exercises in appellate cases has comparable benefits to the mock trial. Many years ago, when Justice Thurgood Marshall was solicitor general of the United States, he told me that moot court was essential to him in his appellate arguments. He stated, during a moot court argument the evening before he argued *Brown v. Board of Education,* a law student at Howard University asked him a question that he could not immediately answer. But after "burning the midnight oil," Marshall developed his response. The next day, he related to me, the Court asked him

this exact question, and he answered with confidence and enthusiasm. Marshall told me to never forget the importance of the moot court.[5]

Engage the Listener

Once you know—as best you can—the strong and weak points of your case, having assessed the mindset of your listener, it is time to focus on your argument. Here are some important elements to consider and include in your effort to convince the listener that your view of the matter is correct and should be adopted.

- Shape your argument to appeal to the listener. Keep in mind the concept fostered by James Scarlett of "blending your mind with the mind of the listener."
- Remember the importance of your *ethos,* the listener's perception of your character.
- Use inductive and deductive reasoning when applicable. Inductive reasoning examines particulars and reaches a general conclusion. Three meals at the corner restaurant were bad; therefore, all meals there are bad. Deductive reasoning examines a general conclusion to reach a specific one. All claims for defamation must be filed within one year of the alleged wrong. Plaintiff filed her case three years after the alleged defamation. Her case must be dismissed.
- Consider your style. Use plain, easytounderstand language, including schemes and tropes. A scheme is the rearrangement of words in a sentence for drama or effect. "A good man is Jim." A trope occurs when you change the significance of words in a sentence. Metaphors and similes are considered tropes. Keep in mind the secret to Daniel Webster's success: "By addressing the understanding of common men... I must use language perfectly intelligible to them. You will therefore find in my speeches to juries no hard words, no Latin phrases, no *fieri facias*, and that is the secret of my style."
- Concentrate on the arrangement of your presentation. Bear in mind the ideas of primacy, recency, and frequency. You remember best what you hear first and last. The power of repetition brings rewards.

[5] The art of Persuasion Sandler

- Use and show emotion as appropriate; do not overdo it. Consider the value of understatement.
- When using demonstratives, assure that they can be seen clearly.
- Immunize your argument as appropriate by suggesting what the opposition might argue—and refute it before it is proffered.
- Give attention to your delivery—how you move in the courtroom. Facial expressions, eye contact, gestures, and modulating your voice are all important aspects of delivery.
- Observe the listener and match your argument to his or her state of mind as you perceive it during the presentation. Then lead the listener to your conclusion.

Conclusion

Rhetoric—choosing the most persuasive argument for the occasion—is an art, not a science. Devoting time to consider the mindset of the listener is the cornerstone of the art. The tools of engagement are not universal, but they arise from centuries ago and can be adapted to suit our postmodern times.[6]

Style: The Measure of a Great Argument

Rhetoric is the art of selecting the most effective means of persuasion, which ultimately translates to the refinement of your own style of expressing yourself in the courtroom. Words are important, yes, but it's how you use them that matters most.1

As discussed in the first essay in this series, "Classical Rhetoric and the Modern Trial Lawyer," the three most important ingredients of a wellcrafted argument, as suggested by Aristotle, are ethos (the listener's perception of the speaker's character), logos (logic), and pathos (emotion). Allow these three principles to guide you as you polish your individual style—perhaps the most important rhetorical element of persuasion.

[6] The Art of Persuasion Sandler

Words can be symphonic, and elevate your emotions. Words can also be clumsy tools that cut your very own fingers. Carefully selecting your choice of words—and arranging them to achieve eloquence—is the essence of style.

Consider Emerson's appraisal of Montaigne's use of words:

Now take, for example, two personal injury cases. Both trial lawyers seek damages in their closing arguments. Imagine one lawyer exhorting, "Let's turn to the measure of damages." Now imagine the other quietly stating, "Let's turn to the grim, grueling audit of pain." Which style is most effective? It is impossible to evaluate without first knowing to whom these lawyers are speaking. Tailoring the argument to the listener is, therefore, a significant principle of rhetoric. So, in choosing your style, you might select the first version if arguing before a judge, but—if arguing before a jury—the second version may serve you well, if you believe members would be receptive. Remember: Choosing the appropriate style is important. But it is perhaps even more important to know when to alter that style.

Select carefully and tailor your language to your listeners so that your style choices do not backfire. During closing argument for a jury trial in Los Angeles, defense counsel from Baltimore once used the term "waterman" in an effort to come across as down to earth. However, the jury had no idea what that word meant. While those from Baltimore know that a "waterman" is one who fishes the Chesapeake Bay, this West Coast jury was confused. Word choice clearly matters. The right choice can make you relatable; the wrong one can just as easily alienate the listener.

With diligence, you can improve your style. While some have natural born talent as advocates, many of the best have perfected their skills through hard work and practice. Remember Demosthenes? He practiced speaking with pebbles under his tongue to eradicate his stutter, and is now often regarded as the supreme example of the perfect advocate. His Philippics against Philip II of Macedon are legendary.

Woodrow Wilson practiced his speeches alone in the woods, carefully crafting his language over time. Winston Churchill spent hours working on and practicing his speeches. Often, listeners thought Churchill was speaking extemporaneously. He was not. His speeches were the result of a deliberate choice of style.

Ultimately, style is personal so you should develop one that is your own. Regardless of which words you choose, always strive for clarity with logic and emotion when appropriate.

So how can you polish your style? One effective means is to study the classical rhetorical figures of speech known as schemes and tropes.

An example of a scheme is when you change the traditional—or expected— order of words in a sentence for effect or drama, such as: "A great lawyer was Hank."

Tropes are figures of speech that occur when you change the significance of the words in a sentence. The most familiar examples of tropes are metaphors and similes. Metaphors are implied comparisons between two things that are unalike, but that have something in common: "The defendant's case went down in flames." A metaphor transforms a word or phrase from its literal meaning into something else. A simile, however, uses "like" or "as" to explicitly compare two things that are not alike: "These facts are clear as a fire bell in the night."

The proper use of schemes and tropes will add zest to your courtroom arguments, and will enhance your arguments and the testimony of your witnesses, should counsel help them in expressing their answers with "style."

Studying these figures of speech can be tedious—and even dry—but, oh, how you will reap the rewards of your efforts. If you consider them carefully, and mull over them, you will accomplish impressive improvement in persuasive abilities. But do not be hasty. Learn just one or two schemes and tropes at a time. Then attempt to use them. Even Shakespeare recommended a conservative approach. He suggested to "practice rhetoric in your common talk."

Listed below are 10 classical schemes and 10 classical tropes that you—as the modern advocate—should study. Practice using them if the inclination strikes you.

Clarity of Expression: The Keystone of Successful Advocacy in Dispute Resolution

Clarity of expression is the essence of legal persuasion. Whether in court, arbitration, mediation, or settlement talks, favorable dispute resolution relies on effective communication.

Yet, in the practice of law, you will often be confronted with vague and opaque writing and speech. This opacity has many causes, chief among which are lack of preparation, the abandonment of logic, and the failure to mold the message to the audience. Other causes include a misuse of emotion, lazy delivery, careless arrangement, confusing visuals, and the simple failure to recognize when to stop talking.

There are, of course, countless examples of the lack of clarity in the legal profession. For a small sample, consider the following:

- Counsel asks a witness in trial: "Do you know Tyra Jackson, and that she is the girlfriend of the defendant?"1
    - If the answer is "yes," to what does "yes" pertain? Knowing the girlfriend? Or that she is the girlfriend of the defendant?
    - Counsel should have delineated the compound question into two separate questions.
- During an appellate court oral argument in a case involving a question of jurisdiction, a judge once asked counsel: "Well, how did you get here?" Counsel responded: "I drove from Baltimore," prompting robust laughter from observers.
    - Replacing "you" with "the case" would have clarified the question sufficiently.
    - This example calls to mind one of Mark Twain's quips that "the difference between the almost right word and the right word...is the difference between the lightning bug and the lightning."2
- Consider this boilerplate text from a contract under the heading Dispute Resolution: "The parties hereto agree that before filing any lawsuit in any court they will initiate and complete mediation in an effort to resolve their differences."

The contract fails to clarify the substantive question of what would occur if a dispute were to arise between the parties on the last day before the statute of limitations expires. The term "complete mediation" is poorly defined.

These three examples are hardly unusual. They illustrate just how frequently legal communication leads to misunderstanding. You can always do better. Described below are a variety of practices that can help you sharpen your oral and written communication, in and out of court, arbitration, or mediation. Although they are especially useful to young lawyers, all lawyers can use a refresher now and then.

1. Identify a theme.

Clear expression is the product of clear thinking. A theme can help you organize your ideas. Whether you are in settlement talks or preparing for mediation, arbitration, or trial, develop a theme and adhere to it. The theme serves as the road map for presentation. It keeps you going straight ahead, avoiding rhetorical detours.

Your general theme will be shaped by particulars. Survey the building blocks of your case: evidence, legal authorities, precedents, public policy, the facts, the adversary. What theme do these various elements suggest? Will that theme help you achieve your goals? Once you have identified a suitable theme, you will be in a much better position to develop coherent, wellorganized arguments that advance your cause.

2. Consider the audience.

Remember that clarity is measured only by the extent to which your audience understands you. Terms and ideas that are clear to a judge or another attorney may confuse a jury. If you persistently ignore your audience's particular needs, biases, and habits of mind, it may very well decide against you.

Knowing something about psychology and how people make decisions is essential for litigators. Daniel Kahneman, a noted figure in behavioral economics, suggests a twosystem approach to judgment: Step one is an automatic or unconscious response toward a decision based on associated memory. Step two involves the cognitive thinking that requires the brain to work.[7]

Understanding these principals is challenging but worth the effort. For example, if you adhere to the view that people form opinions quickly by intuition, you might

[7] Daniel Kahneman, Thinking Fast and Slow (Farrar, Straus, and Giroux 2011).

want to take advantage of the doctrine of primacy by beginning your presentation with your strongest point rather than building up to it. Primacy embraces the idea that you remember best what you hear or see first.

Hence, clear expression is sometimes referred to as "listenercentered."4 To mold the presentation to the listener, it is necessary to understand what elements will most likely influence the listener's decisions. Attitudes and beliefs are two such factors.

a) Attitudes are predispositions to think or behave in a particular way. They are often based on prior experience. A person who has had a bad experience in a hospital, for example, may not like health care providers.

b) Beliefs, on the other hand, are perceived truths a person applies to a new issue or question; for example, a member of a jury might believe that police are, on the whole, good people who work hard to protect the public. You can speak more clearly and effectively to someone if you know something about your listener's attitudes and beliefs.[8]

There are numerous ways to learn about your audience. You can read about the judge or arbitrator; inquire in the legal community; or in the case of a jury, arrange focus groups or mock trials.

3. Use logic and formal reasoning.

Sound reasoning clarifies understanding and thus advances your cause. It is difficult to disagree with conclusions arrived at through logic. When developing the reasoning that supports your presentation, consider deduction and induction, the two types of formal reasoning.5

A deductive presentation focuses on a general premise. The reasoning progresses from the general to the specific, with the conclusion following from a valid premise, without the addition of new information.

Deductive arguments, or syllogisms, will often strike your audience as undeniable. Imagine you are in mediation and the mediator presses you to advise your client to pay the plaintiff. You respond: "The plaintiff's case is a nuisance. The statute of

[8] Daniel Kahneman, Thinking Fast and Slow (Farrar, Straus, and Giroux 2011).

limitations for the claim is three years; the case was filed five years after the breach of the contract; the case should be dismissed." Is this not as clear as a fire bell in the night?

Another example of deductive presentation includes the use of definition. Here you define a term and illustrate that the conduct of your client falls or does not fall within the term. For example, "Paragraph 24 of this contract reads that amicable resolution includes mandatory mediation. Plaintiff did not seek mediation before filing suit. The case should be dismissed." Again, this airtight syllogism is difficult to refute.

Inductive reasoning, on the other hand, progresses from the specific to the general. Examples include using life expectancy tables to argue the life expectancy of your client, or arguing for lost profits based on prior years' performance.

If you try to balance an inference on the back of flimsy specifics, your argument will collapse. For instance, if you base a client's lost profits on only one year's performance, your adversary could claim that you've provided insufficient evidence; the year in question could have been anomalous. Ideally, the facts from which you draw your inference will clearly point your audience to the desired conclusion.

Induction by analogy can also help you communicate clearly. It often comes into play in the application of case law. You may appeal to a judge, for instance, to decide your case based on a decision in a previous case with similar facts.

Causal correlation is a third aspect of induction. You could observe that a group of tourists all became ill after being exposed to a visibly ill tour guide. Thus, you conclude, exposure to the guide caused the group to become sick. An adversary might counter that correlation is not causation. To refute this truism, you will need strong evidence. In the example of the tourists, if only a few of them fell ill, and did so after being exposed to a variety of other people, your claim that the guide was to blame will look flimsy. On the other hand, if you can show that all of the tourists became sick and were not exposed to other contaminants, you will be on surer footing. Whether inductive or deductive, sound logic enhances clarity because it takes your listener through the thought process by which you have arrived at the desired conclusion. By taking these steps with you, the listener will more likely grasp their import and feel convinced.

4. **Appeal to emotions.**

Emotion can be conducive to clarity, though it is important not to overdo it, and to always be sincere. Convey emotions through body language, expression, voice, and pacing. Often, a situation can be so obvious that it would be counterproductive to pound the table or repeat yourself. In such instances, consider the power of understatement and restraint. When discussing sad events, for example, skilled advocates may often lower their voice, slow their pace, and clasp their hands in front of their body. Figurative analogy can also heighten the emotional import of your argument. Whereas induction by analogy requires a comparison between like subjects, figurative analogy involves comparison between unlike subjects. Consider the example, a bird in hand is worth two in the bush. In other words, be satisfied with what you have, and don't strive for something that may be illusive.

Delivered the right way, this single simile can concisely and memorably reveal the plaintiff's degraded condition and arouse pathos in the listener. A successful appeal to emotion clarifies in a way that logic cannot. Emotion provides strong motivation to decide in your favor. It communicates the deeper purpose at a visceral level.

5. Perfect your style.

Your style of expression has a tremendous effect on clarity. Using language that is familiar to the audience is a step in the right direction. When steeped in a case concerning an arcane subject, a lawyer may fail to recognize that the terminology could easily confuse a judge or jury.

Daniel Webster, one of America's greatest trial lawyers, once remarked, *"In addressing the understanding of the common person, I must use language perfectly intelligible to them. You will therefore, find in my speeches ... no hard words, no Latin phrases "*[9]

His point is welltaken, and Latin phrases are not the only culprit. Overly complex sentences can also trip up your listeners. Here is a needlessly complex sentence: "Let us recognize that the plaintiff, my client Mrs. David, has indeed labored in all good faith to fix .

[9] The –Art –of –Persuasion-Sandler

A more effective rephrasing would be: "*Mrs. David has worked hard to repair her friendship." Such simplicity and concision will help your listener follow the argument.*

When seeking to condense and simplify complexity, consider figurative language. Metaphors and similes convey ideas and sentiments with force: "*Seeing his wife with another man was a dagger to his heart." Another example: "After she was wrongfully indicted, her career went down in flames."*

In addition to condensing sentiments, such statements arrest attention. Varying sentence structure can likewise cause your listeners to mark your words. Rather than stating*: "This case is about the defendant perpetrating a fraud upon the plaintiff," invert the sentence structure to begin on a more forceful note: "Fraud is what this case is about."*

In rhetoric, such unusual sentence structures are known as "schemes."[10]Repetition is a scheme: "How did you feel after the accident?" *"Horrible, horrible, horrible." Parenthesis is another: "Defendant's action, and it is a tragedy, caused the collision."* Playing with sentence structure in this way can be conducive to clarity when it helps you emphasize the facts, ideas, and sentiments you want the listener to act upon in resolving the dispute at hand.

6. Refine your delivery.

When preparing to argue a case, consider the movement, body language, and eye contact you'll use when speaking. If you are arguing that a witness was not wearing her eyeglasses when she claimed to have seen your client committing the crime, you could hold glasses in your hand and point with them to the jury to emphasize the point. This would visually anchor the idea you are conveying.

Body language, however, can just as easily hinder clarity. You often send messages inadvertently by your movements (or lack of movement). Indeed, sometimes your actions may be at crosspurposes with your intent. In the midst of an emotional argument, a careless expression or lack of eye contact can reflect a lack of sincerity. Remember President George H.W. Bush checking his watch during one of the 1992 presidential debates? Similarly, you may suggest to your audience that you disbelieve your client if you never seem to give your client attention.

[10] Ibid 5

7. **Structure your presentation.**

Clarity of expression benefits from a balanced arrangement of your presentation. All arguments should have a beginning, a middle, and an end. This is true for opening statements, appellate arguments, motion hearings, and even examinations of witnesses.

Developing the substance of your presentation within the various parts of the presentation is an art improved by experience. Consider beginning with the most important point to take advantage of the "doctrine of primacy." This doctrine holds that you remember best what you hear first. It is often tactical to arrest the attention of the listener by stating at the very outset the action you want the listener to take: "We are asking this court to reverse the judgment below because the Jones Company did not exhaust its administrative remedies." You would only then develop the facts and procedural history.

While crafting the arrangement of your presentation, also consider the "doctrine of recency," which holds that you remember best what you hear last. It is often helpful to conclude your presentation with a major point that you wish the listener to remember. In addition, consider the "doctrine of frequency," which holds that effective repetition helps clarify your message.

The most effective advocates often employ techniques such as "looping" or "incorporation" to have the witness repeat a particularly important point. For example, "Did you see the collision?" "Yes." "When you saw the collision, did you obtain a good look at the driver of the blue car?" Here, the questioner wants to emphasize that the witness saw the collision as a predicate for other questions. How you craft your presentation using primacy, frequency, and recency is individualistic. What is most important, however, is that you are aware of these doctrines.

Another technique of arrangement is to use topical sentences: "I am now going to address the issue of the statute of limitations." Or when examining a witness: "Mr. Fox, I am now going to ask you some questions about where you were when the murder occurred."

8. **Take care of the visuals.**

While a picture may be worth a thousand words, poor visuals—and an overdependence on them—can confuse your listeners.

When using PowerPoint, be sure you don't crowd the slides with too much information. Ideally, your audience will be able to grasp the import of each slide almost immediately. Large lettering, plenty of whitespace, and vivid imagery will all help, as does the effective use of color. Remember that colors have a psychological impact. While color psychology is not for everyone, and opinions vary on whether the color of blue communicates confidence or yellow optimism, it still makes sense to consider how color relates to the nature of the information presented.

Presenters often give in to the temptation to read from their slides. Do this too often and you will bore the audience. Rather than reading from visuals, paraphrase and elaborate on what they show.

Remember that the visuals are integral to your argument. They should be vivid and memorable. Used sparingly, they can do wonders in elucidating even the most complex information.

9. Do not reargue your points.

When responding to opposing views, do not reargue points made previously. Instead, identify the topic or issue you wish to refute, then explain why that point is wrong. Conclude by explaining the correct view of the matter.

When rebutting an adversary, attorneys will sometimes meander and confuse their audience. Such drifting may indicate that the attorney was not prepared to respond to an opposing argument. To avoid such mistakes, anticipate your adversary's moves and rehearse brief, clearly phrased rebuttals.

10. Know when to sit down.

Longwinded talks detract from clarity. Bore your listeners and you risk losing their attention—and their good will.

Conclusion

Each of these 10 pointers underscores the importance of preparation. Clear arguments are rarely spontaneous. While there is a place and time for extemporaneous speaking and improvisation, most attorneys must practice and test their arguments before going to trial. Doing so will help you speak with clarity—the keystone of successful advocacy in dispute resolution.

“

“Statistician. A person who draws a mathematically precise line between an unwarranted assumption and a foregone conclusion.”

Zion Margaret Lubogo

LOGIC AND EMOTION

Sound logic, or reason, can go a long way in persuading a judge or jury. With emotion, your argument crosses the finish line. To understand the effective, synergistic use of logic and emotion in the art of persuasion, you must appreciate not only their individual elements but also the application of each to the case at hand.

These concepts were laid down long ago as the cornerstones of persuasion, as previously discussed in the first essay of this series, *"Classical Rhetoric and the Modern Trial Lawyer."*

As Aristotle suggested in *Rhetoric*, his seminal book on persuasion, logic (*logos*) and emotion (*pathos*) are two of the three basic principles of persuasion.[11]

Likewise, Cicero stated: "[T]he supreme orator...is the one whose speech instructs [logic], and moves ...his audience" [emotion].[12] And as a reminder of the importance of emotion in persuasion, he further explained that men decide far more problems by hate—or love or lust or sorrow or hope or fear or illusion or some other inward emotion—than by ...any legal standard, or judicial precedent.[13]

And these concepts continue to serve well the modern lawyer of today. On the one hand, logic adds power to arguments, and enables you to identify weaknesses (i.e., logical fallacies) in opposing arguments. On the other, emotion speaks to the heart, and arouses sentiments within the judge or jury.

LOGIC

According to Aristotle, logic includes both deductive and inductive reasoning. Both are invaluable in persuasion. In essence, deductive reasoning focuses on the premises,

[11] The third is the listener's perception of the speaker's character (ethos).

[12] The –Art –of –Persuasion-Sandler

[13] De Oratore, Loeb ed. 1942 ii xlii 178, 325. See also, Lord David Pannick, Advocates, Oxford University Press, (1992), 2.

moving from the general to the specific. Inductive reasoning focuses on inferences moving from the specific to the general.[14]

Deductive Reasoning

Deductive reasoning is the process of drawing a specific conclusion from premises based on generality. The basic mode of deductive reasoning is the syllogism, which provides structure to the deductive analytical process.

The typical syllogism consists of a major premise assumed to be true; a minor premise also assumed to be true; and the specific conclusion asserted, based on the assumed truth of the major and minor premises.

Here is an example of a syllogism:

i) Major premise: All lawyers in the United States attended law school.

ii) Minor premise: John Smith is a lawyer in the United States.

iii) Conclusion: John Smith attended law school.

Observe that the conclusion can only be valid if both the major and minor premises are valid. In the above example of a syllogism, both premises are valid; therefore, the conclusion is certain and the argument succeeds. It does not extend beyond the premises and is contained within the original generalization: All lawyers in the United States attended law school.

However, if a deductive argument contains a false premise, the reasoning is flawed and the argument is rendered invalid. Perceptive listeners will recognize this logical fallacy, and your advocacy will be diminished in value.

Consider the following during oral argument by defense counsel on a motion to dismiss a complaint:

iv) Major premise5: The statute of limitations applicable to this case is three years.

[14] See chapter 4, Ronald J. Waicukauski, Paul Mark Sandler, and JoAnne A. Epps, The 12Secrets of Persuasive Argument (ABA Publishing 2009).

v) Minor premise: Mrs. Jones filed her complaint four years after the event in question.

vi) Conclusion: The court must dismiss this case.

Now consider the following syllogism when plaintiff's counsel responds to the above deductive argument, and asserts that opposing counsel's major premise—that the statute of limitations is three years—is not accurate.

- Major premise: In this jurisdiction, the Discovery Rule permits the filing of a complaint within three years after the plaintiff discovered the wrong, or should have discovered the wrong.
- Minor premise: In this case, plaintiff did not discover the wrong perpetrated against her until four years after the wrong was committed.
- Conclusion: The case should not be dismissed because there is a logical fallacy in defense counsel's deductive analysis. The major premise is false and so is the conclusion.

Interestingly, the plaintiff's counsel also argues deductively. However, her major premise is true; defense counsel's is not. Before advancing the deductive argument, it is imperative that you verify accuracy of both premises.

During argument, it is not necessary to announce specifically that you are advancing a major or minor premise. It may be more graceful to state the substance of the premises and the logic supporting your conclusion.

Aristotle recognized this when he created the "Enthymeme," which is a syllogism with only a minor premise and a conclusion. The major premise is implied—not stated—based on common values, attitudes, and beliefs of the listener, allowing the advocate to draw upon an accepted truth and build on it.

For example, assume in a particular community that those regularly attending religious services are considered honest people. In closing argument, defense counsel argues:

"Tom Dorsey took the stand. You saw him. You heard him. He told you about his life. One of the most important aspects of his life is his religion, and regularly attending religious services. He testified truthfully. Find him not guilty."

The *implied* major premise is that those regularly attending religious services are considered honest people. Both the minor premise (Tom regularly attended religious services) and the conclusion (Tom testified truthfully) are explicitly stated.

Interestingly, the major premise of a syllogism can be hypothetical and nevertheless effective. **For example:**

- Major premise: If Jessica Mason did not file her lawsuit within three years from the date of injury, she fails to satisfy the statute of limitations.
- Minor premise: She did not file her case within three years from the date of injury.
- Conclusion: The complaint should be dismissed.

Inductive Reasoning

Whereas deductive reasoning is the process of drawing a specific conclusion from premises based on generality, inductive reasoning is the process of reasoning from specific facts or data to a general conclusion. Deductive reasoning seeks to confine a conclusion to its premises, whereas inductive reasoning seeks to establish a conclusion often by inference beyond the facts or premises. A conclusion based on inductive reasoning is often probable, but not certain.

For example, when Robinson Crusoe washed up on the shore of the Island *Más a Tierra*, he was distraught. He believed there were no other human beings on the island. He went to sleep on the sand, lonely and dejected. In the morning when he awoke, he saw a human footprint in the sand that was not his own. By inference, he concluded that he was not alone. This was inductive reasoning—probable, but not certain. Some characterize the footprint as circumstantial evidence.

Inductive reasoning presents three types of arguments: (1) argument by example or particulars, (2) argument by analogy, and (3) argument by causal relationship.

(1) Argument by example or particulars

Argument by example or particulars identifies specific instances or characteristics within a given class or order and arrives at a general conclusion.

For example, in a criminal case, the prosecutor argues to admit prior instances of defendant's bad acts to then argue inductively in closing argument that the defendant, by example or particulars, committed the crime in question.

In a case where plaintiff seeks lost profits for breach of contract, counsel offers into evidence the plaintiff's profits for the prior five years. Counsel argues inductively from the particulars that the lost profits for the breach of contract are comparable to the five prior years.

As with deductive analysis, the proponent of inductive reasoning must be on guard against logical fallacies that opponents will identify to the proponent's detriment. When crafting arguments, it is important to keep potential fallacies in mind to be assured that your reasoning is immune from challenge.

Argument by example or particulars harbors such fallacies as selection of atypical examples, and the selection of insufficient examples. Also, in the case for lost profits above, what if in the third year the plaintiff received an unusually high unique payment? Defense counsel may have either revealed the logical fallacy known as negative instances or perhaps the fallacy of atypical example.

Perceptive counsel for plaintiff should anticipate in his or her presentation the response of defense counsel, and explain away the fallacy. Perhaps the alleged fee was not so atypical or that plaintiff discounted it in her calculation.

(2) Argument by analogy

Argument by analogy involves comparing several characteristics of an observed circumstance to the matter at hand, suggesting that as they are alike in relevant characteristics, the former controls the matter at hand.

For example, at trial plaintiff's counsel objects to a question posed by defense counsel on the basis of hearsay. Defense counsel responds: "Your Honor, with all due respect, you overruled my objection yesterday, when plaintiff asked the same question. You ruled that it was nonhearsay. You should please overrule his objection now for the same reason." The Court: "Counsel, you are correct. You presented an excellent inductive argument by analogy. I overrule the objection."

Using analogical reasoning by induction in legal arguments has been the basis of the development of the common law. The development of the common law is not based

on deductive reasoning, but by inductive reasoning derived from particulars, and by analogy.

When counsel cites a case on all fours arguing legal precedent, counsel is using inductive reasoning by analogy.

Techniques for effective use of analogy include identifying the points of comparison, and explaining any differences. Several logical fallacies giving rise to the expression "a false analogy" are affiliated with analogical reasoning: The compared cases are not alike in their essential characteristics; the characteristics are not accurately described; or the proposed analogy is a figurative analogy, not a logical one.[15]

A figurative analogy bases a comparison on unlike circumstances. For example, in closing argument, counsel is justifying an employee's discharge in a wrongful discharge case and recalls the Aesop fable where a man works hard to rescue a handsome dog from a deep well. The first thing the dog does is bite the man. The man [analogous to the employer in the case] tosses the dog back, explaining: "Don't bite the hand that feeds you." In this case, the employer did so much to help the employee, who nevertheless revealed vital trade secrets to the employer's competitor. The employer had no choice but to terminate the disloyal employee. The figurative analogy compares unlike circumstances, and although it does not have the force of logic, it is often effective.

(3) Argument by causal correlation

Inductive argument by causal correlation seeks to correlate a particular event or *cause* with a particular *effect*. To properly argue inductively by causal correlation, you must demonstrate a consistent, coherent relationship between cause and effect (i.e., when the cause occurs, the event occurs). Moreover, the cause and effect relationship must be strong.

Examples of inductive arguments based upon causal correlation include:

a) The floor was wet; Mrs. Jones slipped.

b) Everyone who dined at the restaurant became ill because the food was toxic.

[15] The Art of Persuasion Sandler

c) During surgery, the surgeon left the sponge in the patient, which necessitated further surgery.

d) The electric tool did not have a warning sign and caused serious injury.

Logical fallacies to avoid in argument by causal correlation include the assumption that a mere chronology of events gives rise to causal correlation. This fallacy is known as "after this; therefore, because of this." For those who appreciate Latin: "post hoc ergo propter hoc." Another related fallacy includes little to no relationship between the cause and effect.

Appreciating the power of an argument based on logic provides the opportunity to advance a powerful argument not only for advocates invoking one of the modes of a logical presentation, but also for accomplished opposing advocates who can identify the logical fallacies and sway listeners in their favor.

Emotion

As logic is a powerful instrument of persuasion, so, too, is emotion. Since ancient times, harbored feelings such as passion, anger, pity, sympathy, happiness, and even indifference have played a significant role in decision making by both judges and juries.7 Who is not familiar with the phrase "Go with your gut feeling?" What trial lawyer does not seek to tap into the emotions of the judge or jury using appropriate measures?

The objective of emotion in argument is to awaken or arouse desired feelings or sentiments—such as anger or sympathy—within the judge or jury, and induce them to render the preferred decision. Emotion can be used derivatively or directly, to enhance the theme or theory of the case.[16]

Derivative Use of Emotion

Derivative use of emotion can be effective to confirm a conclusion you believe the judge or jury currently harbors, either from the presentation of the case or from preconceived attitudes or beliefs. Consider this closing argument by the late Moe

[16] The Art of Persuasion Slander

Levine, after he established the elements of proof relating to the tragic injuries of his client, who became a paraplegic.

Direct Use of Emotion

Direct use of emotion is the essence of exhortation, calling upon the empathy of the judge or jury to feel the emotion of the matter at hand as a means of convincing the judge or jury to render the desired judgment or verdict. It relies on the belief that most people make decisions based on emotion, and then justify that decision with logic. Hence, the exhortation stirs the emotions of the listener and touches upon the perceived attitudes to achieve the desired conclusion.

Here is an example of an exhortation from an excerpt of the closing argument by defense counsel in John Grisham's novel *A Time to Kill*. Counsel is defending the father for murdering one of his child's killers.

Listed below are several effective ways to arouse emotion:

(1) Tell a story. One way to arouse emotion is to tell a story, as in the above peroration. A story that embraces the theme can enhance the desired emotional response.

(2) Use figurative analogy. Using a figurative analogy is another characteristic of emotion worthy of consideration, as exemplified by Moe Levine who suggested his client ate like a dog.

(3) Consider schemes and tropes. The words you select—your style—are influential in stirring the emotions you seek to arouse. Using schemes and tropes, sometimes referred to as figures of speech, can be very effective in the art of persuasion.10

A *scheme* changes the traditional order of words in a sentence for drama or effect. For example, a traditional Q&A during direct examination might unfold as such:

Q: "Mrs. Jones, can you tell us what your late husband was like?" A: "He was a wonderful, kind man full of personality."

To stir the sympathy of the jury, consider this response, which uses the classical schemes of inverted words and repetition: "Wonderful, wonderful, a wonderful man was my dear husband, Henry. He was kind and full of personality. I miss him."

A *trope* changes the significance of words in a sentence (e.g., metaphors and similes). Moe Levine's figurative analogy—"ate like a dog"—is a simile.

(4) Ask rhetorical questions. Rhetorical questions, which the speaker leaves unanswered for the listener to answer, can spark a jury to feel the distress of the client—or anger, if that is the goal. "Look at him, ladies and gentlemen. Does he look like the type of person who could commit this heinous crime?" Here, counsel is imploring the jury to conclude "not guilty."

(5) Humanize the client. Humanizing the client can go a long way to obtaining emotional appeal. In the above scheme example, the manner in which the wife responded to the question about her husband could help cultivate emotional support for her case.

(6) Don't underestimate the understatement. The power of understatement and restraint must not be ignored. In a criminal case, for example, the prosecutor states: "In closing argument, I will not dwell on the slight speed the defendant drove the getaway car, when he says he was slightly inebriated. The facts were clear that defendant was driving the car at 90 miles per hour, and that he was very inebriated." This understatement, in its context, effectively arouses anger in the jurors.

(7) Be sincere. Above all, it is essential when seeking to arouse emotion that you show sincerity and demonstrate you feel the emotion you seek to arouse. Sincerity is demonstrated not only by your chosen words, but also by your tone of voice, body language, and presentation of photographs. For example, pictures of events, people, crime, and accident scenes can certainly generate sympathy, anger, pity, or even disgust. Other exhibits at trial can also be used to generate a desired emotion, such as medical records, or a chart depicting prior bad acts, if appropriate.

While the opportunities for cultivating emotion in the appellate courts are not as robust as during trial, opportunities do exist depending on the case. For example, public policy issues frequently play a major role in the development of the law, and these issues often have emotional undercurrents that can be stirred by adroit advocacy. Moreover, every erroneously decided case on appeal is saturated with emotion over the injustice of the errors below. Adroit advocacy can stir these emotions as well.

However, when briefing and arguing appeals, you must be mindful not to treat the appellate court as the trial court. The former exists to address alleged errors of law and is not receptive to emotional tirades.

Finally, remember that judges and jurors—like all of you—have entrenched attitudes and beliefs that they invoke during the proceeding. So bear in mind that connecting with a judge or jury on an emotional level requires an understanding of this frame of mind and whether the planned approach has the potential to be effective.

Although working with or against these attitudes is a challenge, it may be prudent to present a particular emotional appeal that takes piece of mind into account. Even more challenging, however, is the probability that not all members of a jury or appellate court panel may have the same preconceived frame of mind. Therefore, it is wise to take time to learn more about the listeners, judge, jurors, arbitrators, or even clients. What are their attitudes and beliefs? What are their backgrounds?

Of course, it is not always possible to gain such information. Sometimes you must surmise, based on experience. Because judges are public figures and you have access to their written opinions, it is arguably easier to ascertain their thought processes and potential emotional responses. Jurors, on the other hand, pose a greater challenge because they are strangers, so attempting to gauge their thought processes and emotional responses can be difficult. Nevertheless, conducting focus groups or watching mock jurors deliberate in a mock trial exercise can be very constructive in ascertaining how particular jurors will react.

Conclusion

Advocacy is an art, not a science. Understanding the fundamental elements of logic and emotion, and how to apply them in the art of persuasion, is a lifelong quest well worth pursuing. Like many aspects of trial practice, you learn not only by reading and studying, but also through experience by applying concepts—in this instance, logic and emotion—during actual presentations both at trial and on appeal.[17]

[17] The Art of Persuasion Sandler

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“A man is but the product of his thoughts. What he thinks, he becomes.”

Mahatma Gandhi

THE ART OF EXAMINATION IN CHIEF

Definition of Examination in Chief:

The examination of a witness by a party who calls him shall be called examination in chief (see Sec. 136 (1) of the Evidence Act). Examination in chief is the first examination after the witness has been sworn in or affirmed.

It is a province of a party by whom the witness is called to examine him in chief for the purpose of eliciting from the witness all the material facts within his knowledge which tend to prove the party's case.

Ensure the witness faces the Judge or Judicial officer when answering questions and is not looking at you. This will enhance the quality of their evidence. When asking your witnesses questions, you need to try to elicit from them only the evidence that is relevant. Always therefore bear in mind why you are asking your witness a particular question and what you want to hear from them.

This is the first opportunity for the court of law to be able to assess the witness. If this is a strong examination, it strengthens your case.

Examination is the process of getting a witness to tell his/her story, give his/her evidence and testify to facts that you have called him/her to prove, without asking him leading questions.

The examination of a witness by the party who calls him shall be called his examinationinchief.

From this definition, we are able to see that during examination in chief, an advocate is cautioned against using leading questions. A leading question is one which suggests the answer.

The ability to examine and oppose the examination of witnesses in open court in an adversary setting is the most basic skill of the trial lawyer. Yet the most common criticism made of trial by lawyers is their inability to conduct proper, intelligent, purposeful examinations and to oppose those examinations.

A good lawyer leads his or her witness to turn evidence into fact and fact into truth. It's the duty of Counsel representing the prosecution to ensure that he or she discharges the burden of proving the case beyond a reasonable doubt (criminal proceedings).

Prosecutors must therefore call witnesses in every trial to prove their case to the expected standard.

This is the same position even in civil proceedings where the burden of proof is either on the balance of probability or slightly above the balance of probability but not beyond reasonable doubt. Examination in Chief is the keystone in the prosecution's arch.

It is also important to the defender who will call witnesses in support of the defensive theory.

Direct examination is a vastly overlooked skill. Unlike crossexamination, there is very little written material to guide practitioners through the examination of their own witnesses. This is surprising because cases are actually won or lost on the fruits of direct examination.

Examination in Chief is one of the most subtle and sophisticated form of advocacy. It is subtle because a good chief examination focuses entirely on the witnesses and their evidence.

The evidence should appear to be flowing effortlessly from the witness. It should look easy. Whereas the witness should be memorable, the lawyer should not.

Chief examination is sophisticated advocacy because during its course, counsel is actually presenting their case, while trying to satisfy a multitude of objectives, such as maximizing the potential of each witness to present all relevant evidence in as logical, credible, persuasive and accurate manner as possible, while knitting all witnesses' evidence together in a coherent fashion in order to prove all the elements of the offence beyond a reasonable doubt.

Examination in Chief thus becomes a starting point for any litigation and it becomes a tool of extracting truth from the facts.

Cases are won on direct examination. Direct examination is your opportunity to present the substance of your case.

It is the time to offer the evidence that will establish the facts you need to prevail. Having planned your persuasive story, you must now prove the facts on which it rests by eliciting the testimony of witnesses. Direct examination, then, is the heart of your case.

Ensure the witness faces the Judge or Judicial officer when answering questions and is not looking at you. This will enhance the quality of their evidence. When asking your witnesses questions, you need to try to elicit from them only the evidence that is relevant. Always therefore bear in mind why you are asking your witness a particular question and what you want to hear from them.

Examinationinchief is one stage in the process of adducing evidence from witnesses in a court of law. Direct examination is the questioning of a witness by the lawyer/side/party that called such witness in a trial. Direct examination is usually performed to elicit evidence in support of facts which will satisfy a required element of a party's claim or defense.

In direct examination, one is generally prohibited from asking leading questions. This prevents a lawyer from feeding answers to a favorable witness. An exception to this rule occurs if one side has called a witness, but it is either understood or becomes clear, that the witness is hostile to the calling lawyer's side of the controversy, the lawyer who called the witness may then ask the court to declare the person on the stand a hostile witness. If the court does so, the lawyer may thereafter ask witness leading questions during direct examination. The techniques of direct examination are taught in courses on trial advocacy.[18] Each direct examination is integrated with the overall case strategy through either a theme and theory or, with more advanced strategies, a line of effort.[19]

Legalities involved in Examination in Chief

[18] Lubet, Steven; Modern Trial Advocacy, NITA, New York, NY 2004 pp. 45 et. seq. ISBN 1556818866

[19] Dreier, A.S.; Strategy, Planning & Litigating to Win; Conatus, Boston, MA, 2012, pp. 46-73; ISBN 0615676952

a) A question based on supposition of fact not proved is improper.
b) Counsels are allowed to ask apparently irrelevant and consequentially inadmissible questions upon the promise to follow them up at the proper time by proof of other facts, which true, would make the question put legitimately operative.

c) The party examining a witness in chief is bound at his peril to ask all material questions in the first instance, and if he fails to do this, it cannot be done in reply.

d) If a question as to any material fact has been omitted upon the examination in Chief, the usual course is to suggest the question to the court which will exercise its discretion in putting it to the witnesses

e) There was no question of crossexamining the plaintiff travelling beyond the evidence of the plaintiff given in examinationinchief and thereby giving an opportunity to make out a case in crossexamination

f) The corollary of it is that if a judge felt that a witness has committed an error or a slip it is the duty of the judge to ascertain whether it was so, for, to err is human n the truth and the chances of erring may accelerate under stress of nervousness during crossexamination.
g) But in exceptional circumstances there can be a cross examination of witnesses whose chief examination has been not been done.

h) But this situation is uncertain to quite an extent and there have been descending opinion regarding this.

i) On the examinationinchief, a witness can only give evidence of facts within his own knowledge and recollection.

j) In all cases the facts from the examination in chief must be relevant. The answer must be upon a point of fact as opposed to point of law.

k) The conlusions of a witness as to the motives of other persons are inadmissible, motives being eminently inferences from conduct.

l) Leading questions may not ordinarily be put in examination in chief.
m) In cases where the witness proves to be hostile, he may be cross examined by the party calling him.

Objectives of Examination In Chief

(1) Legally sufficient to meet the burden of proof,

(2) understood and remembered,

(3) convincing,

(4) able to withstand crossexamination, and

(5) anticipatory and contradictory of evidence that the opposition will present.

Think of direct examination as your opportunity to construct persuasive arguments. The questions that will be asked shall subtly convey your argument. Conversely, use the arguments that you want to make at the end of the case to guide you in planning and preparing the questions you will ask on examination in chief.

(2) There are multiple objectives to examination in chief. The more significant are as follows:

(a) Major Objectives

(a) the evidence must be admissible;

(b) the witness needs to present as persuasive and credible;

(c) each and every element of the offence must be proven beyond a reasonable doubt through the witnesses oral evidence and exhibits.

B. Minor Objectives

In addition, you are also trying to achieve the following slightly less essential, but still important, objectives:

(1) present a logical, complete and coherent theory of the offence;
(2) present each witness in the best possible light;
(3) use the evidence of one witness to support another so that a seamless cloth may be woven of the proven fact;

(4) fill in gaps in the evidence and attempt to explain any inconsistencies;
(5) shut down potential crossexamination thereby limiting the exposure of witnesses.
(6) allow the defence as little room to move as possible by minimizing the possibilities of a defence being supported through crossexamination of witnesses

Planning and Preparation for Trial

i. Calling your best witness first as this creates a lasting impression. The accused must be called first in order to create a good impression.

ii. Organize your questions in a way that brings out the story of the witness clearly and gets stronger evidence from the witness.

Commandment of Examination in Chief

i. A bold start is important

ii. Be prepared

iii. Know your audience

iv. Thou shall not go on a fishing expedition

v. Do not ask leading questions

vi. Thou shalt use piggyback questions using the answer used in the previous question to ask the next question. It helps create a chronological order.

vii. Thou shalt not ask stupid questions.

viii. Thou shalt not argue, just ask the question. Do not attempt to force a favourable answer.

ix. Fake sincerity

x. The final question should be the most important

xi. It is worthy to note that, the problem with leading questions is not limited to the fact that the opposition can object, but in real sense, leading questions undermined your case. However, there are certain instances in which leading question can be admitted:

Exceptions

1) Leading Questions by Consent: you can always use leading questions if your opponent agrees. There are usually parts of a case where little is in issue. Therefore, in order to save time, you and your opponent may agree in advance.

2) Undisputed Facts: Even without the consent of your opponent, these can be brought out by leading questions. You will always know from the pleadings or the committal papers what is in dispute.

3) Indisputable Facts: Some things are so obvious and incontrovertible everybody knows them to be true. You can lead in respect to this and there is no problem or risk involved.

4) Getting a Denial: there is no choice, you have to lead e.g. Were you in the Trattoria Restaurant on the night of June 3rd.....? Yes or NO

Examination in chief is admittedly hard to master. It takes a lot of hard work and practice. Some renowned authors like Keith Evans have come up with what is called the Foundation Rule. This rule dictates that before you ask question on any topic you should be able to lay a foundation showing that the witness is competent to answer. This is because, a witness can't tell you what he/she knows until he/she has told you how they are able to know it. Therefore, you should first lay the foundation, then bring out the facts.

One of the core principles during examinations in chief is to know your objectives. This will help you to know what each witness needs to say for your case to succeed. Once you know your objectives, you will be able to follow those objectives and avoid veering off during the process.

a) You should at all times be careful not lead the witness, you must bear in mind the one line of transcript rule, breaking the thing down into the shortest questions eliciting the shortest answers, and by analysing out as you go along what building bricks you in fact require in order to erect the structure that you want from the witness.

b) Ensure that the factual content of your witnesses' evidence doesn't come from you.

Practice extracting information from the witness without prompting.

c) You can adopt a 'just tell us what happened' approach but always be careful not to take up much of the court's time

At this point it is worthy to note that leading questions can be used in crossexamination since it is easier to control the witness.

Legal requirements for an examination in chief

Competency of your witness The first legal requirement is that your witness must be competent to testify. To qualify as competent, a witness must have:

(1) Understanding of the nature and obligation of the oath or affirmation to tell the truth,

(2) Perception (knowledge) of the the relevant event,

(3) Recollection (memory) of the relevant event, and

(4) Ability to communicate

Relevance of your witness' testimony

The second legal requirement for your direct examination is that your witness' testimony must be relevant. Relevant evidence is evidence that has some (any) tendency; however slight, to make the existence of a fact of consequence to the case more or less probable than it would be without it.

Authenticity of matters of evidence to show that the item in question is what its proponent claims it is

The third requirement for your direct examination is that matters of evidence must be authenticated. You authenticate an item of evidence by making a prima facie showing that it is genuine.

Proper evidentiary foundation or predicate for the admissibility of the evidence Certain items of evidence require special foundations to establish admissibility. For example, if your evidence is hearsay and, thus, presumptively inadmissible prima facie, but will be required to establish its admissibility under one of the hearsay exceptions.

Leading Questions

A leading question is a question that suggests the answer or contains the information the examiner is looking for (section 140) of the evidence Act cap 6. For example, this question is leading

- You were at Duffy's bar on the night of July 15, weren't you?
- It suggests that the witness was at Duffy's bar on the night in question. The same question in a nonleading form would be:

- Where were you on the night of July 15?
- This form of question does not suggest to the witness the answer the examiner hopes to elicit.

Many leading questions call for answers of either "yes" or "no." But not all questions that call for an answer of "yes" or "no" are leading questions.

The law relating to leading questions in Uganda is the Evidence Act (Cap 6). Sections 140 and 141.

Example of leading questions in introductory matters:

Sir, please introduce yourself to the jury by telling them your name and what you do for a living."

How is it a leading question? By addressing the witness as 'Sir,' Counsel has suggested to the witness that the witness is a male. Furthermore, counsel is suggesting that this witness has a name and evidently is supposed to work somewhere.

Why asking Leading Questions

To conserve time:

Time is precious, and more so in the modern world. However, once there is a debate or discussion even on the most trivial subject, no amount of time might suffice to arrive at a useful conclusion.

To lead into a definite direction:

As said before, though all interrogation involves asking questions, not all such interrogation leads into a definite direction.

Leading involves aiming at a goal and then asking questions in a manner to lead the respondent into that definite direction. This can be achieved only if the general and aimless questioning is abandoned and leading questions asked.

To get to the root of the problem:

A logical analysis of statements, cause and effect, deductions, and other ways of reasoning often uncovers many hidden assumptions. Further, often the issues involved are so complex that the discussion goes on without ever touching the root of the problem.

Only leading questions can expose the hidden assumptions and the root cause of the problem being discussed.

To convince the respondent:

Often the person responding the apologist is not convinced of truth, or is not willing to see the truth. Affirmations made by the apologist does not create much impact because the logical thinking and reasoning has passed only through the apologist's mind.

Often the issues involved are so complex, that the opponent is unable to see it unless he is forced to go step by step through his process of reasoning and deduction. At other times the willingness of the respondent is so opposed to discovering truth, he does not come to the right deduction unless he forced to reason step by step. Only leading questions can help the apologist to force the opponent to go through the steps needed to arrive at truth. How to elicit the information you need from your witness is by developing Your Theories and identify the following:

Legal theory of case (i.e., why the law allows your client to win)

Factual theory of the case (i.e., what really happened and why identifying best, worst, and neutral facts)

Persuasive theory, or theme of the case (i.e., why it is fair and equitable for your client to win) one;

During examinationinchief the advocate is forbidden from asking their witnesses leading questions. A leading question is one which in its phrasing suggests its own answer. (Section 140 of the Evidence Act Cap 6)

By way of an example,

The man was wearing a red and white jumper, wasn't he? By suggesting the answer to the witness you reduce the witness' impact. Leading questions are forbidden in examinationinchief because the solicitor is not allowed to lead their witness and in effect put words into their mouth.

According to Modern Trial Advocacy;

The principal rule of direct examination is that the attorney may not "lead" the witness!. Since the party calling a witness to the stand is presumed to have conducted an interview and to know what the testimony will be, leading questions are disallowed in order to ensure that the testimony will come in the witness's own words.

For example, 'can you tell us what happened after you saw the car swerve?'

Generally, a leading question suggests the answer, or assumes the existence of a disputed fact. You are allowed to ask leading questions about nondisputed matters.

For example: instead of "where were you on the night of the 15th?", ask "were you at the bar on the night of the 15th?"

For example, there is no doubt that this question is leading:

On the other hand, this question is not leading:

Q: Did you cross the street? Although the question is highly specific and calls for a "yes" or "no" answer, it does not control the witness's response

Narratives

Another general rule is that witnesses on direct examination may not testify in "narrative" form. The term narrative has no precise definition, but it is usually taken to mean an answer that goes beyond responding to a single specific question. Questions that invite a lengthy or runon reply are said to "call for a narrative answer.

An example of a nonnarrative question is, "What did you do next?" The objectionable, narrative version would be, "Tell us everything that you did that day." As with leading questions, the trial judge has wide discretion to permit narrative testimony. Narratives are often allowed, indeed encouraged, when the witness has been qualified as an expert.

There are Golden Rules given by David Paul Brown for the Examination of witnesses: These golden rules alert the lawyer to ask questions according to the type of their witnesses. He has given several guidelines which a lawyer can follow for a worthwhile examination in Chief.

Dealing with the direct examination of a hostile witness, adverse party, or a person identified with an adverse party.

A hostile witness can be as unpredictable as a wild mustang stallion. If you don't rein him in, he can do more damage than good. The hostile witness can be asked leading questions with the permission of the court.

Critical appraisal of the system

The examination in Chief is one of the methods of finding truth from the facts. But this system has been corrupted to an extent that the witnesses have merely become puppets whose threads are with the lawyer.

Moreover since already discussed earlier examination in chief requires a lot of skill, hard work and art. A lawyer who may possess it shall be successful in his endeavor of reaching his aim. But in the entire scenario, what seems to be missing is the sense of justice involved. The technicalities involved and high pressure preparations quite often defeat the entire purpose of the activity, which was to reach the ends of justice.

Moreover the complicated justice system and even more complicated lawyers leave the witnesses baffled, confused, perplexed and lost. The advocate's object is to elicit all the facts relevant to the case s/he is presenting. How far does the adversarial type of litigation helps the purpose is still something to be ascertained.

Ensure the witness faces the Judge or Judicial officer when answering questions and is not looking at you. This will enhance the quality of their evidence. When asking your witnesses questions, you need to try to elicit from them only the evidence that is

relevant. Always therefore bear in mind why you are asking your witness a particular question and what you want to hear from them.

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Examination is the process of getting a witness to tell his/her story, give his/her evidence and testify to facts that you have called him/her to prove, without asking him leading questions.

The examination of a witness by the party who calls him shall be called his examinationinchief.

From this definition, we are able to see that during examination in chief, an advocate is cautioned against using leading questions. A leading question is one which suggests the answer.

The ability to examine and oppose the examination of witnesses in open court in an adversary setting is the most basic skill of the trial lawyer. Yet the most common criticism made of trial by lawyers is their inability to conduct proper, intelligent, purposeful examinations and to oppose those examinations.

A good lawyer leads his or her witness to turn evidence into fact and fact into truth. It's the duty of Counsel representing the prosecution to ensure that he or she discharges the burden of proving the case beyond a reasonable doubt (criminal proceedings).

Prosecutors must therefore call witnesses in every trial to prove their case to the expected standard. This is the same position even in civil proceedings where the burden of proof is either on the balance of probability or slightly above the balance of probability but not beyond reasonable doubt. Examination in Chief is the keystone in the prosecution's arch.

It is also important to the defender who will call witnesses in support of the defensive theory. During examinationinchief the solicitor advocate is forbidden from asking their witnesses leading questions. A leading question is one which requires a 'yes' or 'no' response. In its phrasing it suggests its own answer. By way of an example, was the man wearing a red and white jumper? By suggesting the answer to the witness you reduce the witness' impact. Leading questions are forbidden in examinationinchief because the solicitor is not allowed to lead their witness and in effect put words into

their mouth. When you call your own witness you hope and expect that they will provide evidence that is favourable to your case and will 'come up to proof'.

As a general rule when you ask your witness questions you should phrase your questions using simple words and phrases to ensure the witness fully understands what you are asking them. When questioning your witnesses consider using points of reference to add variety to your questioning and to move the witness along from one episode to the next. For example, 'can you tell us what happened after you saw the car swerve?'

Competence of Witnesses

Every witness called to testify on direct examination must be legally "competent" to do so. **Under Section. 117 Evidence Act Cap 6**.

All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

This is generally taken to mean that the witness possesses personal knowledge of some matter at issue in the case,' is able to perceive and relate information, is capable of recognizing the difference between truth and falsity, and understands the seriousness of testifying under oath on affirmation.

Unfavourable and Hostile Witnesses

You will, at any early stage in the proceedings, take statements from each of your witnesses. When a witness is giving their evidence through examinationinchief you would expect them to give answers consistent with their previous statement. However, in some situations a witness does not give the answers expected of them. The witness can then be declared either unfavourable or hostile.

Unfavourable Witnesses:

a) An unfavourable witness is one whose testimony does not advance the case of the party who called him, despite the witness's best intentions. A witness will be unfavourable if they cannot recall some of the facts about their testimony. If you come across an

> unfavourable witness you can ask the court for leave for the witness to refresh his memory by reading his previous statement. It is very often the case that cases come to trial many months after the witness has provided a statement. Therefore, it is important that before your witness gives their evidence that they have the opportunity to read their previous statements to refresh their memory so that when they are being asked questions they are familiar with what they said in their original statement. They are then less likely to become an unfavourable witness and will hopefully enhance the strength of your case. If after reading their previous statement the witness still cannot recall the facts then you cannot assist your witness by putting leading questions or prompting them. You should instead try to get the witness out of the witness box as soon as possible.

Hostile Witnesses:

A hostile witness is different from an unfavourable one. Whilst an unfavourable witness can be potentially damaging to your case, a more serious situation is having a hostile witness. A witness will be 'hostile' if the evidence they give is harmful to the side calling them and it conflicts with the expectations of that side. A hostile witness will have no desire to tell the truth and support the case of the party calling him. An example of a witness being hostile is a witness who has deliberately changed their evidence since they made their original statement. The party calling this witness can ask the Judge to grant leave to treat them as a hostile witness.

Open and Closed Questions

You can ask your witnesses a variety of open and closed questions. To obtain the information you require from a witness it will be necessary to use for example closed questions to establish the background and set the scene and to bring out details or emphasise a particular part of the story. Open questions will be necessary to allow the witness to freely tell their part of the story or to turn their attention to a subject and then ask the witness to talk about that subject. If you ask more closed questions, you will have greater control. However, what type of questions you ask will depend on the witness.

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witnesses. This is surprising because cases are actually won or lost on the fruits of direct examination.

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Objectives of Examination in Chief:

Examination in chief of a witness is intended to achieve a number of objectives;

a) To determine admissibility of evidence;

b) To prepare a witness to lead evidence in a trial;

c) Present persuasive and credible evidence; and

d) To prove each and every element of the cause of action, offence and or defense to the expected standard.

e) Present a logical, complete and clear theory of your case;

Planning and Preparation for Trial

- Calling your best witness first as this creates a lasting impression. The accused must be called first in order to create a good impression.
- Organize your questions in a way that brings out the story of the witness clearly and gets stronger evidence from the witness.

Commandment of Examination in Chief

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This is because, a witness can't tell you what he/she knows until he/she has told you how they are able to know it. Therefore, you should first lay the foundation, then bring out the facts.

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Guidelines during Examination in Chief

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b. Ensure that the factual content of your witnesses' evidence doesn't come from you.

c. Practice extracting information from the witness without prompting.

d. You can adopt a 'just tell us what happened' approach but always be careful not to take up much of the court's time

At this point it is worthy to note that leading questions can be used in crossexamination since it is easier to control the witness.

Despite the procedures and formalities laid out by the courts, an advocate may employ the following strategies in order to achieve the goals and objectives of carrying out an examination in chief:

1) Outlinethe entire process of the examination in chief must look impressive and spontaneous. The advocate must for instance retain eye contact.

2) Clarity the questions put to the witnesses should be clear, only one new fact to each question. The advocate should avoid vague and ambiguous questions.

3) Build evidentiary bridges there should be connection between witnesses to be presented before the court.

4) Proper use of phrases to connect the matter in issue.

5) Stretch important things an advocate should continue for a long time in an effort to emphasise certain important issues. However, he should try and keep the judges' mind fresh due to the prolonged nature of presentation.

6) Learn to mirror the good characteristics of the witness in an effort to build their credibility.

7) Have your foundations ready counsel should authenticate and lay foundations for any exhibits to be produced. This enhances persuasion of the judge and further ensures smooth introduction of tangible exhibits.

8) Counsel should also make witness' personal knowledge clear, nonexpert witness must speak from personal knowledge, lay witnesses can give lay opinions based on their personal perception but they should not draw conclusions that call for specialized knowledge.

9) Advocate should deflate any potential cross examination questions he should ask questions which counter all rebutting or probable questions which may crop up during cross examination.

10) The advocate should utilize open ended questions for the important parts of the case; for instance, the use of word like what, when, how, among others may help in description of an issue.

11) The counsel should also avoid questions which suggest answer to the witness to avoid constant objections from the opposing party in turn saving the court's time.

Leading Questions:

A leading question is a question that suggests the answer or contains the information the examiner is looking for (**section 140**) of the evidence Act cap 6. For example, this question is leading

- You were at Duffy's bar on the night of July 15, weren't you?
- It suggests that the witness was at Duffy's bar on the night in question. The same question in a nonleading form would be:
- Where were you on the night of July 15?
- This form of question does not suggest to the witness the answer the examiner hopes to elicit.

Many leading questions call for answers of either "yes" or "no." But not all questions that call for an answer of "yes" or "no" are leading questions.

The law relating to leading questions in Uganda is the **Evidence Act (Cap 6). Sections 140 and 141.**

Example of leading questions in introductory matters:

Sir, please introduce yourself to the jury by telling them your name and what you do for a living."

How is it a leading question? By addressing the witness as 'Sir,' Counsel has suggested to the witness that the witness is a male. Furthermore, counsel is suggesting that this witness has a name and evidently is supposed to work somewhere.

Why asking Leading Questions

To conserve time:

Time is precious, and more so in the modern world. However, once there is a debate or discussion even on the most trivial subject, no amount of time might suffice to arrive at a useful conclusion.

To lead into a definite direction:

As said before, though all interrogation involves asking questions, not all such interrogation leads into a definite direction. Leading involves aiming at a goal and then asking questions in a manner to lead the respondent into that definite direction. This can be achieved only if the general and aimless questioning is abandoned and leading questions asked.

To get to the root of the problem:

A logical analysis of statements, cause and effect, deductions, and other ways of reasoning often uncovers many hidden assumptions. Further, often the issues involved are so complex that the discussion goes on without ever touching the root of the problem. Only leading questions can expose the hidden assumptions and the root cause of the problem being discussed.

To convince the respondent:

Often the person responding the apologist is not convinced of truth, or is not willing to see the truth. Affirmations made by the apologist does not create much impact because the logical thinking and reasoning has passed only through the apologist's mind. Often the issues involved are so complex, that the opponent is unable to see it unless he is forced to go step by step through his process of reasoning and deduction. At other times the willingness of the respondent is so opposed to discovering truth, he does not come to the right deduction unless he forced to reason step by step. Only leading questions can help the apologist to force the opponent to go through the steps needed to arrive at truth.

How to elicit the information you need from your witness is by developing Your Theories and identify the following:

Legal theory of case (i.e., why the law allows your client to win)

Factual theory of the case (i.e., what really happened and why identifying best, worst, and neutral facts)

Persuasive theory, or theme of the case (i.e., why it is fair and equitable for your client to win) one;

During examinationinchief the advocate is forbidden from asking their witnesses leading questions. A leading question is one which in its phrasing suggests its own answer. (**Section 140 of the Evidence Act Cap 6)**

By way of an example,

The man was wearing a red and white jumper, wasn't he? By suggesting the answer to the witness you reduce the witness' impact. Leading questions are forbidden in examinationinchief because the solicitor is not allowed to lead their witness and in effect put words into their mouth.

According to Modern Trial Advocacy;

The principal rule of direct examination is that the attorney may not "lead" the witness!. Since the party calling a witness to the stand is presumed to have conducted an interview and to know what the testimony will be, leading questions are disallowed in order to ensure that the testimony will come in the witness's own words.

For example, 'can you tell us what happened after you saw the car swerve?'

Generally, a leading question suggests the answer, or assumes the existence of a disputed fact. You are allowed to ask leading questions about nondisputed matters.

For example: instead of "where were you on the night of the 15th?", ask "were you at the bar on the night of the 15th?"

For example, there is no doubt that this question is leading:

On the other hand, this question is not leading:

Q: Did you cross the street? Although the question is highly specific and calls for a "yes" or "no" answer, it does not control the witness's response

NARRATIVES

Another general rule is that witnesses on direct examination may not testify in "narrative" form. The term narrative has no precise definition, but it is usually taken to mean an answer that goes beyond responding to a single specific question. Questions that invite a lengthy or runon reply are said to "call for a narrative answer.

An example of a nonnarrative question is, "What did you do next?" The objectionable, narrative version would be, "Tell us everything that you did that day." As with leading questions, the trial judge has wide discretion to permit narrative testimony. Narratives are often allowed, indeed encouraged, when the witness has been qualified as an expert.2

Competence of Witnesses Every witness called to testify on direct examination must be legally "competent" to do so. **Under Section. 117 Evidence Act Cap 6**.

All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

This is generally taken to mean that the witness possesses personal knowledge of some matter at issue in the case,' is able to perceive and relate information, is capable of recognizing the difference between truth and falsity, and understands the seriousness of testifying under oath on affirmation.

Unfavorable and hostile witnesses

You will, at any early stage in the proceedings, take statements from each of your witnesses. When a witness is giving their evidence through examinationinchief you would expect them to give answers consistent with their previous statement. However, in some situations a witness does not give the answers expected of them. The witness can then be declared either unfavorable or hostile.

An unfavorable witness is one whose testimony does not advance the case of the party who called him, despite the witness's best intentions. A witness will be unfavorable if they cannot recall some of the facts about their testimony.

If you come across an unfavorable witness, you can ask the court for leave for the witness to refresh his memory by reading his previous statement.

Therefore, it is important that before your witness gives his or her evidence that he or she has the opportunity to read his or her previous statements to refresh his or her memory so that when he or she is being asked questions he or she is familiar with what he or she said in his or her original statement. He or she is then less likely to become an unfavorable witness and will hopefully enhance the strength of your case.

If after reading his or her previous statement, the witness still cannot recall the facts then you cannot assist your witness by putting leading questions or prompting them. You should instead try to get the witness out of the witness box as soon as possible.

A hostile witness is different from an unfavorable one. Whilst an unfavorable witness can be potentially damaging to your case, a more serious situation is having a hostile witness.

A witness will be 'hostile' if the evidence they give is harmful to the side calling them and it conflicts with the expectations of that side. A hostile witness will have no desire to tell the truth and support the case of the party calling him.

An example of a witness being hostile is a witness who has deliberately changed their evidence since they made their original statement. The party calling this witness can ask the Judge to grant leave to treat them as a hostile witness.

Conclusion

An examination in chief must appear fresh, interesting, flowing, and conversational. This sounds easy, but requires a lot of work, research and preparation. The importance of Examination in Chief must never be underestimated.

A strong direct examination is an important building block that can lead to the success at the trial. Direct examination does not exist in a vacuum. It must be part of a coherent story told inside and outside the courtroom.

Effective examination in chief builds on a solid case foundation, and establishes client credibility and judge empathy. Like any performance, it requires good preparation;

with the lawyer listening to the client first and then teaching the client how best to present himself. Then, at trial, the lawyer has to get out of the way of the relationship between the jury and the client. Turning over responsibility to the client may seem unnatural, and is always uncomfortable, but it is the best way to accomplish the goals of examination in chief, and the ultimate goal of winning the case for your client. Thus the skill of extracting information form one's own witness also requires a great amount of skill, labor, art, hard work. What needs to be determined is the fact that not undermining the defects of the examination in chief, is there an alternative? Probably our country is not accustomed to the inquisitorial system. But at the same time, with the development of the alternative dispute resolution system like mediation, arbitration and negotiation, there can be things which can be incorporated in this system of rigorous truth finding mechanism.

The art of cross examination

Definition: Black's law dictionary.

"**Crossexamination**, the rarest, the most useful, and the most difficult to be acquired of all the accomplishments of the advocate.... It has always been deemed the surest test of truth and a better security than the oath."

Section 136(2) of the evidence Act cap 6

Cross examination is an important step in legal process in Uganda in both civil and criminal proceedings.

Criminal litigation.

It involves interrogation of a witness of the opposing party on evidence given. Cross examination is preceded by examination in chief in which the party calling the witness questions the witness.

In some instances, cross examination can be followed by reexamination, whereby the witness is questioned again by the prosecutor or party who called the witness to clarify points brought up in cross examination which might be damaging to their case.

The process of cross examination is presumed to be necessary because most witnesses come forward to support one side or the other. In the case of the defence, a witness might omit certain information which the prosecution might find interesting or

relevant. A prosecution witness might, likewise, omit information. Cross examination ensures that the trial is fair and that information is truly out on the table.

What is cross examination?

There's no specific definition to Cross examination. However, it can be said that it involves putting forth questions to a witness brought by the opposing side or an interrogation of witness called by an opposing witness.

It is one of the greatest modern weapons of testing the veracity of a statement made by a person in examinationinchief. It is a sword of attack and a shield of defence.

He who knows the art of cross examination, knows the Art of Advocacy.[20]

The whole edifice of your legal reputation shall rest upon the way you conduct the cross examination. Even if you suffer from lack of experience, you will shine out; you will succeed if you know the art of cross examination.

Of all the accomplishments as an Advocate, it is most useful but at the same time most difficult to acquire

[20] **ART OF CROSS EXAMINATION BY AMARJIT SINGH ADVOCATE**

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“Naturally, when one makes progressive steps, there may be some who see it as a betrayal of their goals and interests.”

Louis Farrakhan

Crossexamination is defined as the questioning of a witness **by a party other than the one who called him to testify**.

It may be **to the issue,** i.e. designed to elicit information favourable to the party on whose behalf it is conducted and to cast doubt on the accuracy of evidence given against that party; or **to credit,** i.e. designed to cast doubt upon the credibility of the witness.

Why do a cross examination?

The purpose of cross examination is firstly to establish and advance your own case and secondly to attack the other side's case. The questions designed in cross examination are aimed at testing the reliability of the witness as well as to uncover additional information about the case at hand.

In treating of this subject, **Halbury's Laws of England states**; "Cross examination is directed to (1) the credibility of the witness; (2) the facts to which he has deposed in chief, including the crossexaminer's version thereof; and (3) the facts to which the witness has not deposed to but to which the crossexaminer thinks he is able to depose"

Cross examination as to credibility

Cross examination is important as it gives the opposing party the chance to test the credibility and knowledge of the witness as well as to discredit the testimony of the witness. The arbitrary forum (court or tribunal) will believe the credible testimony they hear first and remember the longest that which they hear last. It is therefore essential in planning cross examination to ensure a strong opening and finish on the strongest point possible.

Before you cross examine a witness you need to consider whether the evidence they have provided in chief is harmful to your case. If you establish that their evidence has not been harmful then you need to conduct constructive cross examination showing that he or she is to be trusted.

On the other hand, if a witnesses' testimony has been harmful to your case then in cross examination you will seek to challenge their evidence as inconsistent, improbable or unrealistic, or you will challenge the witness as either mistaken or untruthful. There are further provisions regarding questions as to the credibility of

the witness. Where the effect of the question is only to affect the credit of the witness by injuring his character, the court shall decide whether or not the witness shall be compelled to answer, and may if it does not so compel him, warn that he is not obliged to answer.

In deciding whether to compel a witness to answer questions or not, the court puts the following into consideration: The questions are proper if the truth of their imputation would seriously affect the opinion of the court as to the credibility of the witness regarding the matter he is testifying.

The questions are improper if their imputation relates to matters so remote in time or of such a nature that the truth of their imputation would not seriously affect the court's opinion as to the credibility of the witness on the matter to which he testifies. They are improper if there is great disproportion between the importance of the imputation made against the witness's character and the importance of the evidence.

Types of cross examination

There are at least two different types of cross examination.

a) **Supportive (Concession Based) Cross Examination**: This type of cross is employed when you want to ask questions and get answers that support and advance your case. In a supportive cross, you won't use your questions to attack, pillage and plunder the witness. Instead, you use cross examination to obtain favourable information, for example admissions, fillinthegaps in the story or facts from the witness. If you can develop favourable evidence from the opposition's witness, you can then argue, "their own witness said (insert the testimony favourable to your position)." It adds credibility to your evidence from an opposition witness; it may not make sense to attack credibility of that witness.

   Occasionally, the testimony on direct examination may be so helpful to your theory of the case that you simply have the witness repeat it on cross and pass the witness.

b) **Discrediting Cross Examination**: this occurs when you attempt to discredit the believability of a witness' factual testimony by showing that it doesn't jibe (not matching) with common sense and/or with what others say. Cross examination can be used to show what the witness does not know and

to impeach the witness. Sometimes you can discredit an opposition witness by something in addition to or other than crossexamination, e.g. where you use another witness to prove the target witness' bad reputation for telling the truth.

What an advocate needs to take note

After arranging the facts, you must draw inferences from them and then you must so manipulate them that they help your case to a great extent, bearing in mind that the strength of advocacy lies in the adaptation of your materials to the desired end.

You cannot succeed as a lawyer unless you master the details of your case and grapes of the favourable and unfavourable circumstances before the commencement of the cross examination of the opponent.

There is one more indication, which should be kept in mind. When a witness is lying and is making up the story as he goes or when he is repeating the story as learnt by tuitions, he invariably looks at his own lawyer at every important pause, as if trying to get some expression from his face or some assurance that all is going well.

After that if it happens more than once and is accompanied by other indications, then rest assured that your conviction that the witness is lying, is true. If the witness is honest, his language will always be such as consisting with his condition and cause.

The Advocate's task is not complete when he has obtained all information of facts. He should then turn his attention to the means by which they are to be proved before the Court.

The facts are established by oral evidence, documentary evidence and circumstantial evidence. As regards to the oral evidence, the quality should be aimed at and not the quantity.

The evidence is weighed and not numbered. It is wrong to suppose that a point may be established if only a large number of witnesses can be called to prove it.

On the other hand, greater the number, more the risk that they would contradict each other by making inconsistent statements. The fact may be established by a small number of witnesses, if their testimony is consistent and reliable.

Very great discretion is necessary in selecting the witnesses. Here also the Advocate should not rely entirely on his clients assertions as to the nature and particulars of the

evidence expected from them. If he calls any witness to please his client, he is assured to find soon to his utter surprise that the witness would say many things entirely different from what he has assured he would say.

It is, therefore, essential that the practitioner before he decides to bring his witness to the box, should have some idea of the evidence he would give.

A Lawyer can crossexamine his own witness in chamber in order to find out what he has got to say. Presence of mind, a given sense of humor, the ability to adapt oneself in any critical situation are also the most requisite qualities for a successful interrogator.

Crossexamination cannot be reduced to a single formula or a mass of formulas. There is no particular magnetic key to become successful crossexaminer. It is not something to be learned, it is something to be acquired.

You may practice for forty years and yet you will remain a poor crossexaminer. You may have practiced for forty days and yet you may be a good crossexaminer. The ability to crossexamine a witness is like a sixth sense, the natural intuitive art, which requires careful cultivation backed up by experience and fed by observation of human nature.

GOLDEN RULES A LAWYER NEEDS TO KNOW WHEN CROSS EXAMINING

Rule 1 Never divert your eyes from that of the witness as this is a channel of communication from mind to mind.

R*ule 2*: **B**e not regardless of the voice of the witness as this is perhaps the best interpretation of his mind.

R*ule 3*: **B**e mild;

R*ule 4*: **L**ike a skillful chess player, in every move fix your mind upon the combination and relations of the game.[21]

R*ule 5*: **N**ever under value your adversaries.

[21] Art of cross examination by Amarjit Singh advocate

***R**ule 6*: **I**f the witness decides to be witty, let him have an opportunity of satisfying himself that he has mistaken your power of crossexamination or his own.

***R**ule 7*: **T**ry to elicit "Yes" or "It Is Correct" replies to your questions. Arrange your questions in such a way that the witness cannot but answer "Yes" or "It Is Correct"

***R**ule 8*: **B**e respectful to the Court

***R**ule 9*: **B**efore you begin your cross examination be a Master of the facts on record and also of all facts, which are still to come on record. If a technical point is involved become master on that subject.

***R**ule 10*: **S**tart your cross examination by a gentle smile and in a polite manner.

□***R**ule 11*: **D**etermine the order in which the witness is to be cross examined which you carry him through the narratives given in his examinationinchief or begin at the end of it and go backward and forward to dodge him.

Rule *W*itness usually comes prepared with the sequence of events narrated in his examinationinchief. In order to dodge him and to take him by surprise, the cross examiner should not illicit the responses in the same narration of facts.

***R**ule 12*: **T**he art of cross examination is to put questions to the witness in such a way that you steal from him the real objectives behind your cross examination.

As far as possible, you are trying to fix the mind of the witness far away from the main topic at which your questions are directed. If you are desirous of getting an answer to a particular question, do not put it directly. The probability is that the witness will know your difficulty and avoid giving you an answer exactly what you wish.

A series of questions each leading up to the point will accomplish the work. Once you get an answer you want, leave it there and divert the mind of the witness by some other question of no relevancy at all.

***R**ule 13*: **L**et your joy at getting a favourable answer or your annoyance at damaging reply be *not* reflected on your face. Your emotions must be firm when you are conducting a difficult cross examination. A crossexaminer, who loses his temper is sowing the seeds of disaster of his case.

***R**ule 14*: **D**o not crossexamine on minor points, which leads you nowhere.

***R**ule 15*: **N**ever put an important question in a form that is objectionable.

***R**ule 16*: **G**o to the root of the matter in the initial stages. Risk your important questions at the beginning and not at the end as by that time, the witness gets used to your technique.

NB: There are no better rules of crossexamination than **f**ive:

Know what you need and stop when you get it;

Risk no case on the hazard of an answer that may destroy it;

Hold your temper;

Do not expect too much from your adversaries witnesses;

Do not rush through crossexamination.

Question of Admissibility and Relevancy of the documentary evidence is governed by the Evidence Act. The evidence, which is tendered, must be admissible and relevant.[22]

The relevancy, admissibility and proof are different aspects, which should exist before a document can be taken in evidence.

The mode of proof and competency of the witness is another aspect.

***T**he whole discussion can be summarized in the form of two following prepositions*:

If you want to be a successful crossexaminer, you must have a flair for which, it is something inside you and which cannot be arrived at by reading a text book on this subject, but if you have a flair for it then even the desire to be a good crossexaminer cannot help you unless you master the principles of cross examination thoroughly.

GUIDELINES TO EFFECTIVE CROSS EXAMINATION

a) **Preparation**

[22] Art of cross examination by Amarjit Singh advocate

Proper preparation is the key to success in crossexamination. Effective crossexaminers are able to lead their witness down a preselected path to obtain the information that is vital to their case or defence. Proper preparation involves collecting as much background information on the circumstances as possible from the client.

Proper preparation allows the person carrying out cross examination to understand which points he ought to rebut and have his own theory of the case. This also prepares him to devise a strategy for use in case an unexpected response arises. It is a good idea and sensible practice to do a written preparation. This involves jotting down the points of crossexamination rather than the whole questions themselves. List the points you will put to the witness. Put the points in suitable order ask questions.

During cross examination take note of the answer but watch the witness. Be ready to depart from your notes if needed.

Preparation also involves a thorough reading of the pleadings, charge sheet, witness' statements to the police, as well as a perusal and examination of the various reports, documents and exhibits that the prosecution intends to rely on.

b) **Control**

Another important aspect of cross examination is control. Control of the witness, evidence and the entire scenario in the courtroom. Cross examination is limited to questioning only on matters that were raised in direct examination.

Leading questions may be asked in cross examination since the purpose of cross examination is to test the credibility of statements made during direct examination. Open ended questions like "why" or "please explain" are to be avoided as it gives the witness control of the answer. Having a technique is therefore important.

"Leading questions may be asked, and must be answered; though it is not permissible to put the actual words into the witness' mouth for him to repeat or to mislead him by false assumptions or actual misstatements".

c) **Have a Goal for Your Effective CrossExamination**

A person carrying out cross examination must identify and keep in mind the goal he/she intends to establish in his cross examination. The goals of cross examination may include pointing out the inconsistencies in the witness testimony, impeaching the witness, using the witness to corroborate the facts in your client's case etc.

d) **Have a plan for your cross examination**

The best effective method of reaching the goal of cross examination is by having a plan to be used in establishing the basic points which must be established in cross examination. It also helps in identifying possible areas which must be covered in cross examination.

e) **Keep it simple**

When devising a plan for cross examination always keep it simple. Do not put complicated questions to the witness as this may only lead to confusion. Repetition of each answer as a preface to the next question breaks the rhythm of the cross examination and you must be careful not fall into such habits as beginning each question with "now, let me ask you this question..."

Crossexamination questions should be planned and organized in units (segments/blocks) by subject matter rather than in the chronological order often used with direct examination.

Ask unambiguous questions that are not subject to vagueness objections.

f) **Know the rules**

Cross examination is conducted within the ambits of the rules of evidence. Its therefore important to follow the rules of admissibility of evidence so as to maneuver without technicalities like objections from the opposing counsel.

Knowledge of the rules will ensure a smooth cross examination that may lead one to the desired results like an acquittal.

g) **Stop when necessary**

Start the cross examination on a high note and finish strong since the attention of the judge or magistrate is usually at the beginning and towards the end. Once you have made the significant point end the cross examination.

TECHNIQUES TO BE USED WHEN CONDUCTING A CROSS EXAMINATION

a. Repeat similar basic questions in a different way to get different responses which shall be used against the witness, if it's obvious the questions are too repetitive as to make the witness nervous, the other

attorney may accuse the cross examiner of badgering the witness. The less a witness speaks the better for him. He ought to just restate the facts and not add anything.

b. Be brief in your cross examination as you have the attention of the court. Try to make the witness explain and verify something or some facts which then reveals some weaknesses in the facts he stated.

c. In closing submission, the attorney will respect any admission by the witness in his (attorney's case) favour, cross examination is the key principal means by which the believability of a witness and truth of his testimony are tested.

d. Use close ended question i.e. one's that require 'yes' or 'no' answer.

e. Keep your cross examination to four points which support your theory of the case. This will strengthen your argument.

f. Make your strongest points at the beginning and end of your cross examination as these are the points likely to remain in the mind of the listener.

g. Anticipate what the answer will be before you ask the question.

Conclusion

Cross examination is a very important aspect of establishing the truth in the adversarial system of justice therefore its indispensable in both criminal and civil as well judicial review proceeding.

Cross examination is both an art and a science which must therefore be perfected so as to obtain the desired results in the proceedings. Itis therefore imperative for advocates to master the art for able representation of their clients.

Questions should be structured to be short, and do not ask the witness to explain.

The art of reexamination

By definition, a ReExamination is an examination of a witness after a crossexamination, by the lawyer who called him as a witness, upon matters arising out of such crossexamination.

Reexamination, also referred to as redirect examination, allows for a final opportunity to scrutinize the evidence of a witness. Although cross examination has been described as "the greatest legal engine ever invented for the discovery of the truth," it is also well recognized that a crossexamining lawyer "may make the truth appear like falsehood."[1] *The utility that flows from a skillful redirect examination is that it has the potential to better focus the sight lines for the trier of fact in a myriad of ways.* And here I want to betray a prejudice. Nothing annoys me more than advocates who lead in reexamination. It is a form of unlicensed cheating. The crossexaminer has made ground and the only way you seek to controvert it is by putting words into the witness's mouth. Don't do it. It is secondclass advocacy and the fact that you see it happening all the time is no reason for you to do it.But there is one qualification. Plainly you can lead in some circumstances to clarify an answer that a witness has already given in crossexamination. Of course you can't introduce new material without leave of the court.

The rule is often said to be don't reexamine unless it is absolutely necessary. But I have seen very skilful reexaminations which are absolutely devastating. So that it is a skill well worth acquiring.

I can't leave the subject without warning you about that nightmare moment when your client has appeared to admit the offence in crossexamination and you have to frame questions which are not leading in Reexamination to try to rescue the position.

Everybody will be watching to see that you don't cheat by gross leading. The only advice is that it may be your client did not intend to go as far in crossexamination as he did, so that taking him back over the territory may, to some extent, allow him to go back to his original position. But if the admission in crossexamination had been unequivocal, it is far better to asked the judge for a few minutes and then tender your client strong advice

Like crossexamination, it is never obligatory to reexamine a witness. The decision to do so is borne out of judgment that turns on whether the trier of fact has appreciated the significance of the answers to the questions that were put to the witness just moments before by opposing counsel. There will be no opportunity to speak to the witness beforehand to find out if the desired area for reexamination will bear fruit. Indeed, it has been held to be "highly improper, if not strictly illegal," to discuss with a witness his or her evidence between cross and reexamination.[23] As such, if the advocate makes the wrong decision at this critical juncture, the case can be significantly undermined. On the one hand, failure to re examine after a telling crossexamination may waste a valuable opportunity to shore up a case.[24]On the other hand, engaging in a poor redirect examination "will only highlight the effectiveness of [the preceding] crossexamination."[25]Although there are various situations where redirect examination will be permitted, the court holds wide discretion in this regard so as to ensure that a fair trial is achieved.[26]While conceding that statutes, codes, and

[23] R. v. Brouillette (1992), 51 Q.A.C. 79, para. 36 (Can. Que. C.A.).

[24] JOHN A. OLAH, THE ART & SCIENCE OF ADVOCACY 9-43 (1995).
[25] ibid
[26] See State v. Redmond, 803 N.W.2d 112, 117-18 (Iowa 2011) (citing State v. Hackney, 397 N.W.2d 723, 728 (Iowa 1986)).

rules of evidence must always be considered as a backdrop to the juris prudence that has developed in the area of reexamination, it is important to note that, when a court considers the admissibility of any piece of relevant evidence, it will ultimately determine the issue using a standard that considers the prejudicial effect of the evidence in comparison to its probative value. Thus, what will typically drive the admissibility decision will be a judicial assessment of the state of the trial at the particular juncture with special emphasis placed on what exactly hangs in the balance. Whether the issue involves inconsequential window dressing or something much more substantial is often not readily apparent. As such, a pigeonholed analysis of the issue should be avoided at all cost. Such sentiments were echoed by Justice Macrossan in the Australian case of *R. v Singleton*:

I do not think it is possible to formulate an inflexible rule which will determine the decision which should be made in all similar cases. If a cross examination, either explicitly or by implication, substantially affects the A party cannot be allowed to impeach a witness on the crossexamination by calling out evidence culpatory of himself and there stop, leaving the opposing party without opportunity to have the witness explain his conduct, and thus place it in an unobjectionable light if he can. In such case the opposing party has the right to such explanation, even though it may affect adversely the party who cross examined. Upon the examination in chief, the evidence may not be competent, but the crossexamination may make it so. credit of a witness in respect of his present testimony, then it will ordinarily be legitimate to seek to restore that credit by relevant reexamination of the witness's reason for an attitude revealed or his motive for having acted in a certain way or having made a certain prior statement in the past when such matters elicited in crossexamination have, if unexplained, a tendency to damage the witness's credit.[27]

At its essence, reexamination is an advocacy tool designed to explain, correct, and modify as well as further develop evidentiary points that were originally drawn out in crossexamination.

[27] [1986] 24 Ax Crim R 82, 82 (Austl.).

Reviewing the Explanatory Function

The skillful crossexaminer has a large arsenal of tactics with which to control, limit, and at times, confuse the witness. The resulting testimony is often disjointed, misleading, and ultimately, difficult for the trier of fact to follow, let alone truly appreciate. Nuance and import can be lost in any verbal exchange, either by design or simply because of the limitations of the witness due to the situational stressors brought on by the atmosphere of a courtroom. Such stressors can, at times, disable an otherwise competent vocabulary. It is for these reasons that courts, in common law jurisdictions, have recognized "a right in redirect to ask an explanation of testimony given only in crossexamination or call attention of the witness thereto as a basis of further evidence relating to the same subject, and may by proper inquiry afford an opportunity to explain,

correct, or modify such previous statements."[28]As pointed out in the New York decision of *People v. Zigouras*, redirect examination has the potential to "removeor

[28] Mahoney v. Gooch, 141 N.E. 605, 606 (Mass. 1923) (citing Brown v. Brown, 94 N.E. 465 (Mass. 11)).

lessen the discredit" that the questions asked in crossexamination might otherwise produce, to "restore the direct evidence to its original force, and possibly to increase its force" of the direct evidence.[29]

Implicit in the explanatory aspect of the exercise is a desire for the advocate to rehabilitate his or her witness. Although assertions to the contrary are often made by the illinformed, courts have made it abun dantly clear that "the purpose of reexamination is largely rehabilitative and explanatory."[30] Thus, if the ultimate goal of crossexamining counsel is to, when it serves the cause, reduce the weight that might otherwise be afforded to the testimony of a witness, it certainly behooves opposing counsel to attempt to "right the listing ship" if at all possible. The difficulty remains that portions of what is uncovered in crossexamination are often stumbled upon eximprovisio. As such, it is important to point out that an unguarded or overly adventurous reexamination is replete with significant risks. Being uninformed of or simply less than sure about the details of the answers that the advocate is likely to receive can result in even more damaging material being unleashed for consideration bythe trier of fact.[31] Much like the proverbial drowning man, counsel bent

on saving a witness through redirect examination can be taken below the waves (along with the case) by returning to the podium to ask " just a few clarifying questions." Thus, reexamining counsel should at least be aware that a beneficial answer or logical explanation is in existence before putting the question,[16] as is exemplified in the following exchange between a prosecutor and a purported eyewitness:

Q: Why did you tell the police that you probably couldn't identify the robber?

A: It was right after the robbery, I was really scared and my first reaction was not to get involved.

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[29] [13] 163 N.Y. 250, 255 (1900).

[30] R. v. Stiers (2010), 264 O.A.C. 305, para. 38 (Can. Ont. C.A.) (quoting R. v.Candir (2009), 257 O.A.C. 119, para. 148 (Can. Ont. C.A.)).

[31] W.B. WILLISTON & R.J. ROLLS, THE CONDUCT OF AN ACTION 171 (1982).

Q: Was the statement you made to the police accurate?

A: No. As I testified earlier, I got a full face view of the defendant for a couple of seconds.

Q: And why are you willing to identify the defendant here in court today? A: I've thought about it, and I want to do what's right.

Q: Is there any doubt in your mind about the defendant's being the person who robbed the store?

A: None whatsoever.[32]

Imagine the minefield into which the prosecutor would be stepping if he or she did not at least have some appreciation as to why the aforemen tioned witness from the store was initially hesitant to cooperate with the investigation in question. As a general rule, consequently, when deciding on whether to reexamine, "[b]e wary of asking questions of which you do not know the answer, or of which you are not sure that the witness knows the answer."[33]Allowing litigants to explore evidence and issues that have been the subject matter of questions asked by the other side has been likened to "opening a door," the upshot of which is that opposing counsel can pass through the open door and elicit what was previously inaccessible through orthodox evidentiary channels.[34] Sometimes the ebb and flow of crossexamination plays out so quickly that inadmissible evidence inevitably finds its way into the trial record. It has been recognized early on that, "[t]here is no tenable theory of 'opening the door' which sanctions the reception of evidence neither relevant to the issue nor to facts in issue."[35]

Indeed, the revered Justice Benjamin Cardozo warned, in *Berkey v. Third Avenue Railway Co.*, that "[m]etaphors in law are to be narrowly watched, for starting as devices to liberate thought, they end often by enslaving it."[36] So how have American courts reconciled the fact that, by allowing the further pursuit and exploration of

[32] PAUL BERGM AN, TRIAL ADVOCACY IN A NUTSHELL 192-93 (4th ed. 2006).
[33] ERIC MORRIS, TECHNIQUE IN LITIGATION 221 (2d ed. 1975) (emphasis omitted).
[34] See State v. Trempe, 663 A.2d 620, 622 (N.H. 1955).
[35] People v. Schlessel, 90 N.E. 44, 45 (N.Y. 1909).

[36] 155 N.E. 58, 61 (N.Y. 1926).

inadmissible evidence in reexamination, based on some awkward notion of trial fairness, the initial legal error inevitably becomes compounded?

Not every perceived undue advantage needs to be rectified by asking further questions. Although the "door opening" metaphor conjures images of a reckless crossexamination, poor trial strategy, and possibly a cavalier attitude toward some basic rules of evidence, "'[t]he fact that the door has been opened does not, by itself, permit all evidence to pass through'" it.[22] The qualified redirect examination remedy was conceptu alized "to prevent prejudice [rather than] be subverted into a rule for the injection of prejudice" into an already compromised trial.[23]

Under the metaphor, two distinct doctrines have unfortunately become blurred even though they are technically triggered by different types of evidence.[37] Under the "Curative Admissibility Doctrine," redirect examination flows from "the erroneous prior admission of inadmissible evidence," whereas under the "Specific Contradiction Doctrine," redirect examination emanates from "the introduction of misleading admissible

evidence."[38] While the latter doctrine finds its origins squarely within traditional reexamination jurisprudence,[39] the former doctrine appears, at first glance and perhaps beyond, simply to be a hastily concocted tonic to cure a potential mistrial.

Rather than allowing more inadmissible evidence to adulterate the trial record via redirect questioning, Gilligan and Imwinkelried have advo cated for consideration whether an objection to the impugned evidence was raised in a timely fashion and whether a motion to strike out the inadmissible evidence would suffice in curative admissibility doctrine scenarios.[40]The authors make the following observations:

In true curative admissibility cases the evidence introduced earlier by the opponent was inadmissible. Unless the ground for objection was not apparent at the time, the party had an option other than later offering contrary evidence: objecting or moving to strike when the opponent proffers inadmissible evidence. If the opponent attempts

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[37] ibid

[38] ibid

[39] See Francis A. Gilligan & Edward J. Imwinkelried, Bringing the "Opening the Door" Theory to a Close: The Tendency to Overlook the Specific Contradiction Doctrine in Evidence Law, 41 SANTA CLARA L. REV. 807, 808 (2001).

[40] ibid

to inject the inadmissible evidence during the direct examination of one of his or her witnesses, the party can object. If the opposing witness gratuitously mentions the evidence during the party's crossexamination, the party may move to strike. Before permitting the party to later introduce other inadmissible evidence on a curative admissibility theory, the court should inquire whether a contempora neous objection or motion would have been a sufficient remedy. Would a timely objection or motion have adequately protected the party's interests?

More often than not, eyeforaneye remedies have the potential of bringing a justice system into disrepute. Such shortsighted "fixes" may placate the party that has been exposed to the inadmissible evidence, but general fair trial interests will still suffer casualties. "Opening the door

. . . does not justify blunderbuss rejoinder."[41] It is submitted that a strong limiting instruction concurrent with the infraction is the best safeguard, particularly when combined with a judicious application of the collateral fact rule where appropriate.[42] However, it is also conceded that, at times, the injurious character of inadmissible evidence may be so clear that a court cannot ignore the error, open door or not.[43] In such circumstances, a mistrial declaration is arguably the more viable option because the integrity of the trial process will remain above the fray. Indeed, the dangers associated with unchecked reliance on prejudicial evidence via reexamination are wellrecognized in both Australian and English authorities. It would appear that a standard probative value versus prejudicial effect analysis is the safeguard of choice in those jurisdictions with any hardship that the rule may occasion open for mitigation by the trial judge.

The prohibition on introducing inadmissible evidence in reexamination recognizes the same discretionary exception as American case law, regardless of whether the initial surge of inadmissible evidence was volunteered by, or actively elicited from, the

[41] People v. Bagarozy, 522 N.Y.S.2d 848, 855 (App. Div. 1987).

[42] The collateral fact rule prohibits cross-examination of a witness on any fact which is logically inferior in value to the main issues at trial merely for the purpose of contradicting that witness by other evidence if the question is denied at first instance. Safter v. United States, 87 F. 329, 330 (8th Cir. 1898); Miller v. Commonwealth, 45 S.W.2d 461, 462 (Ky. Ct. App. 1932), overruled in part by Jett v. Commonwealth, 436 S.W.2d 788 (Ky. Ct. App. 1969).

[43] People v. Schlessel, 90 N.E. 44, 45 (N.Y. 1909); see also R. v Clune (No. 1) [1975] VR 723 (Austl.).

witness in cross examination. Canadian jurisprudence on this point can be traced back to the turn of the twentieth century when a fivejustice panel of the Ontario Court of Appeal made the following comments about how to deal with hearsay testimony that had made its way into the trial:

As the evidence stood at that time, we think the reexamination should have been allowed. No doubt what Pepin had stated was in strictness not evidence, but the jury were not ware of that. It had come from him in the course of the crossexamination, and counsel for the Crown had not asked that it should be struck out; nor were the jury informed that it was not evidence, and that they must disregard it. That being so the prisoner was entitled to get, by further examination, every part of the conversation that related to the statement concerning the prisoner being the person who shot at the prosecutor. It was argued for the Crown that the witness volunteered the statement, and that in any case it was not evidence.

The right to reexamine follows upon the exercise of the right to crossexamine, and even if inadmissible matters are introduced in crossexamina tion, the right to reexamine remains—and the rule holds firm where the witness volunteers the statement. If it was desired to avoid reexamination upon it, it should have been expunged at the insistence of the Crown. While it remained as part of the testimony, the right to reexamine upon it also remained.[44]

Again, the author reiterates the argument that curative relief by way of detailed and contemporaneous jury instructions from the bench must be the way to go in such circumstances. It is advisable to request the jury be excused rather than articulate the objection in their presence lest counsel further exacerbate the situation. "The party needs 'no other protection' than a fair opportunity to voice an effective objection."[45]

In maintaining such procedural rigor, the concept of inadmissibility retains, as itmust, an important status amongst the various considerations constituting a fair trial.[46]

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[44] R. v. Noel (1903), 2 O.W.R. 776, para. 5-6 (Can. Ont. C.A.).

[45] Gilligan & Imwinkelried, supra note 26, at 828 (quoting Buck v. St. Louis Union Trust Co., 185 S.W. 208, 213 (Mo. 1916)).

[46] In the context of the admissibility of statements made by an accused person to a person in authority, the English Court of Criminal Appeal, in R. v. Treacy, observed "it is a complete mistake to think that a document which is otherwise inadmissible can be made admissible in evidence simply because it is put to an accused person in cross- examination." [1944] 2 All E.R. 229 (Ct. Crim. App.)

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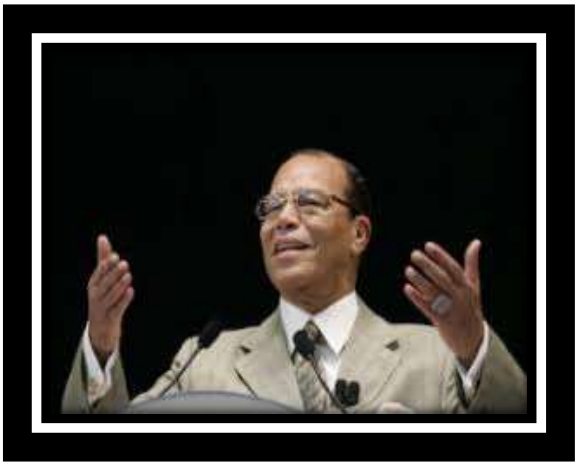
“A man is but the product of his thoughts. What he thinks, he becomes.”

Louis Farrakhan



229 (Eng.). The Canadian experience regarding such statements, at least when Charter of Rights and Freedoms violations are found, highlights that “[i]t will only be in very limited circumstances that a change in use as proposed in this case will qualify as a material change of cir- cumstances that would warrant reopening the issue once evidence has been excluded under section 24(2). I would not, however, entirely rule out the possibility in some very special circumstances.” R. v. Calder, [1996] 1 S.C.R. 660, para. 35 (Can. S.C.C.). However, American jurisprudence appears to support a general recognition that a balance must be struck between individual rights and the repute of the justice system in this regard. See James v. Illinois, 493 U.S. 307, 319-20 (1990); Harris v. New York, 401 U.S. 222, 230-32 (1971).

Recent Fabrication

The jurisprudence from the state of New York provides an excellent explanation on the doctrine of recent fabrication. In recognizing that other jurisdictions appear to have less stringent standards such that almost any inconsistency developed in crossexamination may trigger the option to question a witness in redirect examination, Justice Fuchsberg, in the case of *People v. Davis*, put a much finer point to the concept:

As our court has defined the term "recent fabrication", it "means . . . that the defense is charging the witness not with mistake or confusion, but with making up a false story well after the event. 'Recently fabricated' means the same thing as fabricated to meet the exigencies of the case."[47]

Pivotal in the analysis is the timing of the utterance that has been challenged as being the product of an inventive mind. It is not unknown for persons to disseminate selfserving statements to others, particularly after a crime or important occurrence has taken place. For example, false alibis are typically supported in such a fashion, with or without the knowledge of the person chosen to receive the false knowledge. However, when a statement is made before a crime has been committed, the statement is branded with the mark of reliability as the motive to fabricate has yet to visit the declarant.[48] Notably, the Court of Appeal of England sees the concept of recent invention and the fact that it may be rebutted as much a rule of common sense as one of law.[39]

Exposing the Totality of a Statement

In reality, the rule of reexamination is grounded in fairness and stands for the proposition that when a witness has been crossexamined as to part of a written or oral statement made by him or her, examining counsel becomes entitled to prove in reexamination such other parts of the statement that are necessary to explain or qualify the prior written or oral statement.The rule also underscores the importance

[47] 44 N.Y.2d 269, 277-78 (1978) (citations omitted).

[48] See R. v. Divitaris, (2004), 186 O.A.C. 366, para. 33-34 (Can. Ont. C.A.); R. v.

Rosik (1971), 2 O.R. 47 (Can. Ont. C.A.).

of counsel knowing his or her brief thoroughly because opposing counsel commonly tease out only part of a statement in crossexamination. Without an awareness of the minutiae, the totality of a witness's evidence may be left unspoken, often times on a pivotal issue.

In the Canadian case of *R. v. Stiers*, if the prosecution had not re examined, the jury could well have been left in a state of doubt as to whether the knife attack in question occurred through an open car window or outside the car.[49] When blood was first observed by the main prosecu tion witness became a pivotal issue in the murder trial:

In the end, something else did transpire, namely the defence crossexamina tion of Banwell. In my view, it was open to the trial judge to find that the tenor of the crossexamination and, in particular, the passage I have quoted, evidenced that Banwell had never told the police that he had seen blood from Ivancic until the very end when he rolled Ivancic over. Defence counsel had taken Banwell through a detailed review of the various statements he had made in an attempt to make that point. The detailed review did not, however, include the passage from the September 27 statement where Banwell told the police that he had seen blood earlier. This could have left the jury with an incorrect impression as to the tenor of Banwell's statements to the police.[50]

The same principle also permits reexamination of previous testimony. As such, preliminary inquiry transcripts may be the subjectmatter of questioning, with the scope of the redirect examination, for the most part, being governed by the sound discretion of the trial court.[51] Addi tional information introduced on redirect examination should be limited to that information "'necessary to meet what has been brought out in the meantime upon the crossexamination.'"[52]

[49] (2010), 264 O.A.C. 305, para. 23-31 (Can. Ont. C.A.).

[50] Id. at para. 37.

[51] People v. Zigouras, 163 N.Y. 250, 256 (1900).

[52] People v. Massie, 809 N.E.2d 1102, 1104-05 (2004) (quoting People v.Melendez, 434 N.E.2d 1324, 1328 (1982)).

To Better Understand the Surrounding circumstances

The surrounding circumstances can be brought to the fore in cross examination given the vicissitudes of the questions. As explained by Justice Wells in the Australian decision of *The Queen v Lavery (No. 2)*, contextual considerations can be very relevant to the trier of fact:

Ambiguity in an answer given in crossexamination is, of course, an obvious justification for reexamination designed to resolve the doubt created, but to say that reexamination is confined to questions aimed at removing ambiguities is absurd. For reexamination is allowed for much wider and more important purposes. It is to be permitted, in my opinion, whenever an answer or answers given by a witness in crossexamination would, unless supplemented or explained in the manner proposed by the reexaminer, leave the Court with an impression of the facts, derived from the witness, that is capable of being construed unfavourably to the side responsible for calling the witness, and that represents a distortion, or an incomplete account, of the truth as the witness is able to present it.[53]

Reexamination has been allowed to rebut a defense challenge regarding the adequacy and thoroughness of a police investigation where tunnel vision and alternative

[53] (1979) 20 SASR 430, 451 (Austl.).

suspects were suggested by the questioning.[54] Longstanding animus was clarified and explained where a son, during crossexamination, agreed that he had referred to his father as a "hoary old villain."[55] A witness who has been impeached by a prior inconsistent statement may explain why he made the inconsistent statement.[56] Indeed, even blatant perjury between testimony at a preliminary inquiry and the trial deserves the opportunity to be explained away if possible.[57]The foregoing examples show that the relevant surrounding circumstances, if properly plumbed, can refocus what the adversarial process has obscured.Conclusion

"The reexamination of a witness is more difficult, by far, than cross examination."[58] Some have argued that "[i]t is perhaps the most difficult advocacy skill to acquire." The reasons why it is so difficult are easily distilled and identified: the questions must be put in a nonleading fashion, on the heels of crossexamination, and without any prior discussion with the witness who may already be reeling from the ordeal of testifying. As such, counsel must be careful not to make a bad situation even worse. Rather than going back to an already sensitive topic with the witness, using other witnesses to neutralize the damage is perhaps the better way to go if possible. Alternatively, counsel may simply soldier on with a view to addressing the witness's exposed weaknesses in closing argument where calculated oratory can provide the needed salve. However, if the advocate is inclined to engage redirect examination, the following checklist should be considered before questioning the witness, yet again:

If the witness or your case has not been harmed by the cross examination, then you should not reexamine.

Unless you can resume the offensive and score some further points by matters raised in crossexamination, let the witness go.

If the witness is so shaken by the crossexamination that he cannot be rehabilitated or your reexamination may result in an unsuccess ful attempt at rehabilitating the

[54] R. v. Candir (2009), 257 O.A.C. 119, para. 150 (Can. Ont. C.A.).

[55] R. v. St. George, (1840) 173 Eng. Rep. 921, 924; 9 Car. & P. 483, 488 (Eng.).
[56] Commonwealth v. Errington, 460 N.E.2d 598, 602 (Mass. 1984) (citations omitted).
[57] R. v. Deshaies (1966), 3 C.C.C. 176, para. 11-12 (Can. Que. C.A.).

[58]

witness, then you should refrain from reexamination. It may only emphasize the weaknesses in the witness's testimony.

If your reexamination will open the door to harmful recross examination, you should reconsider your decision to reexamine.

I have come to believe that trial courts, judges and lawyers in Uganda are or have become so extremely intolerant of reexamination that reexamination is literally dying in our courts. The reality is that often, at the end of the crossexamination, the judges and lawyers and witness are all very tired. Everyone is in a hurry to either leave the court room or call the next case. Therefore there is very little interest in subjecting the witness to further time in the witness box. Often, the lawyer who called him as a witness and led him in the examinationinchief is probably feeling too lazy to go back and go through the crossexamination to see whether there are any matters on which a reexamination would be required. It is also likely that that lawyer has spent the entire period of the crossexamination raising pointless objections over matters which he properly should be reexamining the witness on.

Thus in the vast majority of trials that I have witnessed, the words of counsel whose witness has just undergone crossexamination are "there will be no reexamination, My Lord." And in almost every reexamination that I have seen, the counsel who just completed his crossexamination has objected to virtually every question asked in reexamination on the grounds that "there is no ambiguity with respect to the matter." Mea culpa, I would admit. But I believe that the time has come for lawyers to begin to do a neater and cleaner job for clients at the reexamination stage.

The law that regulates what can or cannot be done in reexamination is with the sidenote "Scope of reexamination," and in the following words:

(1) Subject to the discretion of the Court, reexamination shall be directed to the explanation of matters referred to in crossexamination. (2) A witness cannot be reexamined or otherwise further examined as to the same matter raised by the examining party on a previous examination without the leave of the Court, but the witness may be reexamined or otherwise further examined as to a new matter upon which the witness has been examined by another party to the action.

In subsection (1), we are told that reexamination should aim at explaining matters that came up during crossexamination. Subsection (2) bars the lawyer reexamining from examining on matter that he had raised in his examinationinchief, and states that any reexamination or further examination is limited to new matters that the witness has

been crossexamined on. The rather wellresearched and wellwritten official commentary explains that the law does not allow infinite rounds of questioning, and that the opportunity afforded by Reexamination "is essentially limited to new matters raised on crossexamination."

In **OKUDZETO v. COMMISSIONER OF POLICE** [1964] GLR 588, the Supreme Court stated that the object of reexamination is to explain evidence given under crossexamination, and that it is not to be used to get a witness to deny or cancel evidence already given under crossexamination. That is why where a witness's evidence under crossexamination is subsequently contradicted by him in reexamination, the whole evidence of the witness should be discredited by the trial court.

And in **SEATEC LTD. v. PENTON HOOK FARMS LTD. & ANOTHER** [198486] 1 GLR 605, the Court of Appeal held that where a question had been properly objected to and rightly upheld during examinationinchief, it would be improper for counsel to attempt to ask the same question in reexamination. What was more, if the witness was not crossexamined on a matter he could not be reexamined on that matter, because it did not arise out of the crossexamination.

It is in the light of the above that a lawyer reexamining is not permitted to ask any question that does not arise out of the crossexamination. He also has no right to ask his own witness leading questions at this stage. He will not be allowed to waste time by asking over again questions already put in chief.

The above limitations do not detract from the general position of the law reexamination affords the witness an opportunity of explaining any seeming inconsistency in his answers in cross examination. The witness is allowed to state the whole truth as to any matter which was touched on, but not fully dealt with in crossexamination. Human memory is not perfect. And the pressure of undergoing crossexamination can lead to slips, faulty perception and erroneous memory. The purpose of reexamination is to fix these, because after all, the court is more concerned with doing justice than scoring points in crossexamination. It is therefore a very important tool that counsel who call witnesses must not treat, and must stop treating, as trifling.[59]

[59] The right to cross-examine in a trial by affidavit evidence asamani, the first african governor of the christianburg castle (1693-

Ian Morley says,**you do not reexamine unless you are sure that you can nail it**". Reexamination is a way of saying that the crossexamination has some weaknesses.

Section 136(3) of the Evidence Act Cap 6

Its purpose is to correct the mistakes made in cross examination.

If the witness has done irreparable damage during crossexamination, you must not reexamine.

If counsel wishes to introduce something new during reexamination, they must seek leave of court.

Objectives

- Salvaging a case
- Clarifying confusing points
- Try and shift the court's probable inference explaining a distorted testimony to favour your case

Limitations

- Limited to matters touched during cross examinations alone
- Highlights on weaknesses of your witness
- The advocate must question along the line of an argument only issues raised during crossexamination. If you ask on questions on examination in chief, you are setting yourself up for another cross examination.
- Come out smoking focus on how misleading the crossexamination was. To ask leading questions, seek the leave of the court.
- Quit while you're ahead and quit while you're behind leave a good testimony as is and do not touch an irreparably damaging testimony
- Never reexamine for the sake of it always consider if you need to reexamine and if you do, keep it short.

- Confer with your witness when unfamiliar issues arise during crossexamination seek leave of court to confer with your witness. "Your honor, the witness has been asked question upon which I have no instruction. I humbly seek leave of the court to confer with my client" This can only be done on the basis that what you had completely not raised in the examination in chief was raised during cross examination, and you have evidence to counter it. You could therefore ask for leave to produce further evidence. However, be aware that this opens up the right of the other party to crossexamine the witness again.

- Do not merely reexamine on trifling matters, and improving on already good matters. Be careful in trying to reconcile contradictory matters. You may come out with a third version altogether. Master the art of reexamination avoid the risks of seeking explanations.

- A properly done reexamination can salvage a bad crossexamination. Conversely, a badly done reexamination can make bad matters worse.

- Reexamination is completely optional. You do not have to do it at all.

- All the rules of examination in chief apply to reexamination.

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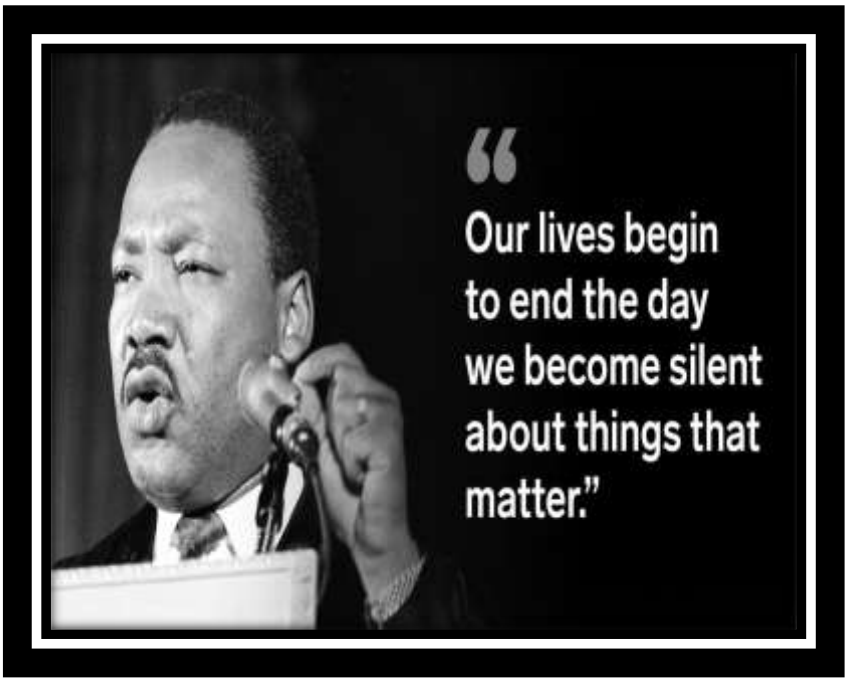
"A nation or civilization that continues to produce softminded men purchases its own spiritual death on the installment plan."

Rev. Dr. Martin Luther King Jr.



TRIAL OBJECTIONS

Introduction

An objection is a legallydriven attempt to prevent the admission of evidence (typically) or argument (sometimes) on the basis that the impugned evidence violates some aspect of the law of evidence or the rules of procedure.[60]

Objections are the means by which evidentiary disputes are raised and resolved. Objections may be made to an attorney's questions, to a witness's testimony, to the introduction or use of exhibits, to a lawyer's demeanor or behavior, and even to the conduct of the judge.[61]. An objection may be by an interjection when proceedings are going on mainly during examination in chief or crossexamination. An objection may also be in the form of a motion seeking that the entire suit should not be entertained. This is what is referred to as a preliminary objection (P.O). An **objection to indictment** refers to objections that may be raised by an accused person in a trial on indictment. The accused may object on legal grounds. An example is where the indictment contravenes or fails to comply with the law. A breach of the fundamental rights of an accused person prior to arraignment in court is a classical example that would warrant such kind of objections. This is raised by an application to quash the indictment or to declare the trial a nullity.

Lastly, an objection may refer to oppositions raised during the process of execution in civil cases. **This is governed by the Civil Procedure Rules, and particularly Order 22 Rule 51 thereof.**

Purpose and function of objections

Generally, objections are utilized in a trial to ensure that parties prosecute and defend their cases in accordance to the law. This is both on procedure and substance. Some of the specific purposes and functions include the following:

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[60] Igor Ellyn, QC, CS, FCIArb. & Belinda E. Schubert How to Make In-Trial Objections Less Objectionable, (2011).

[61] Modern Trial Advocacy, 4th Edition

a. Trial objections invoke the applicable rules of evidence to preclude inadmissible evidence from being presented to court.

b. Trial objections may be utilized to enable witnesses give evidence without intimidation or harassment by the opposing advocate.

c. They also help to predicate error on a court's evidentiary ruling.

d. Preliminary objections help to prevent a court from entertaining a matter that it ought not to.

e. Preliminary objections in criminal cases guide and ensure that the court does not entertain a trial that is otherwise a nullity

f. Preliminary objections are also being used to strike out defective pleadings

To keep testimony fair and honest.

Controlling information getting onto the court

Preventing inadmissible evidence

- Preserving the record for proposes of appeal
- Provide the court with an opportunity to rectify erroneous rulings

To protect your witness

To ensure proper questioning

To eliminate waste of time

To gain tactical advantage

Provide a witness more time to think

Break up the testimony of an opposing witness

EXAMPLES OF POSSIBLE OBJECTIONS

Objections to the form of questions;

i) These deal with nonsubstantive issues. They relate to the procedure of the trial and are intended to remedy the manner in which the advocate questions the witness. Forinstance where the advocate adopts leading questions or becomes argumentative during trial. It also involves the manner in which the witness is responding. Objections to the entertainment of a suit, for instance, where the court lacks jurisdiction.

Leading questions, compound questions, argumentative questions, questions previously asked and answered, repetitive questions, questions calling for narrative answers, ambiguous or unintelligible

Objections as to content or substance;

These relate to substantive evidence. They invoke the applicable rules of evidence to exclude either the witness's anticipated answer or the introduction of an exhibit. They may relate to both oral and documentary evidence. Examples include when one objects to hearsay**,** Irrelevant, immaterial, lack of personal knowledge, assuming facts not in evidence, etc.

Tendering of exhibits; No foundation, not authenticated, improper copy, etc.

Improper conduct of counsel

Preparing for objections

Preparation and anticipation

Keen knowledge and understanding of substantive as well as procedural law

Anticipate the testimony of each witness

Anticipate all documents and exhibits.

TIMING, MAKING AND RESPONDING TO OBJECTIONS

In deciding whether or not to object, the qualities of a good trial advocate will come into play and more particularly the following:

a) **Clarity of thought and language**; an advocate must have clarity of thought and language so as to be able to put forward and respond to objections clearly and logically in court.

b) **Confidence and courage**; an advocate should put up a civilized warfare in defending or raising a trial objection rather than sit back without putting up a fair fight.

c) **Alertness**; an advocate must be alert during trial so as to point out when to raise an objection. He/she should also know when to expect objections against his/her client. This virtue is achieved by keenly following evidence and being alert to the mind of the court.

d) **Preparedness**; to be able to alleviate situations of surprise in the event that a trial objection is raised against your client's case, an advocate needs to be well prepared. Moreover, by researching the law well, you get to raise informed and timely trial objections.

e) **Professionalism**; this demands that an advocate knows the rules of practice and evidence so as to prevent objections against his/her ill advised choice of action. The rules of ethics and conduct also come in handy to enable one raise well founded objections in a respectful and professional manner.

Professionalism ensures that advocates do not raise objections actuated by malice. The advocate should not raise emotions against the other or go personal. The manner and language to be used in raising the objection is important. An advocate ought to rise up and politely but confidently say such words as,... 'your honour/ your lordship counsel is leading the witness !'

f) **Sound judgment**; sound judgment enables an advocate make appropriate tactical decisions as to when to raise or not to raise objections, or how to respond to objections. You ought to be able to think on your feet. Experienced judgment dictates that you only assert objections when both a valid objection can be asserted and should be asserted. You should make a quick cost benefit analysis, to avoid a situation where you win the battle but end up losing the war.

Issues to consider in deciding whether or not to object

The following are the factors that may be used to guide an advocate on deciding whether or not he/she should raise an objection.

a) **Relevance:** All facts that are relevant should be admissible unless specifically excluded by law. You should show, or indeed look at the opposing party's proposed evidence to determine whether it tends to prove the existence or nonexistence of a fact in issue. The Evidence Act and particularly sections 516 guide on relevance and admissibility of evidence. In a nut shell, facts which are relevant though not in issue include the following:

- facts forming part of the same transaction,
- facts causing or caused by facts in issue,
- facts relating to motive, preparation and conduct for any fact in issue,
- facts necessary to explain or introduce a relevant fact,
- fact tending to prove statements and actions referring to common intention,
- facts that are inconsistent with facts in issue or affect the probability of existence or otherwise of facts in issue,
- facts that would determine quantum of damages,
- facts showing the existence of any right or custom,
- facts showing the existence of state of mind or feeling,
- facts showing system or a series of similar occurrences, and
- facts showing the existence of a course of business.

b) **Reliability:** Second hand information, for example hearsay, would normally be excluded since it is not as reliable as first hand information. Section 63 of the *Evidence Act* provides that oral evidence must in all cases be direct evidence. Direct evidence has been defined to mean:

- with reference to a fact which could be seen, the evidence of a witness who says he saw it;
- with reference to a fact which could be heard, the evidence of a witness who says he heard it;
- with reference to a fact which could be perceived by any other sense or in any other manner, the evidence of a witness who says he perceived it by that sense or in that manner;
- with reference to an opinion or to the grounds on which that opinion is held, the evidence of the person who holds that opinion or, as the case maybe, who holds it on those grounds.

Provided that the opinion of an expert and the grounds on which such opinion is held, may be proved by the production of such article in which the opinion and grounds thereof are contained, if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the court regards as unreasonable.

Moreover, evidence, which has not been authenticated, should not be admissible. For example, it is not proper to admit an analysis of the alcohol content in someone's breath if the testing instrument was unreliable or tampered with. The same applies to opinion evidence given by someone without the credentials or sufficient basis of information to render an expert opinion.

c) **The concept of legality:** All evidence that ought to be proved should have been obtained through legal means. Evidence which is relevant but is obtained illegally may be objected to. The following examples may give guidance in the concept:

i. An admission will not be admitted if the circumstance under which it was made was that such admission would not be admitted in court. These are admissions made on a without prejudice basis in civil cases. [92]

ii. Confessions that are illegally obtained in criminal cases will not be admissible as evidence. Pursuant to section 25A of the *Evidence Act*,a confession or any admission of a fact tending to the proof of guilt made by an accused person is not admissible and shall not be proved as against such person unless it is made in court. A confession obtained by inducement, threat or promise will also not be admissible, unless to the opinion of the court, such inducement, threat or promise is removed.[93]

iii. Another illustration is bad character evidence in criminal cases. By virtue of section 57 of the *Evidence Act*, the fact that the accused person has committed or been convicted of or charged with any offence other than that with which he is then charged, or is of bad character, is inadmissible unless the following exceptions arise:

- Where such evidence relates to a fact in issue or is directly relevant to a fact in issue;
- or the evidence tends to prove some state of mind or feeling of the accused or a series of similar occurrence of that offence with which he is then charged; or

- the accused has personally or by his advocate asked questions of a witness for the prosecution with a view to establishing his own character, or has given evidence of his own good character; or
- the nature or conduct of the defence is such as to involve imputations on the character of the complainant or of a witness for the prosecution; or
- the accused has given evidence against any other person charged with the same offence:

- Another illustration that may be used as guidance is the notion of 'the fruit of the poisonous tree', that is, illegally obtained evidence. Evidence, though relevant and reliable, may be objected to if such evidence was obtained pursuant to an improper search or seizure.

Preparation and procedure

Objections ought to be timely and specific. This means that an objection should be raised before the inadmissible evidence is produced and should be specifically attributed to a particular issue, statute or rule of evidence.

In respect to preliminary objections, a party must file and serve a notice of the preliminary objection. In civil cases, a defence may have a paragraph to the effect that the defendant shall raise a preliminary objection at the hearing thereof on some stated grounds. That serves as sufficient notice. Service of the application to strike out a suit or pleading preliminarily also serves as notice of the preliminary objection. The parties are then given an opportunity to argue at the appointed time. The court thereafter gives a ruling thereon, either overruling or sustaining the preliminary objection. Any aggrieved party is at liberty to appeal within the time stipulated and in accordance with the law.

In respect to trial objections on the other hand, the party wishing to raise the objection does so by simply standing and stating, **"Objection, your honour" or "Objection, your Lordship"** whichever is appropriate. You should then succinctly explain why the trial objection is well founded. The court will either rule on it immediately or require a response from the other party before ruling. This process should take place with utmost respect and with use of polite language.

As a trial lawyer, you do not need to know all the evidentiary rules but only the ones that potentially apply to your case. You need to do a thorough case preparation. Moreover a lawyer needs to have a rapid cognitive recognition and increasing the "moment of recognition"[94]. Rapid cognitive recognition entails the following:

- firstly, researching on the matter or listening to the question/issue raised,
- secondly, recognizing a potential objection,
- thirdly, deciding whether to make the objection, and
- finally, making the objection.

Factors to consider in summary

Will the evidence I hope to keep out hurt my client's case if it is admitted?

Is the evidence I hope to keep out relevant to the case?

Which rule of evidence does the impugned evidence offend?

Is the evidence or tactic my opponent is using unfairly ambushing my client?

If I object, will the presiding judicial officer think I am interfering unfairly?

Can I rely on the presiding judicial officer to know that this evidence is not relevant?

Will the evidence I hope to keep out hurt my client's case if it is admitted?

Is the evidence I hope to keep out relevant to the case?

Which rule of evidence does the impugned evidence offend?

Is the evidence or tactic my opponent is using unfairly ambushing my client?

If I object, will the presiding judicial officer think I am interfering unfairly?

Can I rely on the presiding judicial officer to know that this evidence is not relevant?

Will the presiding judicial officer think there is something to hide?

How should one make the objection?

□ □ What if the objection is not sustained?

Should I hold my objection because I have evidence which I may be unable to call if the objection is accepted?

Is the presiding judicial officer even paying close enough attention that he or she understands the significance of the question?

What exactly will the witness say in response to counsel's question if there is no objection?

Decisions on objections

It has been illustrated above that the court is required to make and give a decision on objections. For preliminary objections, the issues canvassed will usually require more time and research before a decision is arrived at. The court thus gives the parties some date when the court thinks it shall have written the ruling.

For trial objections on the other hand, the court ought to make ruling instantly for purposes of expediency. This does not however preclude the court from deferring the ruling to a given date. What is important is the weight of the objections both on legal issues and factual issues. It will be noted for instance in the case of ***republic vs robert gilbert cholmondeley*** , at the close of the prosecution's case, the prosecution moved the court under section 60 of the constitution for an order directing the defence to make a full disclosure of their witnesses, their statements and copies of certain forensic reports that the defence intended to produce. The defence objected to the motion on the ground that such a motion intended to infringe the constitutional rights of the accused and that no reciprocity existed to warrant the defence discloses their witnesses and statements as the prosecution was required to do. The judge adjourned the proceedings as he retired to consider a ruling.

In objections raised during execution in civil cases, the court by practice makes the decision after due consideration of the arguments propounded by the parties and the evidence. This requires more time before ruling. What is important in either case is the weight of the case. Expediency and the need to make sound rulings must be balanced when any issue is to be properly addressed.

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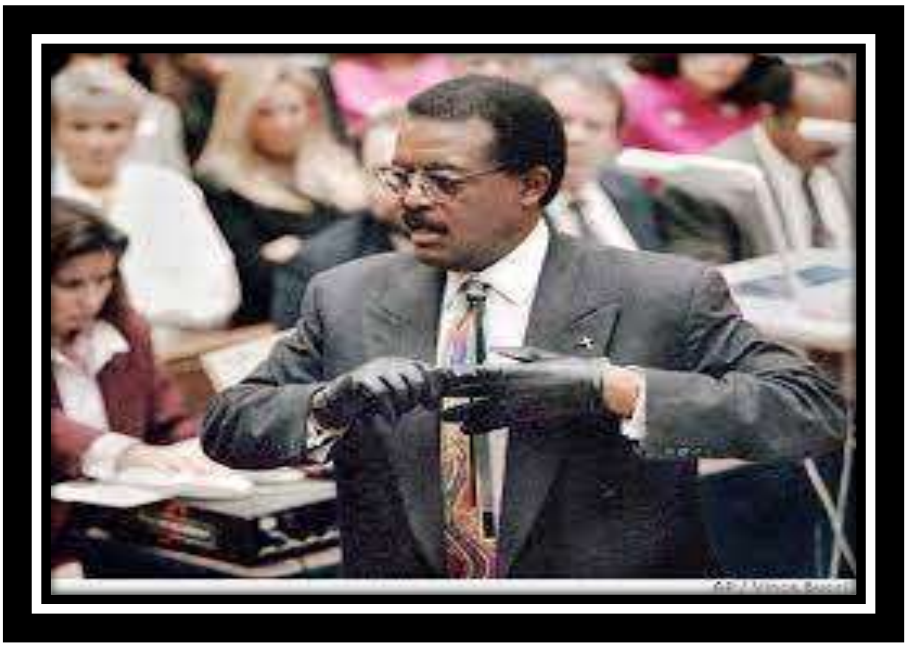
“If the gloves don’t fit you must aquit, attorney johnie cochran “



Ethics and objections

Professional ethics and conduct should guide advocates when raising and responding to objections. Advocates should not deliberately bring or try to incorporate objectionable material or arguments in court, as this is unethical conduct.

It is improper to assert a trial objection without a valid legal basis. It is arguable that this may be tactical hence justifiable, but the bottom line is that it is improper to make such objections. Objections raised solely for the purpose of slowing down, impeding justice or protecting witnesses is unethical. Basically, if your primary motivation is tactical as opposed to legal, then prudence and ethical standards are implicated.

Common objections

For the purpose of our discourse, we have chosen to classify objections into three categories namely:

1. Preliminary objections
2. Trial objections
3. Posttrial objections

Preliminary Objections (PO's)

Preliminary objections are objections raised before the substantive matter is heard and determined on merit, only on a point of law. Preliminary objections may be raised where a pleading is defective for want of form, where a pleading breaches a mandatory statutory provision, where a suit is time barred, et cetera.

A preliminary objection may be raised by a party in his/her pleading, pursuant to rule 7 of Order VI of the civil procedure rules. Under order L rule 1 of the Civil Procedure Rules, a party may nevertheless raise a PO by way of a motion.

Section 16 of the Civil Procedure Act requires that one makes an objection as to the place of suing in the court of first instance since failure to do so no such objection shall be allowed on appeal.

a) Preliminary objections must be on a point of law.

The courts have held that preliminary objections shall only be based on a pure point of law, which is clear, and beyond doubt. The court of appeal in ***Mukisa Biscuit manufacturing Co. Ltd vs west End Distributors Ltd. (1969) EA 697*** observed as follows;

'A preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit.'

It should also be noted that preliminary objections are argued on the assumption that all the facts pleaded by the other side are correct. No preliminary objection can be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion. This position was illustrated in ***Natin Properties Limited vs Jaggit Singh Kalsi & Another Court of Appeal Civil Appeal No. 132 of 1989 (Gicheru, Kwach & Shah JJ.A)*** The court of appeal further emphasized that when a preliminary objection is raised, it should be capable of disposing the matter preliminarily without the court having to resort to ascertaining the facts from elsewhere apart from looking at the pleadings alone.

Preliminary objections, which are premised on facts that are disputed, cannot be used to determine the whole matter as the facts must be precise and clear to enable the court say that the facts are not contested or disputed. This was held in ***United Insurance Company Ltd. Vs Scholar A. Odera Kisumu HCCA No. 6 of 2005(Wasame J. on 14th March 2005.)***

Whereas the law gives courts the discretion of allowing parties to a suit to amend their pleadings as would enable the real issues to be determined, a plaint that is hopelessly bad that no life can be breathed into it may be struck. This was illustrated in ***Quick Enterprises Ltd. Vs Kenya Railways Corporation Kisumu HCCC No. 22 of 1999 (Birech J. 2nd November, 2000)***

b) Particulars of preliminary objections.

Where a party indicates that she/he intends to raise an objection on a point of law, she/he must state the particulars of the statutory provision upon which she/he relies to raise the objection. This was the holding in ***Kashbhai vs Sempagawa (1976) EA 16***.

c) Notice of preliminary objections.

Anyparty who intends to raise a preliminary objection must give a sufficient and reasonable notice to the other party. This was the holding in ***Hudson Liase Walibwa vs Attorney general NBI HCCC No. 2714 of 1987 (Ringera J. on 9th November, 1994)***

The requirement of notice is not however necessary in matters before the court of appeal. This is because matters before the court of appeal are prosecuted in accordance to the court of appeal rules.

Purpose of preliminary objection.

Preliminary objections ensure that parties file their cases and defend the same according to the mandatory requirements of the law. They also prevent abuse of the process of court. This may arise in instances where a party files a defense that is a mere sham and fraught with mere denials. Another instance may be where a suit is time barred and a party proceeds to file the same without first obtaining the leave of court. Under Order **VI Rule 12** of the civil procedure rules, no technical objection may be raised to any pleading for want of form.

Examples of preliminary objections.

a) A preliminary objection may be raised on the ground that the court lacks jurisdiction to entertain the matter. An objection as to the place of suing must be raised in the court of first instance.

b) A preliminary objection may also be raised where there is pending before a court of competent jurisdiction another suit relating to the same parties and the same subject matter.[95]

c) A PO may also be raised where the matter has been substantially in issue between the same parties and the same determined by a competent court. This is what is referred to as *res judicata*.[96]

d) A preliminary objection may also be raised where a pleading offends the rules of procedure on form and substance. i.e. where a Notice of Motion is filed instead of a Chamber Summons, or where a suit is commenced by way of a plaint instead of an Originating Summons.

e) Under the Limitation of Actions Act. Where a suit is time barred a party wishing to institute the same must first apply for the leave of the court in the prescribed manner. Once leave is granted, then the party will be at liberty to file the matter.

Preliminary objections in respect to limitation of time on claims for damages arising out of personal injuries, breach of duty or nuisance shall not be properly raised but a party may only be allowed to crossexamine the other party during trial in challenging the leave granted, or the legality of filing suit without the leave of court. This was illustrated in ***Oruta vs Nyamato (1988) KLR590***

Preliminary objections in criminal cases.

Preliminary objections may also be raised in criminal cases. A good illustration is where an accused raises a motion that the trial be declared a nullity on the ground that his/her constitutional rights have been violated. This aspect was illustrated in***Republic vs William Chesir Kipkore(2008)eKLR*** the accused had been held in custody for 107 days before being arraigned in court. His advocate raised the objection. The High court observed as follows:

That ...while it is mandatory for applications raising constitutional issues in respect of causes of action outside judicial proceedings or which arise in matters before the subordinate courts, to be by way of petition, in the High Court when any constitutional issue arising the court may deal with the matter within the same proceedings as a preliminary point or question.

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"*Injustice anywhere is a threat to justice everywhere. *"

Rev. Dr. Martin Luther King Jr

We have categorized trial objections broadly into two. These are objections top form of questions and objections to the evidence offered. Put aptly, these are form and content objections. We will consider the kinds of objections available under these two broad heads.

Objections to form of questions

The following are examples of objections that a trial advocate may raise in objection to questions raised to the witness.

a. **A question that is ambiguous or unintelligible**: it means that the witness may misunderstand the question. It is objectionable on the ground that it may take on more than one meaning.

An illustration is to be found in the *Evidence Act*, which excludes evidence to explain a patent ambiguity in a document. Section 99 states:

"When the language used in a document is on the face of it ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects."

- **A question that is argumentative**: This is a question asked to persuade the judge rather than elicit information. It calls for an argument in answer and merely asks a witness to concede to inferences.

- **A question that has been asked and answered**: This is raised when a witness has already answered a substantially similar question asked by the same advocate on the subject matter.

- **A question assumes facts not in evidence**: This is a question, which presumes unproved facts to be true. For example, "When did you stop beating your wife?" This is an assumption that one actually beat his wife; particularly where the actual act of beating has not been proved.

- **A question that is compound**: This is where an advocate joins two or more questions ordinarily with the use of the words "or" or "and".

- **A question that is too general**: A question is too broad, general or indefinite if it permits the witness to respond with testimony, which may be irrelevant or otherwise inadmissible.

- **question that is leading**: This is a question that suggests the answer the examining party desires. This may however be allowed on crossexamination. Sections 140, 141 and 142 of the Evidence Act deal with leading questions. Any question suggesting the answer which the person putting it wishes or expects to receive, or suggesting a disputed fad as to which the witness is to testify, is a leading question.

Under section141(1), Leading questions must not, if objected to by the adverse party, be asked in an examinationin chief or in a reexamination, except with the permission of the court.

By virtue of Subsection (2), the court shall permit leading questions as to matters which are introductory or undisputed, or which have in its opinion been already sufficiently proved. Leading questions may be asked in crossexamination.

- **A question that misstates the evidence or misquotes the witness**: A question may misstate or misquote the testimony of a witness or any other evidence produced at the hearing. Trial advocates have the tendency to confirm the evidence of a witness by repeating what such witness has stated. Where the advocate adds or alters a statement from the witness, then one should be quick to object to the same as misquoting the witness.

- **A question that calls for a narrative answer**: This is a question that invites the witness to narrate a series of occurrence, which may provide irrelevant or otherwise inadmissible testimony.

- **A question that calls for speculation**: This is a question, which invites or causes a witness to speculate or answer on the basis of conjecture. It asks a witness to guess the answer rather than to rely on known facts. This is where the witness is asked to give an opinion whereas such a witness is not an expert.

- **Indecent and scandalous questions.** Under section 159 of the Evidence Act, the court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Objections to offered evidence (content objections).

The following are types of questions which may be objected to as tending to give evidence which ought not to be adduced.

a. **A question that invites hearsay**: As a general rule, hearsay is inadmissible**. Section 58** of the Evidence Act Oral evidence must in all cases be direct evidence. **The *Evidence Act* section 59** gives exceptions to the hearsay rule. These include evidence of dying declarations, expert opinions, and documentary evidence of official records e.t.c. where such an exception does not exist, an advocate should object to questions inviting such evidence.

b. **A question that is irrelevant or immaterial**: This is a question whose intent and purport is to elicit evidence which does not relate to facts in issue or relevant facts. The trial advocate should therefore ensure that he predicts that kind of evidence that may come forth from a witness and consider whether the same is relevant and admissible before raising an objection.

c. **Inadmissible opinion**. As discussed earlier, a witness may be called to give an opinion.

Section 48 of the Evidence Act requires that where the court to form an opinion upon a point of foreign law, or of science or art, or as to identity or genuineness of handwriting or finger or other impressions, opinions upon that point are admissible if made by experts.

Experts are defined as persons specially skilled in foreign law, science or art, or in questions as to identity, or genuineness of handwriting or finger or other impressions.

d. **Improper impeachment**. The Act allows an advocate to ask a question that impeaches on the credibility of a witness. However, an improper impeachment will not be allowed.

Section 154 of the Act provides that a witness may be crossexamined to test his accuracy, veracity or credibility; to discover who he is and what is his position in life; or to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to incriminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

The court is however given the discretion under section 157 and 159 to forbid any questions which may lead to improper impeachment of character or which may be annoying, indecent and scandalous.

e. **Excluding secondary evidence**. Section 67 of the Act provides that documents must be proved by primary evidence unless secondary evidence is admissible under the Act. An advocate may therefore object to secondary evidence where its admission is not provided for.

f. **Inadmissible parole evidence.** The Evidence Act states that no oral evidence may be given to contradict a written agreement. In case a witness is asked to give oral evidence which would in the circumstances contradict a written agreement, then an objection may be sustained.

This is provided **under section 93 of the *Evidence Act*** which states that, when the terms of any contract or grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved, no evidence of

any oral agreement or statement shall be admitted as between the parties to any such instrument or their representatives in interest for the purpose of contradicting, varying, adding to or subtracting from its terms.

g. **Illegally obtained evidence.** A party will not be allowed to give evidence that was procured illegally.

h. **Evidence that may threaten state security.** The *Official Secrets Act**[100]*** provides for the preservation of state secrets and state security. An advocate may object to evidence which in the circumstances may threaten state security, or would in the circumstances lead to disclosure of state secrets. An illustration is where investigations on *Angloleasing* were barred on the ground that they tended to question the manner in which the departments of defence of Kenya carried on its business.

i. **Reexamination on matters not raised in crossexamination**: this in not fair and just since one is not afforded the opportunity to crossexamine again on such issues.

j. **Best Evidence Rule**: This requires the most original source of evidence available. For example, instead of asking what the contents of a document are, you should ask for and look at the actual document itself.

k. **Instances of badgering**: This is where the opposing party is antagonizing a witness to provoke a response. Section 151 of the Evidence Act gives the court the discretion to forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court needlessly offensive in form.

1) **Introducing character evidence when it has not been brought in issue**: In simple terms, the fact that the accused committed prior offences does not

necessarily mean he or she committed the present offence. Each case should be treated independently on its own merits without prejudice to the accused. However the accused may bring his or her character in issue, for example, by alleging good conduct.

m. **Nonresponsive answer**: This is when a witness is evading a question and is not really answering it.

n. **Nothing pending**: an objection may be raised normally when a witness continues speaking on irrelevant matters to a question posed.

- **Privileged information**: as a general rule, evidence which is privileged will not be admitted in evidence. Where the law protects a witness from answering questions which relate to some privileged information, then unless that protection ceases to exist, no question may be asked in respect thereof. This limb is broad and we will consider each category of privileged information.
    - **Advocateclient privilege**.

Section 134 of the evidence Act Cap 6 protects such information from being admitted in court. The act provides that no advocate shall at any time be permitted, **unless with his client's express consent**, to disclose any communication made to him in the course and for the purpose of his employment as such advocate, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:

Exceptions to such privileges are given where the communication is made in furtherance of any illegal purpose or where the information relates to any fact observed by any advocate in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to the fact by or on behalf of his client. It should also be noted that the protection shall continue after the employment of the advocate has ceased.

Section 142 of the Act further provides that no person who is entitled to refuse to produce a document shall be compelled to give oral evidence of its contents. As such, an advocate may not be compelled to give evidence of the contents of any agreement or document prepared by himself for a client in that capacity. This issue is illustrated in ***H.F. FIRE AFRICA V A. M. R. GHARIEB (2005)e KLR***

This was an application to have one Saleh ElDin, an Advocate or his firm of Omar K. Amin & Co. Advocates disqualified from representing the plaintiff. The grounds propounded were that the said Advocate and/ or his firm were potential witnesses in the case and that there existed a conflict of interest in such representation.

The advocate opposed the application on grounds inter alia, that he could not be compelled to testify as a witness in the proceedings as to require him to give evidence would be tantamount to forcing him to betray the confidentiality he owes to his clients and thereby his professional and ethical duties owed to his client would be violated.

The court dismissed the application and observed that:

Under the Evidence Act, the standard of confidentiality of an Advocate as opposed to any other confidential agent or employee is regarded so high that the relation of client and Advocate is protected. The Advocate being so privileged as provided under section 125 of the Evidence Act, cannot be compelled to give Evidence on any of the three agreements which the Advocate concede were drawn by him or his firm.

ii. **Doctorpatient privilege.** There exists a fiduciary relationship between a [patient and a doctor. This relationship operates within the helm of confidentiality. A doctor can not therefore disclose information obtained by him from a client in the course of that relationship.

a. **Privilege not to testify against spouse.** Section 120(1)a, of the Evidence Act Cap 6 provide that no person shall be compelled to disclose any communication made to him or her during marriage, by

> the other spouse; nor shall a person be permitted to disclose such communication without the consent of the person who made it, or of his or her representative in interest.

The exception is given where,

- the suit is between the parties to the marriage,
- where one of the parties is charged with bigamy ,
- where the suit is in relation to an offence against morality ,
- where the offence relates to the person or property of either spouse or
- where the suit relates to children to the marriage.

Privilege of official communication. By virtue of section 123 of the Evidence Act, no public officer shall be compelled to disclose communications made by any person to him in the course of his duty, when he considers that the public interest would suffer by the disclosure.

Privilege for identity of informer. This privilege is given under section 124 of the Evidence Act. No judge, magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence, and no revenue officer shall be compelled to say whence he got any information as to the commission of any offence against the law relating to the public revenue or to income tax, customs or excise.

Privilege against selfincrimination. A person charged with a criminal offence shall not be compelled to give evidence as a witness for prosecution except in defending himself or upon his own application. Such failure of a person charged to give evidence shall not be made the subject of any comment by the prosecution.

The presumption of **innocence under Article 28(3) a) of the Constitution of the Republic** of Uganda 1995 is a founding argument that any person charged with a criminal offence has that right of silence.

Under the criminal procedure laws, the court makes a ruling at the closure of the prosecution case on whether or not a prima facie case has been made to warrant the accused to be put on his defence. In the event that there is no such case made, the accused is acquitted. This provision further protects the accused person's privilege of selfincrimination.

The tactical approach in making and responding to objections

MAKING OBJECTIONS

One needs to move from spotting skills to become a toptier trial advocate by not just knowing when you 'CAN' object, but also determining whether you 'SHOULD' object and 'WHEN' it is appropriate to do so.

'CAN' involves issue spotting which require prior vast knowledge in the law and more particularly the Evidence Act since you will definitely not have the time to go through statute in trial.

'SHOULD' entails knowing that not every issue really matters. Just because it is objectionable does not mean you should object. Why object if it does not hurt your case? If you object and prevent the judge from hearing some information, for example, hearsay, it is only natural to be curious[104]about the 'forbidden fruit'. You had better make sure it stays out of the evidence since if not it will gain more attention and significance than it ought to have had, had you not objected. One also ought to skim through the consequences of the objection either being sustained or overruled. Ultimately, read the mood of the court and the court's response to the objections you raise.

'WHEN' entails the right time to object. It may be before trial by notice or during trial. You may also want to read the mood of the court before doing so. Ultimately, object before the evidence is introduced. This you do in a split second. Once you fail to make a proper objection in time, then it might be too late to fix the damage; just the same way you cannot 'unring' a bell or stuff toothpaste back in a tube[105].

In summary:

- know your evidence law.
- Raise the right objection (Be specific).
- Know how to object (Say 'objection', think as you rise to your feet, stand up and give your ground, wait for the court to give a ruling and if necessary approach and proffer your argument).
- Practice.

RESPONDING TO OBJECTIONS

If your opponent objects, just pause, think, respond, wait for the ruling and probably rephrase your question if the matter is absolutely or obviously necessary so as to avoid the objectionable material. It may also be prudent to smoothly transition to another section of the testimony. Think like a burglar, of course not literally, in terms of having the evidence admitted if extremely vital. If your opponent's objection is overruled, repeat the entire question for the witness for clarity purpose.

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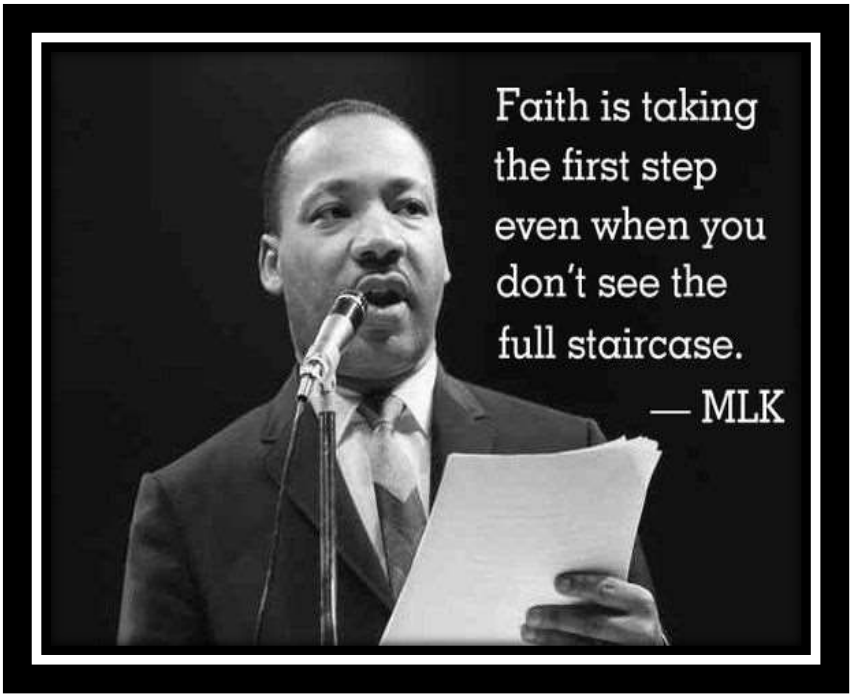
"*The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy. "

Rev. Dr. Artin Luther King Jr



Post trial objections

Objections during execution proceedings

A trial may have been conducted in which your client was not a party to but the same affects your client's property in the execution stage. You definitely will have to object.

These are objections that arise during execution proceedings of a civil case. They are brought under order XXII rules 5557 of the civil procedure rules. The party who objects to the proceedings is called an objector.

Rule 55 of Order XXI of the CPR provides that any person claiming to or to have a legal or equitable interest in the whole of or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the decree holder and the court of his objection to the attachment of such property.

Upon receipt of such notice, the court shall order a stay of the execution proceedings and shall call upon the attaching creditor by notice in writing within fifteen days to intimate to court and the objector in writing whether he proposes to proceed with the attachment and execution there under in whole or in part.

The objecting party takes out an application by way of summons in chambers in the same suit in which the application for attachment was made. This must be supported by an affidavit. The application once filed must be served upon the judgment creditor and if the court so directs, upon the judgment debtor. Such summonses operate as a stay of attachment unless otherwise ordered. Once this is done, the parties will argue their case if the judgment creditor still desires to proceed with execution and the court thereafter makes a ruling on the same.

The purpose of these objections is to ensure that attachment and execution of decrees are not done on goods, which are not otherwise the judgment debtor's. It enables parties with equitable interest over a judgment debtor's property to protect those interests.

Rule 56 of the order 22 is to the effect that the claimant has to adduce evidence to show that at the date of attachment he or she had some interest in the property attached.

The art of final submission and closing remarks

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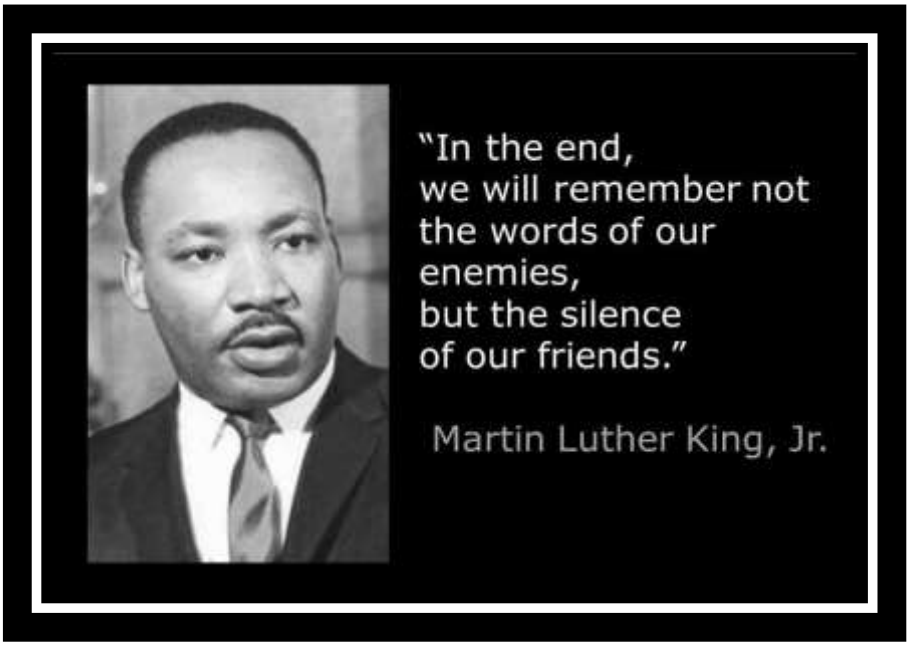
"An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity."

Rev. Dr. Martin Luther King Jr



A closing argument[62] is the concluding statement of each party's advocate, or the party himself, reiterating the important arguments for the court. Closing argument comes at the end of the trial. It is your final opportunity to address the judge. What should you try to accomplish? Many of you probably view closing argument as an opportunity to sway the judge and win your case with your powers of eloquence and persuasion. Much of the literature rein forces the view that closing argument is directed at those jurors who are thinking of voting against you — if you can only reveal to them the errors of their ways, you will convince them to change their minds .

[62] Joseph V. Guestaferr: Obtained from http://docs.google.com/gview?a=v&q=cache:yPUtfI2ED_IJ:www.wisspd.org/html/publications/WdefFall2005/ClosingArgument.pdf+aim+of+closing+arguments&hl=en&gl=ke> as at 10th August 2009.

Viewed this way, submissions should be formulated on the same lines of thought as the Judge would, for they form the foundation of the judgment of the court.

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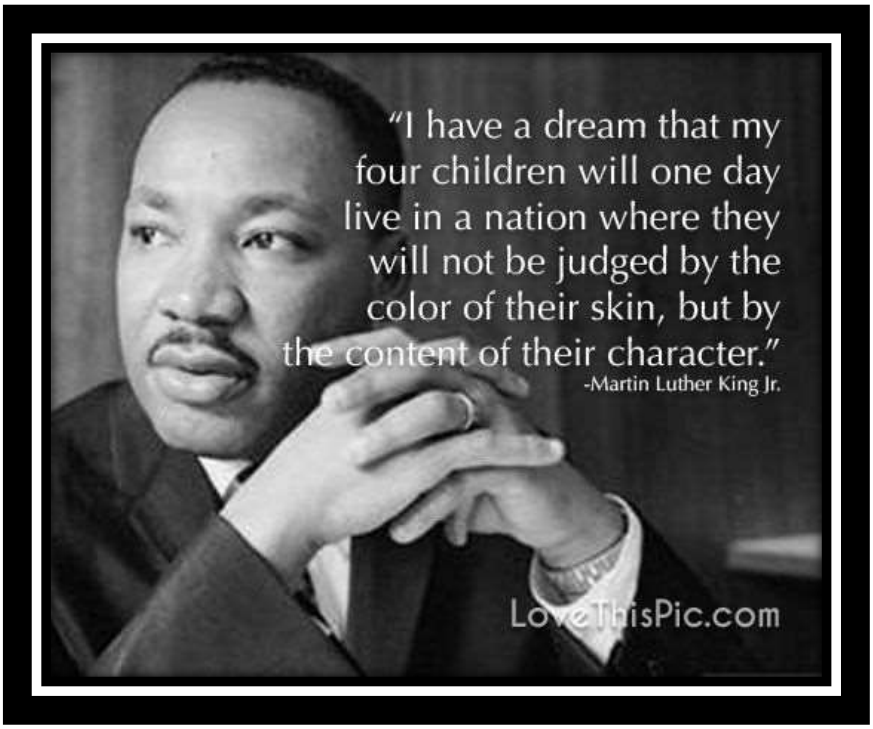
"*The ultimate tragedy is not the oppression and cruelty by the bad people but the silence over that by the good people."

Rev Dr. Martin Luther King Jr



Example of a closing argument

The following example should give you a feeling for the scope and structure of a closing argument. It illustrates most of the points raised in later sections.

MAY IT PLEASE THE COURT; THE JUDGE.

I have asked my client to leave the courtroom, as I had asked him not to be here during the medical testimony. We listened to the doctors explaining what a dismal future he has. He is going to be in a wheel chair, unable to walk more than a few steps because of his paralysis, a boy with no arms, only grotesque mechanical claws, for the rest of his life. That is a fact, and we have to accept it and base our decisions on it. Ben is only fourteen years old, and still has the hope — the dream of doctors inventing bionic arms that look natural, the dream of being able to run again. I did not want to be responsible for shatter ing that dream by making him sit here and listen to the brutal facts: He has been sentenced to life imprisonment in a wheelchair for a crime he didn't commit.

There has been a lot of medical and other testimony, and we want to thank you for being attentive. The burden on you is a grave one—to arrive at a fair and just verdict under all the circumstances. I will take a few minutes now to review the case as we see it.

There are three main points to this lawsuit. First, we are not dealing with an ordinary product, we're dealing with electrical power lines. They carry electricity — silent and invisible, but it can blow your arms off or kill you in a split second. Electricity is a dangerous, ultrahazar dous force, and the defendant Electric Company should have taken precautions to prevent deadly currents from causing harm. They did not, so you should hold them responsible. Second, we are not dealing with an adult who was injured, but with a boy. Ben was twelve years old when he was crippled. Without any warning sign, he did not have the experience to know the small black wire was dangerous, so he is not contributorily negligent for doing what all young boys do — playing in a field near his home. And the third factor. Ben's injuries are perma nent. He has been given a life sentence, without any possibility of parole or time off for good behavior — for which you should award him enough money to last him that lifetime.

How do these factors fit together? As we look at the overall lawsuit, what are the issues? Basically, we're talking about two things: Is the defendant Electric Company

liable for Ben's injuries, and if so, what amount of money can compensate Ben for all he has suffered and continues to suffer?

Simply put, submissions can be said to be arguments at the close of the trial or on specific issues that arise during the trial on what a party believes to be the correct legal or factual approach in the circumstances.[3]

This is the stage of the trial where each of the opposing trial lawyers (advocates) or parties attempt to persuade the court by inviting the latter to consider the case advanced and hold in his/her favour (will). Therefore, the ability to make a good speech is key to persuasion in advocacy, with the term 'advocacy' deriving from the latin 'ad vocare', meaning literally 'to call towards'.[63]

Advocacy is, then, the art of winning the listener over to the advocate's cause by persuasive speaking.[5] By and large, lawyers like the Indian pleaders are expected to be good orators. It is for this reason that they are retained and which art strongly comes to life when making a speech to the bench, judge or jury.

[63] See; P. Murphy & D. Barnard, (1986) Evidence & Advocacy (2nd Ed., Blackstone press, London.) p. 172. (Paraphrased.)

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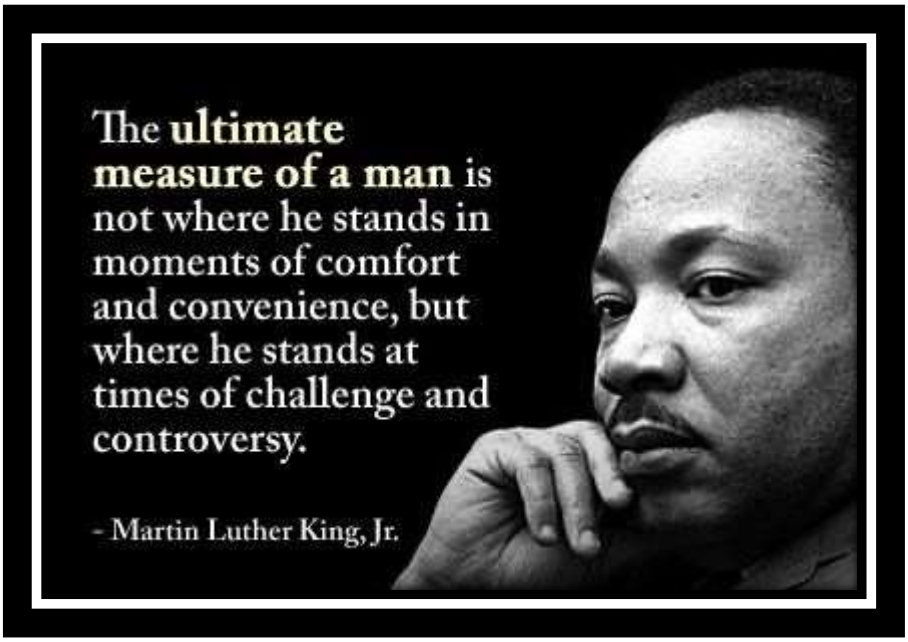
"*In the end, we will remember not the words of our enemies, but the silence of our friends."

Rev. Dr. Martin Luther King Jr.



The aim/purpose of closing arguments

This is threefold, namely;

Persuasion (Rhetorical Dimension of Advocacy).

In an adversarial system, like ours, the findings of fact and the law are based almost entirely on the opposing views put forth by the respective counsels. The judge plays a primarily positive and neutral role therefore highly dependent on the integrity of the lawyers who appear before them. In that regard, closing speeches avail to the litigant, the last opportunity to communicate directly and ultimately convince the court on the propriety (merits) of his approach. Persuasion entails the psychological element of the case that benefits from human interactions (social economic affairs).y In other words, the ability to display the common touch (appeal to emotions) and communicate effortlessly and politely with people from all walks of life.

A trial litigator will therefore develop a case theory that is convincing, enduring, resilient and consistent with the legal and factual context as well as the available evidence. Then convert your case theory into a story told from the client perspective but in a most coherent (logical) narrative form.

To influence the intelligence and will of the court, one needs to;

a) Dispel antagonistic feelings or prejudices which will prevent his arguments from receiving a fair hearing.

b) Build favourable feelings by causing the facts to speak to the will in the same way they speak to the intelligence. The main points to stick out, the subsidiary ones to strengthen key arguments while weak arguments to be avoided altogether.

Dealing with Unfavourable Evidence

Closing speeches avails an integral platform to essentially deal with evidence that undermines your case concept and trial strategy. This is by approaching evidence from an angle favourable to your client's case and is best achieved by;

a) Sealing loop holes in your case.

b) Carefully maneuvering around pot holes, that is by rendering favourable and plausible explanations for any inconsistencies. Secondly, by contradicting evidence in a more positive (innocent) manner rather than adopting a mere dismissive and hostile fashion. In the alternative, one can challenge the admissibility and relevance of the evidence in question or establish a greater weight of probability on the facts consistent with the client's case, or even argue that the overall standard and evidentiary burden of proof have not been discharged. This is what is known as toning down weak points by removing their stinging element.[64]

NB. This helps to improve your image to the court as one comes out as honest, sincere, gracious, magnanimous, appreciative of the entire adduced evidence and helps to focus attention on the real issues to be determined by the court.

The Law

Closing speeches allow one to firmly deal with the legal sufficiency of the case. In that regard, formulate precise and sound general propositions of the law which the court is invited to accept.[65] Then offer an array of all relevant authorities and where necessary distinguish them on principles, but always avoid cases said to be 'on all fours' with that which is being decided.[66] In the absence of decided cases, a trial litigator may employ analogies or illustrations to drive his/her point home. Then reiterate the appropriate burden and standard of proof.[67]

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[64] For instance, one can challenge the relevance ('if it is logically probative or disprobative of some matter which requires proof' per Lord Simon of Glaisdale in DPP .v. Kilbourne [1973] AC 729), admissibility (qualities which evidence must posses as a matter of Evidence Law), and weight (cogency of the admissible evidence) of evidence, failure to meet the required evidentiary burden of proof (does evidential facts tie to inferences that proves the facts in issue?), or by tendering a vivid picture of a reasonable, realistic and practicable possibility consistent with your client's innocence.

[65] Avoid restating verbatim the laws as laid down in the statute save where necessary.

[66] Use cases that enunciate principles for the court is not concerned with the facts of the cases however similar except where they throw light on principles.

[67] The burden of proof lies on the party who must prove an issue in the court. In civil cases, it lies on the one who alleges a fact and who must prove it in order to succeed in establishing his claim or defence while in criminal cases; the prosecution bears the burden of proof (Woolmington .v. DPP [1935] AC

In a jury trial, make your points on law succinct (brief) and explain them in straightforward terms without belaboring any points. If in conflict with that advanced by the judge, avoid confrontations for an appeal lies to the appellate court in the event the judge gets it wrong.

In general, in an effort of proving his case and to make the last impression on the court a closing argument should contain the following:

a) A mastery of the facts and issues of the case.
b) A reminder of the party's theory or theme of the case.
c) A recapitulation of the evidence.
d) Reference to the standard and the burden of proof.
e) Reiteration of the relevant law.

To conclude, the closing address avails a litigant, the final chance for parties in trial to persuade the court that their collection of facts, the significance of those facts, and their association with legal principles is to be preferred to that of the adverse party. It is the opportunity to enhance one's own case and highlight the weaknesses of the opponent's case.

And even if the decisionmaker has already decided the case on the adduced evidence, your closing is still important for it will form the basis of the judgment. For the client, the closing argument shows that their case has been well presented, and if they lose, at least they will comfortably know that a good effort was made.

462 HL(E)). The standard of proof, on the other hand, defines the degree of persuasiveness which a court must attain before a court may convict a defendant or grant relief in respect of a cause of action, as the case may be. The standard of proof in civil cases, and in the words of Lord Mansfield, is based on a superior number of probabilities (preponderance of probabilities) while that of criminal cases, is beyond reasonable doubt (not beyond the shadow of doubt, i.e. certainty, but must carry a higher degree of probability. See Lord Denning's judgment in Miller .v. Minister of Pensions [1947] 2 All ER 372;). (For a detailed explanation, see generally; P. Murphy & D. Barnard, supra note 3, at pp.3-7.)

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“I was born in the slums but the slums were not born in me”

Rev. Jesse Jackson

The nature of closing arguments

The closing argument occurs after the presentation of evidence and it may not contain any new information but only use evidence introduced at trial.[68] Different jurisdictions have different rules regarding the closing arguments but generally, the plaintiff has a right to address the court first followed by the defendant with the plaintiff having a right of reply. This is premised on the rule that the one on whom the onus rests must start the closing argument.

The defendant usually goes second. The plaintiff or prosecution is usually then permitted a final rebuttal argument. Here again the rule is that the argument in rebuttal should be premised only on the law but in certain times the court may allow the rebuttal argument to be premised on facts.

Ordinarily, with reference to the form of delivery, closing arguments are delivered by way of an oral speech (address) to the court. In Kenya however, the practice is that the arguments are reduced into writing and served upon the opposing counsel or party. Then, time allocation is given for an oral highlighting of the arguments in an open court or at the Judge's chambers.

This practice came about due to the congested diary of the courts with the object of saving time towards expeditious conclusion of matters. Written submissions also encourage the judge to make notes on your material for further cross reference. They also help the advocate order their presentation in court in a logical and systematic manner.

However, the procedure has been held to be irregular, especially in criminal cases. The case of *Henry Odhiambo Otieno v Republic*[69] is important in this regard. The Court stated:

"...this case shows the dangers inherent in a situation where both the court and counsel make shortcuts to finalize matters they are seized of. It is a good thing when courts and counsel show a desire to urgently conclude matters. However, where as in this case justice is compromised, the practice of making shortcuts is to be deprecated."

[68] Obtained from <http://en.wikipedia.org/wiki/Closing_argument> as at 10th August 2009
[69] [2006] eKLR.

In that case, the defence counsel filed written submissions which the trial court considered in making its judgment. The Appellate court was doubtful that the Accused had been given access to the written submissions.

The court relied on the case of *Salim Dean v. Republic* [70]where it was stated that:

"The Criminal Procedure Code provides a precedent for the making of submissions in the court. In no part of the legislation is there a mention of written submissions. A presiding officer of the court is expected to hear orally such submissions as both sides in a criminal case wish to make and to seek clarification of such submissions as found necessary, in order to appreciate each side's case before delivering his opinion. The accused person is also supposed to hear those submissions and has the right to clarify any point raised or to object to its being raised where he considers it necessary for his own benefit. Written submissions deny the accused that fundamental right. It is fundamental because were it not so the drafters of the constitution would not have entrenched it in the constitution."

The form notwithstanding, submissions are most likely to succeed if properly structured and well delivered because the judicial officer is likely to be persuaded, if the argument is delivered in a systematic and logical manner rather than as a confusing mixture of facts and opinions.

THE SCOPE OF CLOSING ARGUMENTS

There are ethical and legal limitations to the contents of a closing address:

- The closing argument should be limited to the evidence led at trial new evidence or information not covered during the trial cannot be introduced at this stage. This means that counsel may not bring out any fact not actually mentioned in the pleadings or the evidence of the witnesses.

- It is improper for counsel to exaggerate. For instance, it is improper for counsel to suggest to court that a witness was an entirely satisfactory witness, in all respects when clearly this was not the case. It is however proper to make concessions about imperfections in the testimony of his/her own witnesses. This, because in an adversarial system, the findings of fact are based almost entirely on the opposing views

[70] [1966] E. A. 272

put by counsel with the judge playing a primarily passive role with the courts highly dependent upon the integrity of the lawyers who appear before them.

- To ensure adequate treatment of the client's case by upholding his interests, and in the criminal case, by ensuring that the prosecution discharges its onus, and not to fabricate any defences, or to assist the prosecution case in any way whatsoever.

- Not to inquire into the truth of the client's instructions at the trial stage.

- The advocate has no duty to disclose facts to the court or to the opposing party which will assist the opposing party but ought to reveal all relevant case laws and statutory provisions within his knowledge, because they have sworn allegiance to uphold the law by virtue of their profession and as officers of the courts. However, the prosecutor must engage scrupulous fairness in prosecuting a criminal case.

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Some people have said brother khalid was a villain, but we know he was a victim in a world that is evil. Racism and injustice are the real villains here.

Dr. Khalid Abdul Muhammad

THE CONTENT AND STRUCTURE OF SUBMISSIONS

The whole of the client's case pivots around the content and structure of submissions with the various approaches, *inter alia*, including;

1. Point of view	2. Issue	3. Conclusion
Reasons	Rule	Rule
Evidence	Application	Explanation
Summary	Conclusion	Application
		Conclusion

The approach in clause 3 is more appropriate for the structure of a written submission and which will be dealt with in this paper but the manner and terminologies differs with that of Legal Writing and Drafting skills. Where as, clause 2 caters fully for legal opinions, clause 1 appropriately suits oral submissions promptly made during the heats of the trial process.

That said, a closing speech generally consists of three parts, namely;

Introduction/ Exordium/Proomium

It is the introductory paragraph(s) of the speech, and usually the first sentences carry the main themes of your case. This however should be a precise and captivating conclusion of the overall case.

The introductory part also contains a brief summary (background) of the facts of the case purposely to pave the way for the statement. One should state the facts he wants the judge to find but caution should be taken to avoid restating or reciting facts.[71]

The purpose is to arouse or cultivate the court's interest and attention by exciting favourable feelings (removes prejudices), sets the stage for magnifying issues by lifting them to a higher plane or reducing their importance and ultimately making the audience favourably disposed to your case.

The Statement

This entails the statement and explanation of what needs to be proved, that is to say, the facts in issue. The statement should cover the following;

a) The issue:

These are legal issues that require proof. Brings the judges attention to those issues which are common cause and those which are not in dispute, due to:

- Prior arrangements between the parties;
- Formal admissions made before or during trial; or
- Evidence of both parties on the aspect being identical.

Most importantly set out the factual issues upon which the court is required to make a finding.

b) The onus on the issue:

Draw the attention of the court to the overall onus and the appropriate standard, but it may be necessary to highlight any aspects of the case where the evidentiary burden of proof may have shifted to the other party.

c) *The legal test applicable to the issue:*

This is the law or legal principles applicable to the issue. Distinguish the elements of the law that are applicable to the issue and which should be proved for the court to

[71] Also, avoid dwelling too much on facts. Deal with the real issues and capture the whole case.

decide on the case. These can be found in case law, legislation or legal writings on the subject.

d) The Proof

It entails arguments in support or in refutation of a trial case. Thus, one ought to play the devil's advocate by anticipating likely arguments to be advanced, objections to its validity or setting up a counter argument. The proof includes;

e) Agreed facts:

Begin with facts which are not in dispute and demonstrate to the court that those facts are more consistent with your client's explanation of the matters than the explanation put forward by the other side.

f) Summary of relevant evidence:

Summarize (only a few lines per witness) the evidence that the court has to consider to decide the case. Objects, documents and other items of evidence are discussed in closing argument with reference to the witness through whom they were handed to court. The essence is to show the actual facts in issue through the tool of cross referencing.

g) Evaluating the summarized evidence:

This is the crucial part of the submission. It is an opportunity to persuade the court that your client's version of the facts should be awarded preference over that of the opposing witnesses. First, analyze facts in issue that require proof, and then discuss the adduced evidence to emphasize the strong points in your case while highlighting the weaknesses inherent in the opponent's case.

Highlight and analyze any instances of contradictory evidence with other witnesses, corroboration of the relied evidence by drawing the judge's attention to oral evidence which has been supported by the documents rather than evidence which is neither supported nor indeed contradicted by what has been contained in the documentation or are indications of untruthfulness or exaggeration. Highlight the inherent probabilities when considering the witnesses' versions, the demeanor of witnesses as well as the weight to be attached to objects and documents handed in by witnesses.

Make an assessment of the witnesses, their testimony and other evidence as being truthful, untruthful, mistaken, consistent, reliable or unreliable. It is at this point that counsel may suggest inconsistencies in the witnesses' evidence on crucial aspects such as the explanation of distances, description of lighting, explanations as to time or description of a person.

Overall, a sound knowledge of the rules of evidence in respect to the admissibility and relevance of evidence is very essential to successful advocacy so as to deal with any objections to your evidence which may be equally un anticipated, and if unfounded, must be promptly refuted before the court rules that some vital evidence is inadmissible.[72]

After successfully tying the facts in issue persuasively to the evidential facts and proofs (whether from an affidavit or oral evidence), then conclude on the facts in the case by drawing your conclusions from the evaluated evidence.

h) Apply the legal test to conclusions of facts and the overall onus of proof

Integrate the facts found to be proved with the relevant legal principles and determine whether the onus (burden) of and standard proof has been achieved. Explain how your facts best fit the legal requirements. Sometimes the law is clear and settled on a point in issue, but at times the law is unclear, hazy and most puzzling.

Peroration/Climax

The part where a litigant applies a finishing touch, gloss or veneer to the speech by developing a most convincing rational argument founded in law and the facts of the case aimed at disposing the case in your client's favour. It entails asking or urging the court to make a finding in favour of your client and set out the relief sought.

The role of the climax is to bring the speech to an end and drive home the entire essential arguments while arousing the feelings to which the facts of the case naturally give rise to. For instance, the desire to see justice done where the accused person, is proved beyond reasonable doubt to have committed a deliberate heinous and callous murder.

[72] Trial preparation is certainly necessary to deal properly with all the problems which can be foreseen or unanticipated.

OVERALL, the characteristics of a good speech are threefold;

To Interest, especially by striking the right note in the introduction and by vividness in the narrative, and also by grace of style and delivery;

To Prove, by clear exposition and arguments, which appeal to the intellect;

To Convince, by breaking down the resistance of the will and rendering it favourable. The process starts with the note struck in the introduction, is heightened by the narrative, and brought to a climax in the peroration.[73]

[73] See; John H Munkman. (1999). The Technique of Advocacy. New Delhi: Universal Law Publishing Company, , p.152

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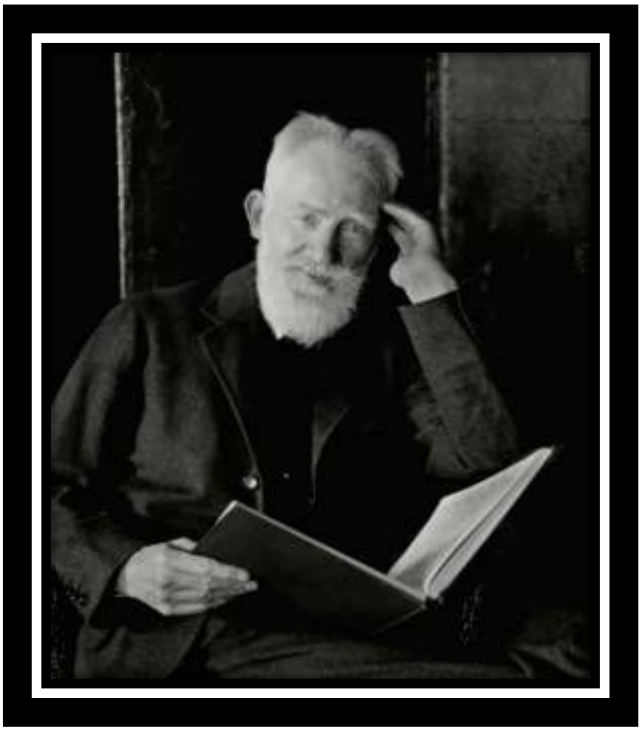
Most people see things as they are and ask why i see things that are not and ask why not

Benerd Shaw



Techniques

How does one give an effective closing argument? There is no universally accepted mode or technique for the delivery of the closing argument. The techniques are as varied as advocates themselves. The advocate has more freedom and control over closing arguments than he has over any other aspect of the case. Consequently, It should be his favourite task; a task that bears his personal stamp, reflective of his or her true inner self. The closing argument is when the artistry of persuasion is marshaled on behalf of the client's case. Most of the persuasive techniques used in opening statements can be used in closing arguments. There are techniques used in closing arguments that make it most effective.

Do not memorize

It is a mistake to write and read a closing argument. The most effective arguments are delivered from an outline. It is better to memorize thoughts than words of your closing argument. If you try too hard to memorize every word of your closing, you will have a hard time surviving fifteen minutes. Judicial officers will be more persuaded if you are more relaxed. In addition, you will not have to worry if you missed certain words or sentences because you will be able to focus on the larger picture of your argument. You may bring notes, but you will want to keep them to a bare minimum.

Movement

It is important to use a certain amount of body and hand movement. These capture and sustain the attentiveness of the judge. Gestures can be used for emphasis especially on the salient features of your case. Body movements can also be used for transition. For example, pausing and taking a slight break will alert the judge that you are about to change subjects.

Verbal placing

Delivery is a matter of elocution and voice development. The effective control of the pace, pitch, tone, inflection and volume of the closing speech forms an imperative

persuasive tool. Also avoid speaking too quickly and too loudly. Pacing of speech can be used to convey passage of time, distance and intensity.

Emotions

There are varied opinions abut the use of emotions during closing arguments. Many lawyers are for the use of emotions, while many others are not. The best approach is to save it for the times you are discussing the many dimensions of your case. There will be instances in trials that virtually call out for an outward display of feelings because the absence of emotions may be taken to mean the lack of belief in the righteousness of your client's case.

Overall be pleasant, accept criticism and don't be quick to lose your temper However, avoid personal opinions and uncalled for humour as this may not only irritate the court but as well trivialize your client's case.

Visuals

These are hardly employed in Kenya despite being very effective during closing arguments. The advocate is free to create visual displays for vivid and illuminative purposes. Physical evidence other than documents can be used during final arguments to recreate the investigation process, more so crime scenes in criminal cases. The only restriction on using visual aids is that they must be derived from the evidence adduced during the trial.

Headlines

These may take the form of a simple statement, rhetoric questions or short enumerations. These can be more effective when used with visual aids. This technique helps bring out coherence and unity in a closing argument.

Simple, Active language

This should be used in argumentative form. There is a strong temptation during final argument for using judgmental or conclusory terms like brutal, deceptive, unfair, naïve etc.

Themes and Theories

A closing argument is logic, evidence, and emotion brought together. It is important to develop a theme or theory of the case earlier on in the trial and which are amplified in the closing argument in such a manner that the court accepts it and sees it as what really happened. It is important to adopt and commit to a theory. Then argue the theory persuasively and with conviction. However, do not develop hypothetical standards but unique standards for the judge to apply in the case.

Appearance

Your appearance is an important part of the impression you create as an advocate. It can add or detract from your credibility. Make the court interested in what you are submitting on and not your appearance. Be modest.

Communication and organization skills

Artistry is a combination of tacit knowledge (tact, personal knowledge shaped by experience, knowing in action), technical knowledge of the law (knowing whatclassroom experiences) and cognitive skills (practical skills or experience carved out of experience). However, all these will come to naught if the advocate lacks the necessary communication and organization skills in case preparation, management and presentation.

Communication is the life blood of a trial lawyer; therefore a sound command of the English language both spoken and written is a must. Therefore, a litigant ought to select and employ a simple, clear, unequivocal, authoritative, forceful and persuasive

language but within an orderly presentation of the salient points of the case.[74] Communication also entails knowing the court terminologies, use of courteous language like: if it may please this honorable court; as the court pleases; it is my humble submission, etc.

Mould the content of your speech to be as pleasing to the court as possible and it is a sound rule to be as brief as possible as is consistent with a full preparation of your arguments.

Style of delivery

An accurate and varied style of delivery will most likely captivate the attention of the court. Careful use of original figurative speech, similes, pace, metaphor, repetition and the adoption of powerful imagery is vital to the advancing of your themes and creating a lasting and interesting picturesque.[75]

Use the narrative tool to explain issues and advance themes and strategies in a most vivid, illuminative and imaginative way that brings out the character and emotional behavior of the chief actors. Charming Varied, graceful style and pleasant and varied delivery relieves the monotony of every day's language. And the employment of transitory words or introductory phrases ensures a smooth well balanced speech.

The best style to adopt in making a speech is your own. While there is nothing wrong with picking useful techniques and phrases from other experienced advocates, an attempt to imitate the style of another is doomed to failcultivate your own style rather than ape others in order to impress the court. This brings you out as sincere and unaffected.

[74] The choice of diction plays an integral part in a closing speech.

[75] However, be very careful because dead and worn out figurative speech may irritate a listener whose taste is critical.

Sincerity not necessarily to believe what your client has told you but to suspend any disbelief he has once he has clear instructions about the way the case should proceed and must present his case in a manner which makes it clear that it is a version of events sincerely put forward to the court.

All in all, allow the facts to speak for themselves but do avoid hyperbole or exaggeration.

There are other factors that would also contribute to an effective closing argument:

- Prepare your case file: label your notes of each witness's evidence and file them in the sequence that the evidence was given. Bring any case authorities you may need to rely upon to court and make enough copies to be supplied to the judge and your opponent during the submissions. Paginate the submissions (if written) for quick reference by the judge.
- Anticipate your opponent: Where there has been adverse evidence, you must deal with it. Present the facts and evidence favorable to your position, but also embrace the bad facts while addressing your weaknesses. Expect your opponent to focus upon any and every limitation in your client's case. Expertly package the weaknesses so that they seem relatively unimportant. Bad facts will not simply go away, but explaining them away defuses the opponent's arguments and reinforces your credibility.
- Interact with the judicial officer: Aim at involving the decision maker in your closing arguments so that you are responding to their concerns rather than talking at them, in the hope that your priorities and theirs are the same. Be alert to any spoken or unspoken hints about what the decision maker wants. It is not good persuasion to make a closing address as though the judge was an empty bottle into which you can pour your arguments, which finally float above any other arguments put by opponents.
- By the time you utter the first word of your closing, the judge has learnt all about the case. Undoubtedly, the judge has made decisions, if not about the final outcome, then about much of the evidence. It would be a wasted effort to be eloquent about matters where the court's mind is

made up. It is better to be eloquent about those issues where the judge is wavering. Only the judge can say what those unresolved issues are: so ask.

- As the plaintiff's advocate or the prosecutor save some of your best oneliners and most telling points for the last when the defendant lawyer has sat down and can no longer rebut what you are going to say.
- Damages After completely discussing the elements of the case and your client's right to prevail in the lawsuit, move on to discuss damages. This is extremely important and cannot be rushed or discussed in a haphazard or unorganized way. Conversely, if representing the defence, the argument should focus more on the liability aspect of the case.

“

“I use emmotions for the many and reserve reason for the few”

Adolf Hitler

A closer look at the civil and criminal aspects

Criminal Cases

a) The Prosecution Case

Simply put, this is the case of the Republic (State) as against the accused person who is alleged to have committed criminal offences.[76]

The essential elements of the offence are contained in the charge sheet. For example, the offence of theft would allege the defendant as having; a. dishonestly b. appropriated c. property d. belonging to another e. with the intention of driving of depriving the other of it permanently.

The prosecutor has to probe legal issues that require proof, anticipate possible defences or loopholes in his case and analyze facts that he must prove to obtain a conviction or to impinge the defence case.[77]

This will allow the prosecution to focus its mind on the facts to which the evidence must be directed by identifying evidence to prove facts in issue.

b) The Prima Facie Case

This happens where the prosecution adduces, with respect to each essential element of the charge, evidence on which the court would be entitled to find such element proved if the accused person was not entitled to his defence. That notwithstanding, the establishment of a prima facie case is not enough to secure a conviction, because the defence is entitled to argue that the overall burden of proof has not been discharged or establish possible defences consistent with the accused person's innocence.

However, once the prosecution has established a prima facie case, the defence runs a serious tactical risk in not calling evidence to rebut it, not because the defendant is called upon to prove his innocence (which would be contrary to the rule

[76] Penal code act cap 120

[77] The required standard and burden of proof in criminal cases have been discussed earlier; supra note 11

in Woolmington's case) but because the court may exercise its entitlement to accept the uncontradicted prosecution evidence.[78]

c) The Submission of No Case to Answer

A submission of no case to answer is made at the close of the prosecution case, that is, before the presentation of the defence case. At this stage, the bench determines whether the prosecution has discharged its burden of proof. And if the prosecution closes their case without adducing any evidence capable of proving an essential element of the offence charged, the bench will uphold a submission of no case to answer, because the burden cannot be discharged. A submission of no case to answer may also rest on a point of law.

However, a litigant ought to exercise great caution because a hopeless illfounded submission may unnecessarily irritate the judge and thereby adversely affect the client's case. In that regard, always plan for the possibility of the submission failing in whole or part for you are likely to face a difficult trial having antagonized the bench. Even so, the decision is a question of judgment that will become much easier with experience.

The procedure is for the Defence counsel to move the court on a matter of law, and in the case of a jury trial, the jury retires. The Defence counsel then outlines the submissions citing relevant authorities but based on the insufficiency of the adduced evidence. The prosecuting counsel responds to the submission, Defence counsel replies, with the judge set to deliver a reasoned ruling.

d) The Concept of Ideal Closing Speech

This is the closing speech which you, as the Defence attorney, would like to make, if the evidence given in your case were actually to justify it. Even though this concept sounds premature, it is nonetheless most effective in criminal cases, because the

[78] The words of Murphy and Barnard, supra note 3, at page 4.

prosecution have no right to a closing speech, except for the limited purpose of responding to points of law.

The object of the ideal closing speech is to compose the strongest possible closing speech; the most persuasive argument to the court that you can imagine on the basis of your client's instructions thereby serves to focus your mind on the evidence which would be required to put you in a position to make it. One should however create room for flexibility because the concept of ideal closing speech does not imply that a litigant should strictly follow it to the letter by blindly making it the ultimate closing speech. It merely serves as a useful guide or summary on the direction in which your trail preparation would take for effective presentation and delivery of your case.

This is in terms of focusing your thoughts, *inter alia*, on how to approach the prosecution's case, evaluation of the evidence to be adduced, what witnesses to call and which ones to cross examine, and how to actualize your strategies and themes. In that regard, when amended to factor in what transpired in court, the technique provides an excellent framework for the speech you will make. This bearing in mind that the nature of most defences appears quite clearly from the path taken in crossexamination. Most importantly, one thing that should emerge with some clarity from your ideal closing speech is a picture of the witnesses you will need to call at trial.

Conversely, the opening speech is the best opportunity for the prosecution to be persuasive by making a speech of brevity proportionate to the simplicity of the case.

e) The PleainMitigation

A plea in mitigation is an appeal to the court to exercise favourably its discretion in passing sentence. This submission is made by Counsel to reduce the expected severity of the punishment to a lenient one. The aim of an advocate during pleain mitigation is to present the circumstances of the offence and the background of the offender in such a manner as to minimize the penalty or better still acquit your client. On the aspect of the background of the offender, you can present facts that would exude the court's sympathy to your client. For instance that your client is the sole bread winner for his family or that they are of old age or sickly.

Therefore, it is part of the Defence attorney's duty to persuade the judge to sentence the accused in more lenient terms than the judge had prior resolved to. Persuading a court to hand an appropriate sentence requires the same approach as that of contested cases. Evidence may be called with both examinationinchief and crossexamination. There can be exhibits, such as diagrams, photos and character references and, there can be competing arguments from the Prosecution and Defence.

Defence counsel should always be prepared to deliver a pleainmitigation no matter what the plea is. If the accused pleads guilty, the counsel has to do everything possible to reduce the expected severity of the punishment by negotiating with the prosecution for a lesser term (plea bargaining) or in the alternative, preparing and delivering an effective pleainmitigation. If the accused pleads not guilty, the lawyer must also be prepared to deliver a pleain mitigation in the event of a conviction.

There are a number of factors that the court takes into consideration in passing sentence such as the goals of sentencing, specific circumstances of the offence and the offender, and public opinion. In addition to these factors, are the key elements of contrition and remorse. If the offender demonstrates to the sentencing court that they have a real sense of guilt and regret their criminal actions or omissions, then the penalty will most likely be lesser than if the offender lacks any such sense of contrition and remorse.

However, to merely tell the court that your client is sorry states no more than the obvious. Of course your client is sorry sorry that they got caught! Being sorry reveals nothing about their understanding of the wrongness of their conduct or their need to express regret. Real contrition and remorse is shown by the responsible actions taken by the offender before the plea is made.

A persuasive pleainmitigation is one which does not gloss over points. By setting out both the elements and the supporting evidence you can avoid the common error in which bare assertion is asked to be both argument and evidence. Consider the following submission based on the issue of contrition:

'My client is very sorry for what she did. It was out of character and she realizes she has done the wrong thing.'

Compared with:

'My client is a young professional who forgot her own condition as she tried to persuade a friend not to drive. She has learnt her lesson: when she has a friend in need, she calls a taxi and refuses to let the friend leave until the taxi arrives.'

The second version is more persuasive because it goes into the detail. It isn't simply a 'heading' but rather paints the picture. It gives the judge the facts that demonstrate contrition. The first version sounds more like an excuse. Of course, in some situations the devil is in the detail and it is wiser to skim over that detail and not go into depth; for example, as to particular aspects of your client's criminal history.

As a *tactical plan* avoid stating the plea when the court is expecting its daily share of usual excuses from offenders, which the court has heard time and time again. It would be better to tell the court in advance that the plea will take a bit longer than usual and that you will be calling evidence. The need for extra time means that your case will be put at the end of the list, thus availing enough time for the court to appreciate 'how' and 'why' the case is distinct from the rest.

Importance of a PleainMitigation.

It can be called to avoid potential disqualifications or to reduce the number of penalty points or periods of disqualification.

It assists the court to determine the seriousness of the offence and reconcile the public safety by reflecting on any relevant personal information or past record of the accused with the discretion of reducing the sentence.

An effective pleainmitigation will entail the following:

a) The Advocate must understand the theory of sentencing and the importance of researching on any applicable sentencing guidelines. For instance, researching on the sentence the client is likely to face.

b) The Defence attorney must have in mind a realistic sentencing objective, having regard to the theory behind sentencing and having considered any applicable sentencing guidelines.

c) The advocate ought to have good advocacy skills.

PREPARING A PLEAINMITIGATION

The advocate will need the full instructions from the client, as there are a couple of things you must attend to before making your pleainmitigation.

- You must check if your client has a criminal record. The prosecutor will have a copy of that record, and the court will get a copy during the sentencing. Check with the prosecutor as early as possible. Do not take your clients word that s/he has no criminal record because a plea that is largely based on your clients good character will quickly sink without a trace, the moment the prosecutor refers the court to an earlier occasion when that good character slipped away.

- Also, explore your client's ability to pay a fine or make a donation to a charity. Is your client able to pay immediately or only by installments over several months? Be prepared to tell the court of your client's capacity to pay.

During the arguments in mitigation, the advocate should also:

i) Concede the aggravating features of the case.

The counsel will need to look at the law and at the prosecution evidence to decide whether any charges can be made good by the prosecution. Counsel must be aware of the prosecutor's version of the facts having considered the pretrial disclosure or evidence and having listened to the prosecutor's submission to the court outlining the circumstance of the offence.

ii) Balance the theme of the case

The advocate must be aware of the sentence the court can impose for a particular offence. He should therefore be in a position to assess the balance of aggravating and mitigating features in the offence and arrive at an assessment of the seriousness of the offence. Put yourself in the position of the court and consider what sentencing objective the court is likely to follow and this will help the advocate arrive at a realistic sentencing objective which gives you the basis upon which to build your pleainmitigation.

iii) Negotiating the lowest charge.

Negotiations can begin in a number of ways. In the superior court, the defence will often send a written submission to the Director of Public Prosecution suggesting that a lesser charge should be given. This is called plea bargaining.

STRUCTURING A PLEAINMITIGATION

There is no predetermined structure of a plea in mitigation. The following are the possible factors an advocate might have regard to;

a) If your client has pleaded guilty, introduce yourself to the bench and introduce your client

b) Acknowledge the Prosecution's outline and presentation of facts. Further highlight the prosecution facts you disagree with.

c) Use a presentence report. This outlines the personal history of previous convictions, circumstances of the present offence, details of the Defendant's response to and insight about his situation (usually based on an interview with the convicted person) and a recommendation in relation to appropriate sentencing

From decided cases, it is paramount that the court considers the plea in mitigation in passing sentence. In the case of *Ismael Juma v. Republic*,[79] the High Court sitting as an appellate court, found that the trial magistrate had not taken the plea in mitigation into account when passing sentence and accordingly reduced the sentence from seven years to four years.

[79] [2005] eKLR

In another related case of *Ali Iregi Githinji v Republic*[80], the court also upheld the ruling that the court is mandated to consider material factors in mitigation before passing sentence. The court stated thus:

"I have perused the record of the trial court and nowhere did the learned magistrate give recognition of the fact that the Appellant had pleaded guilty to the charge therefore saving the court's time. The learned trial magistrate did not recognize that the Appellant was a young person. The court gave more weight to the seriousness of drug cases generally. In doing so I find that the learned trial magistrate overlooked material factors and that these factors dictated a less severe sentence than the one imposed. In those circumstances I find that the sentence of 50 months imprisonment was excessive and manifestly harsh having considered the Appellant pleaded guilty, was a first offender and that the amount involved was 19 rolls of bhang and therefore not enormous..."

However, sentencing upon a plea in mitigation remains the discretion of the trial court which ought not to be interfered with by an appellate court unless it is evident that the lower court has acted upon some wrong principle or overlooked some material factor or the sentence is manifestly excessive in the circumstances of the case.[26]

Where a party omits to give a pleainmitigation, he has himself to blame. In the case of *Musa Juma Simiyu v Republic*[27], the Appellant when asked what he had to say in mitigation, stated that he had nothing to say and was thereafter handed a ten year sentence. On appeal he contended that the trial court had not considered his mitigation of pleading guilty to the offence. The appellate court dismissed the appeal noting that as the appellant had not put in a plein mitigation, he could not prove that the trial court had failed to take into account some relevant factor in handing down the sentence.

Civil Cases

There are no unique features concerning submissions of a civil nature save for due regard to the standard and burden of proof.[81]

[80] [2006]eKLR
[81] [2007] eKLR

Nonetheless, an effective closing argument is an essential tool for the plaintiff's trial attorney to maximize damages for his client. During the summation, all of the evidentiary pieces should be brought together and the case should be presented in a strong, fluid, and persuasive manner. All points that help prove the elements establishing the theory of the case must be fully explained. The closing should be performed in a simple, yet precise way

Submissions are made in civil and criminal cases, civil and criminal applications, preliminary objections. **1 See: Order.18 r 2 Civil Procedure Rules**;

Section. 131 Magistrates Court Act cap 16,

Rules 27 and 28 of the Court of appeal Rules;

Rules 27 and 28 of the Supreme Court Rules

Final submissions take place after all the evidence has been presented.

Submissions are an important aspect of trial advocacy. A good case can be easily lost at the final submission stage just as a marginal case can still be won through final submissions.

ORDER OF ADDRESSES

Criminal Trials

In a criminal trial, after the close of the accused person's case, the accused person is entitled to address the court, and the prosecutor then is entitled to reply; but if the accused person adduces no evidence or no evidence other than evidence given by himself or herself, the accused person is, subject to section 112 and subsection (3) of the Magistrates Court Act cap 16, entitled to the right of reply (See section 131 (2) of the Magistrates Courts Act).

In trials before the High Court, if the accused person, or any one of several accused persons, adduces any evidence, the advocate for the prosecution is entitled to reply (See section 77 of the Trial on Indictments Act).

Civil Trials

As regards civil suits, counsel for the plaintiff will be the first to present the final submissions, the defendant's advocate will then present his or hers. After the defense has presented its final submission, the advocate for the plaintiff has the opportunity for a rebuttal submission.

Purpose

Written or oral arguments to persuade a court or tribunal to decide a matter in your client's favor. They constitute an opportunity for each party to summarize the evidence, tie it together with the relevant law and key themes, in order to convince the court why his or her position should prevail. The goal is to establish a persuasive link between the facts of the case and the law.

Structuring the Final Submission.

The process of formulating final submissions starts from the day the advocate first picks up the file, from the moments when the advocate first starts contemplating the case, and from the first time the advocate looks into the eyes of the client, prepares a theme, a theory and strategy.

An advocate preparing for submissions though must be extremely flexible and must listen carefully during the trial. The advocate should take notes throughout the entire trial in order to refer only to evidence which has actually been admitted into trial.

Albert Krieger5 once said about final submissions that "its genesis is in the foresight, the imagination, the dexterity, and the wit of the lawyer. It is shaped from the clay of the first meeting with the client, formed with the preparation for trial, and fired in the kiln of the trial itself."

(Albert Krieger is an American defense lawyer. He is a nationally recognized expert on cross examination. He was the recipient

of the National Association of Criminal Defence Lawyers' 1995 Robert C. Heeney Memorial Award as well as their Lifetime Achievement Award in 1987).

The most important aspect of a good final submission is the ability to organize arguments and place them into a structure that allows for an effective presentation of those arguments.

The arguments should be an organized, wellreasoned presentation which emphasizes the strengths of the client's case and addresses the flaws of the opponent's case.

1. Start with a convincing statement that the accused did not commit the offence, (or did so The most important aspect of a good final submission is the ability to organize arguments and place them into a structure that allows for an effective presentation of those arguments.

The arguments should be an organized, wellreasoned presentation which emphasizes the strengths of the client's case and addresses the flaws of the opponent's case.

This is the reason why advocates exist. Closing arguments are a trial lawyer's final statements to the fact finder in which they ask the court to consider the evidence and find for them. This is the moment to persuade the court to rule in their favour.

A closing argument is an argument, and not an opinion giving session. It is the occasion to apply the IRAC approach. This is where you tieup the entire case.

From the very moment you begin your case analysis (good facts/ bad facts) you should create an outline of your closing argument. You then finetune it as the trial progresses.

The first thing you do in the closing speech is therefore to **return to your theme.**

Use the opening statement to tie the beginning of the case to the end.

Connect the facts to complete the story this adds value to the argument.

Persuasion use analogy, comparisons, and rhetorical questions.

If the **credibility of the witness** is in doubt, you may comment on it. You may argue in favour of it or against it. This can be buttressed by the issues raised during the impeachment.

You may make use of **visual aids.** It should however not be a distraction.

You can have notes, but **do not read out the opening statement.**

Speak, as far as possible, directly to the factfinder. As you do so, **show respect for the factfinder**. **Do not exaggerate the evidence or adduce fresh evidence**. Remember that the fact finder sat through the trial as well. **Be honest about bad/ negative facts.**

You can implore the fact finder not to decide the case on these facts by arguing on the positive facts.

Use the skills of good communication.

Specifically ask the court for the prayers you want for your client.

In a criminal case, ask for an acquittal or a conviction.

Conclusion

In conclusion, as earlier alluded to, there is no one way of delivering submissions or closing arguments. The techniques involved are varied and therefore ought to bear the advocate's own stamp. He should own it. The discussion contained in this paper however can hugely assist a litigant to deliver his arguments. The importance of the closing argument cannot be over emphasized. This is a huge factor in the final determination of the case. The closing argument goes a long way in either making or breaking the case and as such, careful consideration should be given to it.

“

“If a man, can write a better book, preach a better sermon or make a better muse trap than his neighbors, though he built his house in the woods, the world would make abeaten path tohis door”

RALPH WALDO EMERSON

LINGUISTIC

Linguistics is the scientific study of human language. It entails a comprehensive, systematic, objective, and precise analysis of all aspects of language, particularly its nature and structure.

As linguistics is concerned with both the cognitive and social aspects of language, it is considered a scientific field as well as an academic discipline; it has been classified as a social science, natural science, cognitive science, or part of the humanities.

Language is very useful in the legal system. Linguistics is the study of language; in the legal system it helps resolve terminological disputes contracts and trademarks

semantics of the law. When someone is being questioned by the lawyer, the terminology is used to incriminate and prove the person is guilty. Linguistics is can mix between speaking and writing. Characteristics of written legal language (Legalese). Specialised register of words that are rarely used of in normal instances, list of words that evoke similar concepts (Lexicon, vocabulary). Long, convoluted sentences (Syntax, grammar).

The use of language is crucial to any legal system, not only in the same way that it is crucial to politics in general, but also in two special respects. Lawmakers characteristically use language to make law, and law must provide for the authoritative resolution of disputes over the effects of that use of language. Political philosophers are not generally preoccupied with questions in the philosophy of language. But legal philosophers are political philosophers with a specialization that gives language (and philosophy of language) a special importance.

Philosophy of law can gain from a good philosophical account of the meaning and use of language, and from a good philosophical account of the institutionalized resolution of disputes over language. Philosophy of language can gain from studying the stresstesting of language in legal regulation and dispute resolution. And philosophers of language can gain from the reminder that their task is not only to account for what people share in virtue of the mastery of a language; they also need to account for the possibility of disagreements over the meaning and use of language, and for the possibility that there might be good reason for resolving those disagreements in one way rather than another.

In addition to their interest in the use of language in law, philosophers of law have developed a second, interrelated interest in using insights from the philosophy of language to address problems of the nature of law. This article outlines some problems in each of these two areas, after a brief historical note on the linguistic preoccupations of legal philosophers.

'Pragmatic' effects of language use, such as contextdependence, have long been the matter of jurisprudential debate,

These pragmatic features of communication raise insuperable difficulties for any attempt to give a true account of legal interpretation that is well enough organised to deserve to be called a 'theory'. Debates over the pragmatics of legal language are often premised on the view that the effect of a lawmaking use of language is that the content of the linguistic communication in question determines the content of the law. But

even this premise is controversial, and has been denied by theorists who account for the law as being determined by moral reasons for conclusions as to what rights, duties, powers, and liabilities people have, given the facts of legal practice and history (section 2.4).

As an instance of controversy over the effect of the use of language in law, consider the case of **Garner v Burr [**1951] 1 KB 31. The legislature had made it an offence to use a 'vehicle' on a road without pneumatic tires. Lawrence Burr fitted iron wheels to his chicken coop, and pulled it down the road behind his tractor. Burr was prosecuted under the statute. The magistrates acquitted him, apparently on the ground that a chicken coop is not a 'vehicle'. The appeal court reversed that decision.

we can say that what speakers of the English language share, in virtue of their grasp of the meaning of a word like 'vehicle', is an ability to use the word **in a way that depends on the context**. The question of whether a chicken coop on wheels counts as a 'vehicle' would be a different question (and might have a different answer), if another statute or regulation imposed a tax on 'vehicles'. The relevant considerations might be different again if a statute or regulation required 'vehicles' to keep to the lefthand side of the road. The Lord Chief Justice was right that a dictionary definition of 'vehicle' could not conclude the question of whether the chicken coop was a vehicle in Garner v Burr, because the purpose of a dictionary definition is to point the reader to features of the use of the word that can be moreorless important in a variety of moreorless analogical ways in various contexts. A definition of 'vehicle' as a mode of conveyance offers the reader one central strand in the use of that word, but does not tell the reader whether a moreorless analogical extension of the word to a chicken coop on wheels is warranted or unwarranted by the meaning of the word. Another way of stating this resolution of the apparent paradox is by distinguishing between the meaning of a word (which the magistrates and the appeal judges all knew) and the way in which a communicative act using the word ought to be understood (over which they disagreed). What the judges and magistrates in Garner v Burr shared was a knowledge of them earning of the word 'vehicle', and what they disagreed over was the effect of the legislature's use of the word.[82]

Styles in the legal system should be favoured for formality and should be impersonal and avoid the use of firstperson language and second language. Third person language

[8282] https://www.sparknotes.com/lit/animalfarm/section3/page/2/

is preferred like “the defendant”. When writing legislation, it should be detailed, comprehensive and specific. Motivations for legalese, are its precision is central for legal communication, formality gains respect, discourages clients from interfering in the legal process. Speaking in a way that accommodates courtroom standards can increase chances for success.

Traditional areas of linguistic analysis correspond to phenomena found in human linguistic systems, such as syntax (rules governing the structure of sentences); semantics (meaning); morphology (structureof words); phonetics (speech sounds and equivalent gestures in sign languages); phonology (the abstract sound system of a particular language); and pragmatics (how social context contributes to meaning).

Sub disciplines such as biolinguistics (the study of the biological variables and evolution of language) and psycholinguistics (the study of psychological factors in human language) bridge many of these divisions.

Linguistics encompasses many branches and subfields that span both theoretical and practical applications.

Theoretical linguistics (including traditional descriptive linguistics) is concerned with understanding the fundamental nature of language and developing a general theoretical framework for describing it.

Applied linguistics seeks to utilize the scientific findings of the study of language for practical purposes, such as developing methods of improving language education and literacy.

Linguistic phenomena may be studied through a variety of perspectives: synchronically (describing a language at a specific point of time) or diachronically (through historical development); in monolinguals or multilinguals; children or adults; as they are learned or already acquired; as abstract objects or cognitive structures; through texts or oral elicitation; and through mechanical data collection versus fieldwork.[13]Linguistics is related to philosophyoflanguage, stylistics and rhetorics, semiotics, lexicography, and translation; philology, from which linguistics emerged, is variably described as a related field, a sub discipline, or to have been superseded altogether.

Sources

Most contemporary linguists work under the assumption that spoken data and signed data are more fundamental than written data. This is because

- Speech appears to be universal to all human beings capable of producing and perceiving it, while there have been many cultures and speech communities that lack written communication;
- Features appear in speech which aren't always recorded in writing, including phonological rules, sound changes, and speech errors;
- All natural writing systems reflect a spoken language (or potentially a signed one), even with pictographic scripts like Dongba writing Naxi homophones with the same pictogram, and text in writing systems used for two languages changing to fit the spoken language being recorded;
- Speech evolved before human beings invented writing;
- Individuals learn to speak and process spoken language more easily and earlier than they do with writing.

Nonetheless, linguists agree that the study of written language can be worthwhile and valuable. For research that relies on corpus linguistics and computational linguistics, written language is often much more convenient for processing large amounts of linguistic data. Large corpora of spoken language are difficult to create and hard to find, and are typically transcribed and written. In addition, linguists have turned to textbased discourse occurring in various formats of computermediated communication as a viable site for linguistic inquiry.

The study of writing systems themselves, graphemics, is, in any case, considered a branch of linguistics.

Arguments in favour of plain language: simpler in form, fewer errors, quicker and cheaper, more persuasive, more democratic. Arguments against using plain legal language: law is complicated, register is sometimes necessary in the profession, older legislation would be harder to change.

5 main speech participants in courtroom proceedings: lawyers, witnesses, judge, jury, audience. Constraints on courtroom talk are that there’s a hierarchy, rules govern

certain participation, physical arrangement of the courtroom. Judges control proceedings and members of the courtroom. Rules of evidence what evidence can be submitted and how, submitted through language/materials/photos, rules are determined by the Evidence act 1995. Witness must take an oath, leading questions used in crossexamination and not in examination in chief. Hearsay is not permitted.

In genre mixing, two or more types of communication are mixed into one. Spike mulligans, religious sermon genre, mixed with police speak. In the court, or a police interview, there will be a mixture between spoken and written genres. All trials in Australia are recorded. If the case is later appealed, then it is the recording/transcript of the original trial that appeal judges will refer to. Therefore, it is important that the record of the original trial be as accurate as possible. Lawyers and judges want to

make sure that their 'i's are dotted and their 't's are crossed, for the sake of the record. That is why you might hear a lawyer in court say I withdraw that statement. Clearly, this is not ordinary speech. It is an allusion to the legal record that is being made of the trial.

Courtroom appearances and testimony, although oral, end up in written from and even oral evidence gets transformed to written transcripts. Linguists testify and consult in virtually all types of civil cases, this includes trademark disputes, product liability, deceptive trade partners, discrimination by age/gender/race, defamation, copyright and contract disputes. Criminal cases where linguists have helped is confessions, interrogations by police, child sexual abuse, perjury, money laundering, sales secrets. Unravelling and identifying is necessary for linguists, hidden meanings can be revealed.

Make sure written transcripts reflect spoken language. Features and language structures and discourse analysis. Topics and agendas of speakers, point out ambiguities, identify conversational strategies, intentions of speakers revealed.

The differences between civil and criminal law is who takes the person to court (plaintiff, state v private party), who decides (judge or jury), Standard of proof (BRD & BOP), Penalty (jail and money or damages and money)

The role linguists play in the legal system is critiquing the way lg can perpetrate inequality so an example would be, police officers read the rights and does the person understand them? & lawyer cross examines a rape victim does lg use in Q's suggest

the victim was at fault? They also have a role in forensic linguistics (resolves disputes, recordings of unknown voices, authorship analysis.

Written and spoken language is different from each other in the delivery style, writing generally reflects formality and complete sentences, full pronouns. Spoken language is full of dysfluencies and we don't usually speak in complete sentences. Why would police interview draw from written language? To ensure questions are asked due to relevant legislation.

Speaking roles of courtroom participants: Lawyers (question witnesses, ascertain evidence), Witness (obliged to answer but only speak when spoken too), Judge (talk to anyone, direct questioning of witnesses), Jury (decide matters of fact, not allowed to talk, can pass notes to judge), Everyone else (no talking, no role in decision)

(a) Focus on trials

opening statements, examination in chief, crossexamination, closing statement, friendly and unfriendly questioning, narration, direct questioning, leading question, yes/no closed questions, WH open questions, tag questions, collaborative narration, challenging questioning, utteranceinitial and, strategic lexical items, smuggling information, powerful speech, hedge, intensifier, contrast device, nailing down an answer.

Opening statements are use of persuasive language for lawyers of defence and prosecution to get their point across map which essentially tells the jury how the evidence will be presented, subtle use of language. Witness examination is things like examinations in chief, cross examinations and re

examinations. Examinationinchief is called direct examinations and is friendly questioning, this type of questioning is for the witnesses of the prosecution answer from prosecutors and witnesses for the defence answer questions from defence counsel. Cross examination is unfriendly questioning where witnesses answer questions from the other side major aim of this is to show weaknesses or inconsistencies in the witness's story.

WH questions are the least controlling and yes/no questions are more controlling, question types are very important in examining witnesses. Accuracy of answering closed questions vs providing a narrative response. Narration means that the witness mentions fewer details, but the details are more accurate. Direct questioning means the witness remembers more details and are less accurate. Leading questions suggests

an answer or assumes the existence of a fact in dispute, questions of this kind in examinationinchief is generally prohibited, except to uncontested facts like age and address. Strategic use of lexical items (words), higher estimates speed of when things were asked differently.

Collaborative narration is used to move the story along, commonly by prefacing a question with an, generally followed by the witness's agreement. Makes witnesses job easy so they don't incriminate themselves. In unfriendly questioning, utterance initial and signals the barristers rejection of the witness's story another crossexamination strategy is where the witness leads down a path to establish unproblematic facts followed by challenging questioning. This is used to summarise undisputed parts, using leading questions for confirmation catches witness out. Witnesses are vulnerable depending on their own dexterity with language.

Smuggling of information straightforward questions with an underhanded message. Witnesses can only answer questions, cannot deviate from the lawyers questioning routine. In witness examination the use of different language devices helps, this includes Hedges (um, well, sort of), Intensifiers (very, extremely), Super polite forms (could you possibly), Tag Questions (we're on the wrong side of the road, aren't we?). Rhetorical devices are used in closing arguments.

Rules of evidence restrict courtroom talk in a number of ways. The two most widely known restriction relating to leading questions and hearsay evidence. The rule about hearsay evidence generally prohibits a witness from reporting in court anything which another person has said. A leading question is one that suggests a particular answer or assumes the existence of a fact which is in dispute.

While leading questions are important to lawyers, to understand the linguistic analysis of courtroom talk we need to explain the terms yes/no questions and WH questions. At the same time as the studies examining the structure of lawyer's questions and its relationships to courtroom control, early studies of witnesses' answers also foregrounded the importance of power. Empty adjectives = divine, charming etc. Many people involved in the legal process are aware of the power of words.

Concern with power imbalance between witnesses and judges/lawyers. Imbalance works in examination in chief where the lawyers organise, control and limit the witness's story. In cross examination the lawyer's questions aim to challenge the witness's story. Witnesses also have no power over interruptions to their talk. Closing

arguments in this event, lawyers summarise their arguments, with the intention of persuading the decision maker whether it's the jury or the judge.

Leading questions suggest a particular answer. Its usually a declarative statement followed by a question tag, example You hit him, didn't you? But it doesn't necessarily have to follow this form,

example, how many people have you ripped off in order to buy that lambo? Its used in Examinchief to move the story along and cross examination is to lead the witness to tell the story the way you want.

Other strategies used by barristers are, Collaborative narration which is used to move story along and commonly prefaces a question. Utterance initial and is used to assist the witness during exam in chief but in cross exam it can be used to signal rejection of witness's story. Strategical use of lexical items (smash versus hit). Smuggling information innocent questions with an underhanded message.

Contrast device lawyer asks to witness to confirm two or more facts so as to generate a puzzle for the jury. Implied message. Left to the jury. Nailing down the answer (overcome witness resistance to questions to confirm facts)

(B). Courtroom talk and societal power relations

There is an institutionalized power imbalance in the courtroom, formalised rituals, constraints on witness participation, intimidating physical setting. Nevertheless, the power imbalance is not static, witness can fight back overtly or subtly. Ideological leanings of the US judiciary and the 'guilty' plea variations to the way guilty pleas are presented in court, the charge is read aloud by the court official and the defendant pleads guilty or the defendants lawyer presents a written plea signed by the defendant. Judge ascertains legal conformity of guilty plea. The script of the guilty plea is the nature of the charge, plea agreement, conditions, rights, facts, findings.

Philips (1998): ethnographic interviews with 9 Arizona judges the researcher Philips probed the judge's views of 'state visàvis individual': the liberal judges concluded that all people not equally capable of protecting liberty and that the state should protect human liberties for the powerless. Conservative judges said that people are capable of taking care of themselves and minimal state intervention in the life of an individual hence systemic variation in way judges accept guilty plea.

Liberal judges are procedureorientated judges, they alter the procedure for each defendant, views scripts as variable in taking guilty plea. These judges are more likely to change order of topics they questioned the defendant with and more likely to change types of questions asked. The underlying concern to determine that defendant pleading guilty voluntarily and knowingly. Conservative judges are recordorientated, they aspire to fixed script in guilty pleas. Minimal requirements of case law and involve the defendant as little as possible. Their principal concern is to make good record that cannot be overturned by the appellate court

There are two different kinds of power: Coercion which Is direct power and includes legislation, executive powers and police intervention. Another is Hegemony dominant group secures consent of society "a powerful group may limit the freedom or action of others (coercion) but also nfluence their minds (hegemony)".

Patriarchal power: cross examination of sexual assault victims rape shield laws are enacted but giving evidence is still hard for rape complainants. Strategies for defence lawyers in rape cases: they hold the woman responsible, if there was no physical threat, they treat the act as consensual sex.

This creation and exploitation of frames, or hegemonic power ideologies. Framing questions / frame based reasoning frames are when something is mentioned, you unconsciously develop a frame for what you hear could be personal (Marion) or socially construed (freedom fighter or terrorist)

Neocolonial power "the power which a formal colonial ruler exercises over its former colonial subjects" excessive police intervention in lives of aboriginal people was a central theme of Australian colonial rule criminologists have documented excessive rate at which aboriginal people incarcerated. Case study of Pinkenba 3 young aboriginals picked up by police, not taken to station or charged but taken here to find own way home. The parallels between abduction and rape cases is that the witness is the complainant hard to prove it was forced. The power of courtroom talk lawyers permitted to frame witnesses' stories in a way that suits them > recontextualization. Special protections for vulnerable witnesses limitations are imposed at judge's discretion.

Defendants can argue their case directly with the magistrate, with no legal representation, in this way the power of the court is not felt as largely, and everything is not as constrained. The power of law is not fixed and restricted to the legal process,

but rather an examination of courtroom talks and its social consequences sheds light on the actual mechanisms by which societal power relations are perpetuated.

When a woman who has been raped goes to court, it is common for defence lawyers to ask questions in such a way to blame the complainant and allocate responsibility to what happened to her. Examinations of language in rape cases sheds valuable light on how courtroom talk defines consent, in its construction of rape incidents as consensual sex.

Defendants have power in the court by resisting either overtly or subtly.

The difference between coercion and hegemony is that coercion is legislated and enforceable whereas hegemony is ideology and framed.

Philips 1998 study of guilty please and two types of judges: Liberal judges procedure orientated did what they could to ensure defendant understood and willing to stray. Conservative judges record orientated stick to script, minimal engagement with defendant.

Matoesian used discourse analysis of cross examination of witnesses in rape cases and discovered that lawyers attempt to transform the rape into consensual sex and attempt to blame the victim for what happened.

Reputation was tarnished in the Pinkenba case through the strategic use of lexical items (walking/wandering/prowling around) more than half the crossexamination was focused on portraying the boys as unreliable witnesses who should be aware of their right.

A big issue in social justice issues and the legal system is the idea of recontextualization this is a story told one way in exam in chief and then recontextualised in the cross exam to favour the person and deliberately reframes the perspective.

(c) . Quiz

- Philips (1998) found that ideological diversity across judges was reflected in the way they dealt with the guilty plea in court True Example of genre mixing between written legislation and the judge's (oral) sentencing. Relevant extracts from The Computer Crimes Act has been incorporated into the sentence in order to tie the sentence to the crime

- Speaking rights in the courtroom: judge instructs the jury in the law, lawyer can speak to witness during examination in chief and cross examination, jury's can only communicate with passing notes and the witness can only answer questions.
- In a recorded interview police used "green vegetable matter" rather than marijuana. Why? Because the police officer needs to ensure that the interview avoids speculation and records only the known facts
- Defence counsel's advantage to portray the witness under question as a countercultural "freak". mainstream society would consider to be marginal.
- Aldridge and Luchjenbroers (2007:93) describe "smuggling information" as "...a deliberate process designed to direct the listener to alternative interpretations and thereby manipulate their perceptions of persons or events..." get the jurors to hear negative reports
- What are the differential effects of direct questioning versus free narration? Witnesses will provide more detail response to direct questioning and witnesses will recall details more accurately in free narration.
- "He asked me how I'd been, and just stuff like that." WITNESS RESISTANCE
- During examinationinchief, after the undisputed facts are established, a barrister may use the following strategies to support the witness and build a positive narrative...asking open ended questions and link questions by use of andprefaced questions to form a narrative series.
- Which of the following are leading questions? I think you were a little bit distracted, weren't you? & I take it that you were aware that she was standing outside?
- What aspect of a rape/abduction can make it difficult for a victim of such a crime to demonstrate that they were powerless to stop the illicit act from happening? If she did not verbally object to the crime and if the victim did not physically fight back against the crime.
- What is one benefit of the legal register? Its focus on precision can eliminate potential ambiguities.

(d) . Second language speakers and interpreters

Testing the need for an interpreter, the asking of simple questions can limit the person's ability to get an interpreter because lawyers ask more difficult and more complex questions. There are different grades of language ability one is basic interpersonal communication skills (BICS) and the other is cognitive academic language proficiency (CALP). BICS are basic questions, example would be, how long have you been in this country? Questions with simple answers. CALP are more complex sentences/questions, these require longer and more thought about answers. An interpreter is not a helper, word for word translations are unrealistic.

There are some arguments against using interpreters. Interpreters are often viewed with suspicion and mistrust, there is also widespread ignorance of those who speak a different language. There are often thoughts that they may "modify an answer", thoughts that they interfere with lawyers influence in questioning, witness may have extra time to prepare an answer, more difficult to gauge the witness's credibility. There are also problems in finding legal interpreters, one example is availability (the smaller the language the harder to find), the person needs proficiency in both languages, needs knowledge of dialectal variation, general knowledge/ethics of legal process. Often this is not realistic. There are so few interpreters because only few centres to teach language, not attractive career path, pay is shit.

The role of an interpreter is to remove the language barrier into the best of their skill and ability and place the nonEnglish speaker in a position as similar as possible to that of a speaker of English.

Challenges in courtroom interpreting include semantics (no direct word equivalent), syntax, pragmatics, cultural challenges, time constraints. Legal terminology is particularly difficult to translate if legal systems differ, then legal equivalent will not exist across languages. Cultural challenges: sometimes the legal framework makes no sense to those drawn into the legal system they have the right to silence however in a community silence should be a sign of guilt.

While participating in courtroom hearings can be intimidating or confusing for many people without a legal background, these difficulties are compounded for people who are not fluent speakers of the dominant language. Another issue which Powell draws attention to is that while practical acceptance of 2 languages may increase participation in judicial proceedings it cannot overcome the fact that individual bilingualism varies widely. Typically to decide whether someone needs an interpreter

is to ask questions, questions like where did you learn English? And where do you live now? But this can be difficult because the courtroom hearing can be much more complex.

Arguments against using an interpreter: will the interpreter modify an answer? Will the interpreter help the witness? Will it give extra time for the witness to prepare an answer? Will it be harder to gauge the credibility of the witness? Will the interpreter be the buffer between lawyer and witness?

Semantic challenges These abound in situations where words or expressions in one language do not have easy equivalent in the other language. An example would be in English afternoon can mean different things in Russian because they have early afternoon and late afternoon.

Grammatical challenges Grammatical challenges come from Lees study of Korean interpreters in Australian courts, shows how grammatical differences between Korean and English can make it very difficult, if not impossible, for interpreters, even those with accreditation considerable experience to accurately interpret within the constraints of courtroom hearings. For example, Korean does not have a single form that indicates definiteness such as the English definite article, the.

Pragmatic challenges Pragmatics is the area of language analysis which considers speakers meaning (in contrast to semantics which considers the meanings of utterances). Tag questions are also important in conveying pragmatic meaning of pragmatic force comma and they are popular tool in cross examination in English speaking countries. There are a number of different variant and invariant tag question forms in English. English invariant tags include right? correct? is that so? Very and tags in English are formed with verbal auxiliary in subject pronoun, as in the highlighted tags in the following examples you are there, weren't you? This is important for intimidation and confusion.

Cultural challenges

Deaf sign language people can also display difficulties and have disadvantages.

(e) Vulnerable witnesses

Two identities of vulnerable witness. Vulnerable due to social identify (linguistic, background, age, disability). Vulnerable due to situated identify in legal matter (victimwitness). Victim witnesses people who testify against persons who has abuse

them, victims of sexual abuse, child sexual abuse victims are doubly vulnerable, sexual assault victim witnesses who are crossexamined essentially re experience rape (Matoesian, 1993).

Social identify second language speakers, deaf witnesses, intellectually / physically disabled witnesses, children, second dialect speakers. Children in the legal system: when the child is accused, the child is taken to the children's court in their needs are taken into consideration. If accused is an adult and victim witness is a child, this is taken to the adult court. Provisions of child witnesses allow the child to give evidence on close circuit TV videotape interview instead of the examinationinchief. Use a screen to shield child from accused during crossexamination.

Challenges faced by child witnesses: “perhaps the greatest disadvantage in the illegal process is experienced by children” little experience with legal language. Cross examination with children is the frequent use of leading Q’s because psychological studies suggest that a child’s memory is more accurate in response to openended Q’s, rather than yes/no Q’s. Fivush (2002) Says when a child is interviewed about personally meaningful events the recall is more accurate than when the interview is more suggestive and misleading. Even very young children can tell us what they know if we ask them the right questions in the right way.” (Walker 1999:2). This may not happen due to the rules of evidence, legal manipulation and ignorance. “Do you remember?” questionsunnecessary complexity. Keep it simple, avoid complexity. Avoid you're not wrong, instead use your right. Avoid why questions and don't ask same question repeatedly. This build a rapport with the witness.

Building report talkback interest, play with things, explain why interview is happening, reassurance, emphasis need the truth, don’t push them. Second Dialect (D2) speakersDialect is any variety of language. Australian English has a subvariety of language. Aboriginal English is a dialect of Australian English. Speakers of nonstandard dialects of English are often socioeconomically disadvantaged, and

lack proportionate access to education. D2 speakers may be wrongly assumed to fully understand standard variety. There are pragmatic differences between lighter varieties of aboriginal English in standard Australian English. Silence, Gratuitous concurrence. Questions asked by a barrister may contain culturally specific assumptions not shared by the witness.

Legal issues

- Understanding the meaning behind a wording (which comprises all of our legal studies, as law itself is encompassed by the usage of words to govern.) is always a matter of contextual facts according to the person interpreting the law. However, given such power, will the laws be interpreted accordingly to a person's presuppositional ideas towards a certain legislative topic? Onwards the jurisprudential line of thoughts come with the questions of understanding a certain truth and whether its claims are historically, socially, politically and morally viable or not. It rests on the understanding where the interpretation on the governance of such laws could actually lead to a better society, or vice versa, a dystopia.

- At the very least, the interpretation of language on the powers of law must be objectively unified in the fact of a good righteous ruler, but can an enlightened ruler find himself not subjected to the corruptible temptation of having powers on his hands?

- interpretation/creation of ideologies/law is done by the higher class who holds more power. to the lower class who seeks revolution to realise its own ideologies, the motivation belongs to them to use whatever manipulative means to achieve/realise their own ideologies to overthrow the ones they disagreed (their oppressors enemies) with to establish their "own version" of a new social order. Once done, the dangers, or rather the inevitability for them to steer towards totalitarianism itself is an irony to their own prior ideology of establishing a new social order for an utopian society, one that would only exposed itself of its faulty ideologies that lead to an endless cycle of oppressors forcing their own ideologies up people's throats through whatever means. It is truly a depressing sight to even see in the sphere of understanding the nature of humanity's philosophical acts, one that only leads to a depraved rule by men corrupted by power at the opportune moment that is presented. As the saying goes, "history is written by the victors" rings true here.

- Even education as depicted by animal farm (only pigs are educated to whatever the corrupted pigs wanted to teach them) is a product of abuse of powers to infer the student's epistemology subject to the corrupted teachings of the dictator. Propagation of propaganda sees fit to spread ideologies(lies) about certain things by the ones in power. Education can be used to manipulate and control the working class. If the masses are

> uneducated or illiterate, they will be unable to challenge the government's abusive policies. In Animal Farm, the pigs bend the rules to fit their own needs and desires, without concern for the loyal workers. When animals become suspicious of these rule changes, the pig propagandist, Squealer, tells them that the rules have always been the same. No animals are smart enough to question the pig's dominance. The pigs also use education to their advantage by spreading lies and favorable rumors. Young animals are taught to be loyal to the Animal Farm, and Napoleon is able to raise a ruthless army of dogs by teaching them "Four legs good two legs bad".[83]

Summary of Animal Farm: ***Animal Farm*** is an allegorical novella by G eorge Orwell, first published in England

on 17 August 1945. The book tells the story of a group of farm animals who rebel against their human farmer, hoping to create a society where the animals can be equal, free, and happy. Ultimately, however, the rebellion is betrayed, and the farm ends up in a state as bad as it was before, under the dictatorship of a pig named Napoleon.

- it is a satirical allegory that parallels the leaders of Russia, on its revolutions based on what seemed a good socialist idea that may lead to the realisation of equality under the rule of communism, but eventually it lead to an exploitation of powers that became a dystopic egalitarian rule under the leadership of Stalin, who was politically insecure about his standings that derived from a corrupted desire to grasp full power of control politically.

Social and historical context:

- *Animal Farm* was written by George Orwell and published in 1945. This novel is an allegory even though it is set on a farm and stars a cast of farm animals, **it reflects the events of the Russian revolution of 1917**.
- The animals are all clever representations of Russian politicians, voters and workers. **Orwell used the novel to make his opinions on Russian leaders heard.**

Analysis:

[83] https://www.sparknotes.com/lit/animalfarm/summary/

i) Napolean is presented as the epitome of a powerhungry individual who masks all of his actions with the excuse that they are done for the betterment of the farm. His stealing the milk and apples, for example, is explained by the lie that these foods have nutrients essential to pigs, who need these nutrients to carry on their managerial work.

ii) His running Snowball off the farm is explained by the lie that Snowball was actually a traitor, working for Jones — and that the farm will fare better without him. Each time that Napoleon and the other pigs wish to break one of the Seven Commandments, they legitimize their transgressions by changing the Commandments original language. Whenever the farm

iii) suffers a setback, Napoleon blames Snowball's treachery — which the reader, of course, knows is untrue.

iv) Napoleon's walking on two legs, wearing a derby hat, and toasting Pilkington reflect the degree to which he (and the other pigs) completely disregard the plights of the other animals in favor of satisfying their own cravings for power. Thus, the dominant

v) theme of Animal Farm is the tendency for those who espouse the most virtuous ideas to become the worst enemies of the people whose lives they are claiming to improve.

vi) Karl Marx's ideology acts as the backdrop to what caused the mayhem of many Marxists to believe in socialist ideas that would lead to events of history. Interpretation of his ideas initially give rise to good intentions of politically ruling a country not through capitalism where the burologiese exploit the works of the proletariat, but through an equal community working together as a whole to improve society. However, such radical ideas were turned into wretched ideologies where some people would interpret marxism as centralising the powers under 1 ruler to make everyone equal under him. The irony as shown in the animal farm's depiction of exploitation of powers come full circle displayed by the terrible reign of stalin, where "others are 'more' equal.'.

Application to today's world:

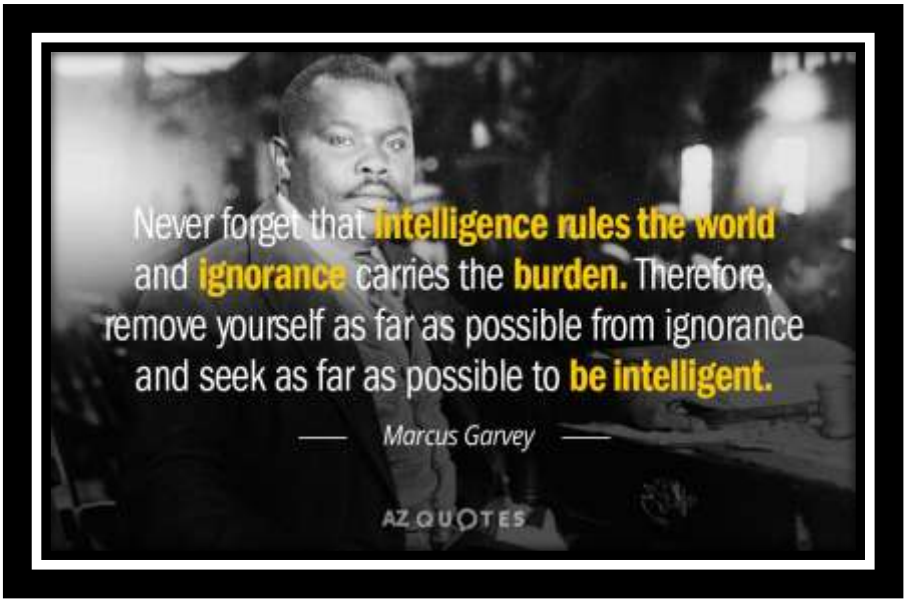
i) Is the problem a lack of interpretative goggles to know wordings of the law and interpret it correctly for good governance?

ii) Isn't it just the same where its rulers promise things based on their overpleasing manifesto for the voters to put them into power?

iii) Examples: najib: sosma, acts that ultra vires the FC's constitution of basic liberties / covid: lawmakers relaxed quarantined policies for the people of relevance and power.

iv) The problem may lie within humanity's own blindness to their own inability to see the futility of such ideologies that seemed corruptible once humans begin to act on it. while an idea initially may be seen as good, but ultimately it is the humans who are always corruptible, prove to be the ones who wreak havoc upon the development/intepretation of such ideas. What we need to do is to acknowledge such truth, and examine and consider all basis of claims of A HISTORICAL REALITY of a person of a kingly rule, right here in our world.

v) law relating to totalitarianism/positivism/other forms of jurisprudence.



NEUROSCIENCE

This is sometimes referred to as Neural Science, is the study of the human nervous system, how the Nervous systems work, how it is structured and how it develops.

Scientists who dedicate themselves to the study of neuroscience are known as Neuroscientists. The large majority of neuroscientists focus their research on the brain and how it influences cognitive function and behavior.

Neuroscience not only seeks to understand how the nervous system functions under normal circumstances but also how the nervous system functions in individual suffering from neurological, neurodevelopmental and psychiatric disorders.

Three Main Goals of Neuroscience

According to the Society for Neuroscience the three main objectives of neuroscience are to

- Understand the human brain and how it functions
- Understand and describe how the central nervous system (CNS) develops, matures, and maintains itself.
- Analyze and understand neurological and psychiatric disorders, and discover methods to prevent or cure them.

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"There comes a time when silence is betrayal."

Rev. Dr. Martin Luther King Jr.

GESTURE STUDIES

Pay Attention to Body Language

If you're unaware of it, your **body language** will give your audience constant, subtle clues about your inner state. If you're nervous, or if you don't believe in what you're saying, the audience can soon know.

Pay attention to your body language: stand up straight, take deep breaths, look people in the eye, and smile. Don't lean on one leg or use gestures that feel unnatural.

Many people prefer to speak behind a podium when giving presentations. While podiums can be useful for holding notes, they put a barrier between you and the audience. They can also become a "crutch," giving you a hiding place from the dozens or hundreds of eyes that are on you.

Instead of standing behind a podium, walk around and use gestures to engage the audience. This movement and energy will also come through in your voice, making it more active and passionate.

Body language is another important tool for public speakers. Try recording yourself so you are aware of your body language and fix any fidgets you find on the recording.

Gesture recognition is a topic in computer science and language technology with the goal of interpreting human gestures via mathematical algorithms.[84]It is a subdiscipline of computer vision. Gestures can originate from any bodily motion or state, but commonly originate from the face or hand. Curren focuses in the field include emotion recognition from face and hand gesture recognition. Users can use simple gestures to control or interact with devices without physically touching them. Many approaches have been made using cameras and computer vision algorithms to interpret sign language. However, the identification and recognition of posture, gait, proxemics, and human behaviors is also the subject of gesture recognition techniques.[85] Gesture recognition can be seen as a way for computers to begin

[84] Kobylarz, Jhonatan; Bird, Jordan J.; Faria, Diego R.; Ribeiro, Eduardo Parente; Ekárt, Anikó (2020-03-07). "Thumbs up, thumbs down: non-verbal human-robot interaction through real-time EMG classification via inductive and supervised transductive transfer learning".

[85] Matthias Rehm, Nikolaus Bee, Elisabeth André, Wave Like an Egyptian – Accelerometer Based Gesture Recognition for Culture Specific Interactions, British Computer Society, 2007

to understand human body language, thus building a better bridge between machines and humans than older text user interfaces or even GUIs (graphical user interfaces), which still limit the majority of input to keyboard and mouse and interact naturally without any mechanical devices.

Gesture recognition can be conducted with techniques from computer vision and image processing.[86]

The literature includes ongoing work in the computer vision field on capturing gestures or more general human pose and movements by cameras connected to a computer.[87]

Gesture recognition and pen computing: Pen computing reduces the hardware impact of a system and also increases the range of physical world objects usable for control beyond traditional digital objects like keyboards and mice. Such implementations could enable a new range of hardware that does not require monitors. This idea may lead to the creation of holographic displays. The term "gesture recognition" has been used to refer more narrowly to nontextinput handwriting symbols, such as inking on a graphics tablet, multitouch gestures, and mouse gesture recognition. This is computer interaction through the drawing of symbols with a pointing device cursor.

[86] Sultana A, Rajapuspha T (2012), "Vision Based Gesture Recognition for Alphabetical Hand Gestures Using the SVM Classifier", International Journal of Computer Science & Engineering Technology (IJCSET)., 2012

[87] Pavlovic, V., Sharma, R. & Huang, T. (1997), "Visual interpretation of hand gestures for human-computer interaction: A review", IEEE Transactions on Pattern Analysis and Machine Intelligence, July, 1997. Vol. 19(7), pp. 677 -695.

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“We must give up the silly idea of folding our hands and waiting on god to do everything for us. If god had intended for that, then he would not have given us a mind. Whatever you want in life, you must make up your mind to do it for yourself.”

Marcus Garvey

GESTURE COMMUNICATION

Expressing one's thoughts by using body parts is known as gesture communication. Using right gestures on right occasions is very important to maintain harmonious inter–personal relationships. For example, a senior of good and virtuous nature will not express displeasure or rage on his face while scolding a junior for some major fault; rather, he will indicate a sense of affinity for the subordinate. This will make the junior feel that the superior was rebuking him with a view to extemporize and induce him to work harder and efficiently. Facial gestures and expressions are effectively used by many professionals for maintaining cordial work relations.

Advantages of Gesture Communication

Gesture communication offers following benefits to the organization:

- Cordial relationship and trust is developed due to commonly understood gestures.
- The speech of a person becomes more effective when the person addresses the other person by looking at him while speaking.
- Physical gestures enhance quality of vocal vibrations.
- Well–coordinated gestures and facial expressions improve a speaker's performance.
- Facial gestures and movements increase the usefulness of communication process.
- One can control emotions, send hidden messages and in fact Replace Communication altogether with the use of correct gesture.

Disadvantages of Gesture Communication

Drawbacks of gesture communication are as follows:

- Every language comprises of a pattern which makes it viable to communicate in case a subject has been altered, for instance, to evaluate its grammar. This type of evaluation is not possible in gestures.

- A speaker, while delivering a speech, can forget the subject matter of the speech, if he tries to focus more on gestures.
- Audience's attention is redirected or distracted from the basic theme of presentation, if too many gestures are used by the speaker during the presentation.
- Gestures may differ between different cultures. For example, thumbs up gesture may not be known or practiced in other cultures.
- Meaning of gestures differs not only by cultures and context, but also by the changing degree of purpose.

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Do your job so well that the dead, the living and the unborn can not do it any better

Rev. Dr. Martin Luther King Jr.

CONFIDENCE

Dealing with a crisis of confidence.

It is almost inevitable that during any intense and demanding task.

You will begin to question your own value and abilities. During these times it is very easy for your judgment to become clouded by what you perceive (probably incorrectly) as overwhelming weaknesses.

For example, if you are struggling to understand a particular point that the rest of the team appeared to comprehend instantaneously you might begin to feel intellectually inadequate. Alternatively, after a series of less than perfect moot performances, you may decide that you will never make a good advocate.

In these situations, your attitude is key. Just because you are not the intellectual genius of the team, or you may not be as good an advocate as some of the others, does not mean that your contribution

to the team is any less important. If the other members of your team cannot explain a particular point to you, then they need to work on how to explain it better.

Remember that advocacy is about presenting a convincing argument. If the argument cannot be understood, it most certainly cannot be genuinely convincing.

The perfect argument will be one that is understood by everyone.

The exercise your teammates go through, helping you to understand the point, will serve everyone well for when the argument is presented in a moot.

It will identify how the argument should be built, and what aspects must be conveyed so that everyone can appreciate the point.

If you do find yourself in the middle of a minor crisis of this kind, do not get overwhelmed by it. Focus on the positives that you do bring to the team. Do something that you have no doubt you are

really good at. In time your confidence will return. It is just a matter of patience and practice.

Remember that contributions to the team are not limited to adding to arguments or mooting well. Helping the team to function effectively as a team can at times have a greater impact on success or failure.

You might be particularly good at understanding the particular dynamic of your team. If so then you may be able to quietly and subtly work on certain teammates to avoid a confrontation between them.

Alternatively, you may be able to provide a little extra support to a team member who is suffering from a temporary bout of selfdoubt. Yet another possibility is that you may use your natural assertiveness to ensure that those who are less assertive are still heard by the rest of the team. There really is no end to the types of positive contributions that you can make.

“

"There comes a time when silence is betrayal."

Rev. Dr. Martin Luther King Jr

Direct eye contact/ lawyering through your eyes

This ethnography examines attorney eye behavior patterns unique to courtroom trials and hearings. The courtroom procedures of over 40 lawyers were observed in several Midwestern courtrooms and around the country visavis television. Data assessing the attorney eye engagement behaviors of practicing trial attorneys were drawn through observation in the courtroom and on Court TV, field notes, informal interviews, and lawyer artifacts. The courtroom is advanced as a "stage" (Goffman, 1959, 1963; Leathers, 1986; Sellers, 1993)in which the lead actors, the attorneys in this case, use eye behaviors to guide their performance in each scene. As is evident here, lawyers employ distinctive eye engagement patterns as a crucial mediating process in court proceedings. Results demonstrate that attorneys use eye contact in lawyer/client, lawyer/lawyer, and lawyer/judge relationships in distinguishable ways in an effort to exert control in communicative acts. Finally, future research implications of this analysis are considered.[88]

Your eyes are simply another powerful tool to further your case. When you rehearse an opening or closing, think through, calculate, and plan your "eye speech." You should concentrate on establishing eye contact with each member at some point in your delivery.

For example

You are sitting in a bar with a good friend. He looks at you and says, "So, tell me about the case you tried last week." As you launch into your latest acquittal with gusto, your friend immediately turns his head from you and begins to scan the bar, apparently looking for more interesting conversation.

You cut your story short and eat another pretzel.

Perhaps a more familiar setting for the judge advocate is the "boss' signal." You walk in to discuss a case with the Staff Judge Advocate. He asks you a question, and, shortly

[88] Attorney Eye Contact by phillip J Austine

into your answer, his eyes fall and lock on a document on his desk a document you didn't give him. He reads it while you talk and grunts the occasional "mmmm . . ."

and "right." You shorten your case description and quickly exit, not wanting to waste any more of his time.

Ideally, you should engage each member a number of times as you talk. That is, you speak "individually" to that member and deliver a singular thought or point. Only then should you move to a new member, lock on, fire the next point, and move to the next target.

To avoid a monotony and predictability, you should inject a random quality into this process and avoid singling out members by overrelying on those with whom you connect more easily.

Improving Eye Contact with Members

As highlighted extensively in The **Advocacy** Trainer, A Manual for Supervisors (The **Advocacy** Trainer), 1 drilling is essential to every profession. The baseball player practices fielding and hitting. The basketball player practices the jump shot. The doctor practices on cadavers (and, in university hospitals, on living, breathing patients!). The trial advocate must also practice his art.

The somewhat unorthodox drill below will improve your eye contact with members guaranteed.

Deliver a portion of your opening, closing, or sentencing argument during a training session.

As you speak, establish eye contact with a "member" and then shake the member's hand (yes, take the person's hand in yours; you need not shake the hand, simply grip it) while you "deliver" a single thought or point to that person.

Once the point is delivered, move randomly to another member, establish eye contact, shake her hand, and deliver the point.

Continue this through your statement.

Improving Eye Contact with the Witness

As a trial advocate, you must keep your eyes on the prize your witness. During a practice direct examination, you should force yourself to keep your eyes on the witness during your question and during the answer.

You must fight off the desire to look to your paper to upload the next question. You should find the question by either continuing to

look at the witness or really listening to the witness so that the flow of your questions comes from the witness, in conjunction with your overall plan of attack.

Try to move away from your stepbystep pretrial notes. Alternatively, if you feel compelled to follow your scripted examination, find the next question after the witness completes the

answer. Simply pause and collect into your quiver the next two or three questions and begin again.

Trial advocates must practice this **skill**. The **Advocacy** Trainer contains many drills that force counsel to improve their eye contact.

Counsel must remember that there are many interconnected **skills** in successful **advocacy**.

Eye contact is a **skill** over which an advocate can easily exercise control. It also has an incalculable effect on his listeners. However

unorthodox it may be; the drill above will help advocates to master the art of "lawyering through their eyes."

Lawyer/Client Interaction. In March 10, 1995 episode, Lawyer accompanied his client to an arraignment. Both the lawyer and the client entered the room well after the court proceedings had begun. The lawyer's initial attention was paid to the

contents of the room, first scanning the room for the location for his client to be seated, then toward the judge's bench, seemingly as a way to indicate to the judge that he had arrived. The lawyer gestured to his client to be seated on the wooden benches outside the bench area. The lawyer then entered the bench area and was seated just in front of his client in a leather chair. Soon thereafter, Lawyer A's client was called, and the lawyer answered, "That's me."[89]

Upon approaching the judge, Lawyer A glanced in the direction of the judge, primarily looking down. Lawyer A's direction of sight appeared to be purposefully avoidant of the judge's line of sight. During this brief interaction, the eye pattern of the lawyer proceeded as follows: (Sequence is lettered to distinguish individual eye behaviors.)

- Lawyer stands before the judge, with his client. (Judge asking question.)
- Lawyer looks down at his date book. (Lawyer responding to judges question.)
- Lawyer does not make eye contact with the judge, although the judge sits just feet away, filling out paperwork.
- The lawyer engages in direct eye contact with the client, (providing informative message) then goes back to writing in the date book.
- The lawyer makes indirect eye contact with the client (Continuing dialogue with client.)
- Lawyer looks down at date book then to paperwork judge is filling out. (Client responding to lawyer.)
- Judge makes eye contact with lawyer. (While informing lawyer of next step in client's legal process.)
- Lawyer responds in the affirmative with eye contact, head nod, and verbal message.
- Lawyer drops his head and exits bench area and room while client follows. (Lawyer partially turns head toward client on exit and conveys information
- relevant to case.)

[89] Ibid

- Lawyer scans the room on way out once again, assessing who is in the courtroom. In this episode, it is evident that the lawyer initiated eye contact with the client at a specific time (eye behavior "d"). Lawyer A appeared to use this situation as an opportunity to persuade his client of his competence in dealing with this arraignment and by extension, representative of his overall legal abilities.

In episode two, a lawyer accompanies a client to a motion in the client's behalf. In this incident, the lawyer is observed sitting with the client just inside the bench area. Prior to the judge requesting the client for the motion, the lawyer (approximately 60 yearsold, costumed in a black, doublebreasted suit and wearing eye glasses) spends extensive time talking with his client. This brief interaction proceeds as follows:

a. Lawyer is observed spending extensive time in eye engagement with client. (While discussing issue an issue.)

b. Lawyer looks down while continuing to listen.

c. Lawyer glances back at the client. The case is then called to the bench.

d. The lawyer leads the client toward the judge making eye contact with the judge. (Verbal response made to judge confirming appropriate case.)

e. Lawyer glances toward client, with eye glasses halfway down the bridge of his nose. (Lawyer discussing issues of the motion with the judge.)

f. Lawyer looks over top of glasses at judge during remainder of interaction. The episode ends with the judge filling out the necessary paperwork, Lawyer B expressing thanks for the judge's consideration in a matter, and Lawyer B and client exiting the room.

As these two interactions demonstrate, and the other gatherings observed, lawyers exhibited distinct patterns of control when accompanying a client. Specifically, lawyers consistently appeared to initiate eye contact and showed attention to clients by looking down or near them during interaction, but rarely looked into the eyes of the client. Whenever a lawyer did exhibit eye engagement with a client, it appeared to be either to distinguish a crucial point or to get a point across.

Lawyer/Lawyer Interaction. Lawyer/lawyer interactions occur much less frequently

because of the nature of business in the courtroom. Yet, there appears to be two distinct ways in which lawyers engage in social interaction in a courtroom.

As one example, here typified as *offtopic interaction*, two lawyers (designated here as Lawyers A and B) were observed socializing while waiting in line in front of the judge's bench in small claims court. Although the judge was seated at the bench, the line of nine lawyers progressed slowly toward the judge as the judge filled out paperwork on each of their behalf.

During this drawn out period, Lawyer A and B, near the back of the line, began conversing. Their interaction appears as follows:

Lawyer A: Looking in the direction of the judge. (Makes a comment to lawyer B.) Lawyer B: Looking at the judge. (Responds to Lawyer A.)

Lawyer A: Turns and makes eye contact with Lawyer B. (Continuing the dialogue.) Lawyer B: Looks down at the carpet, up at the judge, then back at Lawyer A.

Within a few seconds, a pattern develops by which Lawyer A looks down at the carpet, then at Lawyer B, then at the judge. Variations of this eye pattern behavior continue throughout their interaction until they reach the judge. Both lawyers end their performance by communicating their goodbyes to one another by way of eye contact and head nods.

Episode four, typified as **ontopic interaction**, consists of two lawyers (Lawyers A and B) involved in a divorce modification hearing. In this instance, Lawyer A is a male lawyer dressed in a suit, and Lawyer B is a female lawyer dressed in taupe trousers and a starched blouse. Both stand before the judge and interact with the judge, representing their clients in the divorce process. Both lawyers have their notebooks open and placed on a small shelf halfway down the judge's bench.

As the interaction begins, Lawyer A makes a request on behalf of the husband he represents. An interaction ensues as follows:

Lawyer A: Makes glances in the judge's direction while reading from a document in his notebook.

Lawyer B: Listens to Lawyer A's comments while looking at the judge's bench, then at the judge, then at her own paper work.

Lawyer A: Establishes eye contact with the judge after a few minutes, requesting the judge's ruling on his client's behalf.

Lawyer B: Makes eye contact with the judge, and awaits the judge's decision.

Lawyer A: Returns to paperwork and begins to plead for favor in this case, now making eye contact with the judge more frequently.

Lawyer B: Makes direct eye contact with Lawyer A. (Here lawyer B's eye engagement is correlated with a statement that if lawyer A gets what he is requesting, Lawyer B will make a move to limit his rights regarding some other issue.)

Judge: Makes eye contact with Lawyer A. (Agrees with Lawyer B that the move can be made.)

Lawyer A: Returns eye contact to Lawyer B. (Verbalizes that he will not pursue alter this motion.)

The interaction soon ends with Lawyer B making eye engagement with Lawyer A and teasing him (Lawyer A) about something case related. Both scan the room on the way out, discussing how the next step affects both of their clients.

In lawyer/lawyer communication there is a definite equality which is displayed. In this study, observations consistently supported an *offtask* and *ontask* eye behavior pattern between lawyers. These two episodes illustrated this phenomenon.

Lawyer/Judge Interaction In the final two episodes, lawyer/judge interaction is addressed in the courtroom. Here, too, the eye behavior patterns appear consistent across observations.

Incident five was The Tokars Murder Trial televised on Court TV throughout February, 1997. On February 19, Lawyer A is addressing the Georgia court judge. The lawyers have been arguing about the admissibility of outofcourt testimony. As the camera pans out, Lawyer A is directly facing the judge, making direct eye contact. His eye pattern, coupled with his verbal communication, demonstrates an unique insight into this relationship.

As the interaction continues, Lawyer A persuades the Georgia court judge to reverse a previous ruling by a lower court judge. Lawyer A uses eye behavior to extend his control for his client despite being less powerful than the judge in the courtroom.

In episode six, Lawyers A and B represent their clients in a divorce settlement occurring March 27, 1997. In this instance, both attorneys stand before the judge with their clients. The episode unfolds as follows:

Lawyer A: Making intermittent eye contact with the judge. (He explains why his client's fees should be reduced in the settlement.)

Judge: Makes direct eye contact listening to appeal. (Judge asks Lawyer B whether they have any additional information at this time that could impact this decision.)

Judge now makes eye contact with Lawyer B.

Lawyer B: Makes direct eye contact with the judge. (Verbally reemphasizing that her client is already being shortchanged in the arrangement.)

Judge: Returns direct eye contact to Lawyer A. (Judge stipulates that no change will be made in the current alimony payments.)

Judge's eye contact turns to Lawyer B's client. (She verbalizes that the divorced husband should stop complaining and keep up his payments or face further penalties.)[90]

Episode six serves to illustrate that in lawyer/judge relations, the judge possesses greater control especially as indicated by eye behavior. This example is one of several observed where the judge made eye contact to emphasize a point that had legal ramifications. Here the lawyer's persuasive acts were secondary to the judge's acts.

In sum, lawyer/judge courtroom interactions are best described as tensionoriented. In these relationships, the judge has the advantage. But, as illustrated, a lawyer may appeal to the court citing an injustice or flawed precedent to balance the relational control. Lawyers often reserve eye engagement to punctuate a necessary point, while being expected to cooperate in eye engagement whenever a judge deems it necessary.

Summary and Discussion

[90] Ibid 1

This ethnographic study has laid a framework for understanding how lawyers use eye behaviors to exert control in the courtroom. An analog using Goffman's (1959; 1963) use of dramaturgical metaphor of performer, performance and stage have been employed to provide an understanding of the patterns of lawyer eye contact. Variations of eye engagement in distinct relational types (e.g., lawyer/client, lawyer/lawyer, and lawyer/judge) have demonstrated that eye contact is a "most significant aspect of nonverbal communication" (Klien, 1993, p. 56).

Results indicate that control varies as a function of the relationship in which an attorney engages. This study has substantiated that in lawyer/client interaction, attorneys consistently initiate eye contact and, most frequently, use it to provide assistance. Similarly, eye contact was used to persuade a client of some point. Lawyer/lawyer communication was typified by relational symmetry. Eye contact varied by *offtask* and *ontask* eye behavior patterns between lawyers. Finally, lawyer/judge interaction was described as a tension in which the judge often guides the performance. Lawyers often reserve eye engagement to punctuate crucial points in lawyer/judge interaction, though most often use eye engagement as a means of cooperation.

Future analysis of lawyer interaction can move in several directions. First, as a means of exploring the courtroom further, jury or judge ethnographic research could be done using the same dramaturgical metaphor analyzing eye behaviors. Second, a conversation analysis of lawyer communication would be worthwhile based upon the same relational structure (i.e., lawyer/client, lawyer/lawyer, and lawyer/judge). Finally, an empirical, survey analysis could be done pursing some correlation between lawyer intentions and behaviors enacted within the courtroom. Each of these proposals should be taken into consideration to expand communication research in a legal context.

As apparent in recent years, the public has taken a growing interest in the legal profession. America's attention to the Oklahoma City bombing trial and regular viewership of Court TV are indicative of modern society’s fascination with images and personalities of the courtroom. Lawyers have taken center stage and appear to be assuming even more prominent roles in society as the media become involved. Consequently, communication researchers have avaluable opportunity to provide effective lawyers and competent citizens with an informed understanding of the judicial process by way of communication analysis. By all indications, this ethnography of lawyer eye contact and control in the courtroom is only Act I.

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“We are going to emancipate ourselves from mental slavery because whilst others might free the body, none but ourselves can free the mind. Mind is your only ruler, sovereign. The man who is not able to develop and use his mind is bound to be the slave of the other man who uses his mind.”

Marcus Garvey

NERVOUS ENERGY VS. DYNAMIC ENERGY

Positive thinking/Dynamic energy can make a huge difference to the success of your communication, because it helps you feel more confident.

Fear/Nervous energy makes it all too easy to slip into a cycle of negative selftalk, especially right before you speak, while **selfsabotaging** thoughts such as "I'll never be good at this!" or "I'm going to fall flat on my face!" lower your confidence and increase the chances that you won't achieve what you're truly capable of.

Use **affirmations** and **visualization** to raise your confidence. This is especially important right before your speech or presentation. Visualize giving a successful presentation, and imagine how you'll feel once it's over and when you've made a positive difference for others. Use positive affirmations such as "I'm grateful I have the opportunity to help my audience" or "I'm going to do well!"

How to Calm Your Stage Fright

Your stomach is queasy, your palms are sweaty, and your mind has gone blank about your opening lines. What will you be like when you've been introduced and the room goes quiet?

Are you doomed to presentation panic or paralysis, or can you overcome that debilitating nervousness and deliver a speech that wows the audience? (Or at least leaves them feeling satisfied?)

If you're like most people, then public speaking or presenting is one of your major fears (it's known as "glossophobia"). Yet these skills are often called upon. It might not be to an audience of hundreds, but giving presentations to staff or even team members is a common enough occurrence. You owe it to yourself to develop some strategies and techniques to manage your nerves so that you can concentrate on delivering an effective and engaging presentation.

A positive mindset is vital to delivering a good presentation.

How Nervous Do You Feel Before a Speech?

Notice that we didn't say to get rid of your nervousness. This is because presenting is not a natural activity, and even the most practiced presenters get a bit nervous. The point is this: your nervous energy can be used to your advantage.

When you're in a heightened state from the adrenaline that's being pumped into your body, you can use that energy to communicate enthusiastically, convincingly and passionately. The key is to decrease your level of nervousness so that you can use your energy on these positive activities, not on trying to control your nerves.

So, to harness your nervousness and bring it under control, there are six key tips to remember. These tips are all designed to help you focus on your audience and their needs rather than on yourself and how you are feeling. They all stem from one truism:

The more uncertain you are, the more nervous you will be.

The more you can control the uncertainty, the less nervousness you'll experience, and the more residual energy you'll have to devote to the presentation itself.

Six Steps to Conquering Your Presentation Nerves

1. Know Your Audience

Consult your audience before your presentation. The more confident you are that you're presenting them with useful and interesting material, the less nervous you'll be overall. You really don't want your presentation to be a surprise. If it is, you lose complete control over the audience's reaction, and that's a large factor in nervousness. So:

a) Define your target audience.

b) Ask people who are representative of the audience what they expect from the presentation.

c) Run your agenda by a few people to see if they think something is missing or is overkill.

d) Consider contacting participants by email beforehand and asking them a few questions about what they expect.

e) Greet audience members at the door and do a quick survey of why they're there and what they expect.

2. Know Your Material

Nothing is worse for nerves than trying to give a presentation on a topic that you're not well prepared for. This doesn't mean you have to be an expert beforehand, but you'd better know it backward on presentation day. And making sure that you've understood your audience and their needs properly will help you to ensure that your material is on target to meet their needs.

Another important point to remember is that you can't possibly cover everything you know in your presentation. That would likely be long and boring. So select the most pertinent points, and supplement them with other material if time allows.

3. Structure Your Presentation

A common technique for trying to calm nervousness is memorizing what you intend to say. But all this does is make your delivery sound like it's coming from a robot. If you miss a word or draw a blank, your whole presentation is thrown off, and then your nervousness compounds itself with every remaining second. It's far better to structure your presentation so that you give yourself clues to what's coming next.

Here are some tips for doing that:

- Have a set of key phrases listed on a cue card.
- Refer to these phrases to trigger your mind as to what's coming up next.
- If you're using slides, use these key phrases in your transitions.

This approach helps you to control your own uncertainty about whether you'll remember your presentation both what you want to say and the order in which you want to say it.

Tip:

A simple, widely used and highly effective structure is to tell the audience what you're going to say, then say it, and then recap what you've said. Our article on **How to Structure a Presentation** covers this in detail.

4. Practice, Practice, Practice

Although you should avoid memorizing your presentation, you do want to be very comfortable with your delivery. Familiarity brings confidence, and practice helps you to deliver the words naturally. This means that they will be coming more from your heart and mind, rather than from a piece of paper.

Here's what to do when you're rehearsing:

- Learn the organization and order of your presentation.
- If you do feel the need to memorize, limit it to your opening. This will help you get off to a smooth start.
- Try filming yourself. You'll discover what you look and sound like to others, and then you can make a plan to change the things that need changing.
- Prepare for large speaking events by practicing with a smaller audience first; for example, by inviting colleagues to listen to a "dry run" during their lunch hour.

5. Prepare, Prepare, Prepare

Once you know what you're going to say, you need to prepare yourself for the actual delivery.

- Decide what you're going to wear make it comfortable and appropriate.
- Arrive early and get your equipment set up.
- Anticipate problems and have backups and contingencies in place in case something doesn't work, you forget something, etc.
- If possible, give everything one last runthrough in the real environment.
- Prepare responses to anticipated questions. Try to think like that one person in the front row who always tries to trip the presenter up.

6. Calm Yourself From the Inside

Nervousness causes physiological reactions which are mostly attributed to the increase in adrenaline in your system. You can counteract these effects with a few simple techniques:

- **Practice deep breathing.** Adrenaline causes you to breathe shallowly. By breathing deeply your brain will get the oxygen it needs, and the slower pace will trick your body into believing that you're calmer. It also helps with voice quivers, which can occur when your breathing is irregular.
- **Drink water.** Adrenaline can cause a dry mouth, which in turn leads to getting tonguetied. Have a glass of water handy. Take sips occasionally, especially when you want to emphasize a point.
- **Smile.** This is a natural relaxant that sends positive chemicals through your body.
- **Use visualization techniques .** Imagine that you're delivering your presentation to an audience that's interested, enthused, smiling, and reacting positively. Cement this positive image in your mind, and recall it right before you're ready to go on.
- **Press and massage your forehead** to energize the front of the brain and speech center.
- **Just before you start talking, pause, make eye contact, and smile.** This last moment of peace is very relaxing and gives you time to adjust to being the center of attention.
- **Speak more slowly than you would in a conversation**, and leave longer pauses between sentences. This slower pace will calm you down, and it will also make you easier to hear, especially at the back of a large room.
- **Move around during your presentation.** This will expend some of your nervous energy.
- **Stop thinking about yourself**. Remember that the audience is there to get some information and it's your job to put it across to them.

Note:

To take this to the next level, listen to our "**Performing Under Pressure** " Expert Interview with Dr Don Greene. This gives you many more tips and techniques for managing performance stress.

Key Points

When it comes to presenting, nerves are inevitable. Letting them get the better of you is not. You need to develop a strategy for taking the focus off your nervousness and putting that energy to positive use.

By controlling as much of the uncertainty as you can, you'll increase your confidence in your ability to deliver an excellent presentation. This confidence then counteracts your nerves, and you create a positive cycle for yourself.

For your next presentation, be knowledgeable, be wellpracticed and prepared, and try out some physical relaxation techniques. Amaze yourself and impress your audience with your calm and cool delivery of a great presentation.

This site teaches you the skills you need for a happy and successful career; and this is just one of many tools and resources that you'll find here at Mind Tools. Subscribe to our **free newsletter**, or **join the Mind Tools Club** and really supercharge your career!

Manage communication anxiety—The idea is to lower your run away metabolism. You're in a highdrive state; your pulse is high, your muscles are tense, you can't think. This tip may sound a bit "groovy": **Be here now**. As you get ready to speak, think about the present moment. Don't let your mind wander to the near future, when you're going to be speaking. Remember, anxiety is your fear of impending danger. If you are liter ally *live* in the present moment, you will be invulnerable to anxiety. So keep your mind in the present. Think about the things you'll say; review your speech. Don't visualize yourself speaking—that will only raise your anxiety and metabolism.

Tip: Talk to good listeners—While you wait to speak, find a position in the room where you can see your audience's faces. Study the audience; pick out people whose faces you like. For some wonderful reason, during the fast, flashing moment of a first impression, some people are more appealing to us. Maybe they resemble others we know and like. Perhaps they seem friendly. As you study the audience, you stay in the present moment, and you take a set of intimidating strangers and turn them into more familiar friends. When you begin speak ing, and your metabolism is at its highest level, you'll want to talk exclusively to the faces you like.

Tip : **It's a snap**—Here is another "be here now" trick that I learned from a gentleman who teaches people suffering from chronic and debilitating fear of flying how to overcome their disabil ity. Harith Razah works as an executive, but he

conducts seminars parttime for American Airlines. Mr. Razah suffered from a crippling fear of flying and learned to manage his fear. The trick he uses (among other techniques) is to give a thick rubber band to each of his students. When they feel anxious, they snap it on the tender flesh of their wrist. This sharp blast of pain brings them back to the present moment. They concentrate on the sensation in their wrist, and in those moments of minor pain they get important relief from their escalating anxiety. They think about the pinch of pain instead of all the things that could go wrong with the plane.

Try the wrist snap, or if your metabolism level is not that high, study the back of your hand, your pen, or the paper your notes are written on. These will all bring you to the present moment, where anxiety cannot get you.

Tip.: Another idea is to listen to the other speakers. Really concentrate on what they are saying. Do not allow yourself to think about your talk, or what will happen when you get up. Don't worry about being ready when you're introduced— you'll have all the time you need to bring yourself to the peak of performance for your talk.

Be Here Now Breathing

Technique—If you can, get away from people; find a quiet place. Sit down in a comfortable position. Shut your eyes. Take 10 slow, deep breaths, and count them. As you inhale, think to yourself "*One,*" and see a number one on the screen in the front of your mind.

The number can be in a Times New Roman or Arial font, or a crayon scribble; it does not matter. Continue to see the number as you slowly exhale. As you take your next breath, say "*Two,*" and see the number two, and exhale slowly.

Do this up to the number 10. You'll be amazed at how well this technique works. It's fast and easy. Your anxiety begins to dissolve away like an Airborne tablet in a glass of water.

Now, you may feel a little goofy as you do this, especially if you can't get away from people. You may feel selfconscious sitting with people with your eyes shut. I don't think they will even notice.

If they ask what you're doing, simply smile and say, "I'm thinking." I use this technique right in front of a large audience. Imagine you are with me, minutes before I walk into a big hotel ballroom to deliver a keynote address before a thousand people.

The first thing you will notice is that I'm filled with communication anxiety. If you were to ask me a question, I'd look at you with wild eyes and say, "Huh? What did you say? I'm sorry." Then, you watch me walk out on the dais and take a seat.

I sit in profile to the audience, shut my eyes, and begin to breathe slowly and deeply, and count my breaths. In no more than a few breaths, my chest and shoulders stop shuddering on the exhale count. By breath 10, I'm really calm—even a little spacy.

Can a space cadet present well?

Are you thinking, "Well Joel, if I'm all blissedout, how am I going to speak intelligently?" Trust me, Sparky; the moment you're introduced, your metabolism will take off. You'll be really alert, but nowhere near as hyper as you were before you did the *Be Here Now Breathing* exercise.

Here are more techniques you can use to reduce the heightened metabolism you experience during communication anxiety. Again, the idea is to begin with less stress, so you'll enter the communication setting with a lower level of tension.

Do stressreducing exercises to help you relax as much as you can.

Square Breathing

If you don't have time, or don't want to do *Be Here Now Breathing, Square Breathing* will ease your anxiety quickly. It's an effective tool that will lower your energy and douse some of the flames in that raging forest fire inside you. Here's how you'll do *Square Breathing* (see **Figure 5.4—*Square Breathing***):

Take long, slow, deep breaths on a timed count of two.

Take 2 seconds to breathe in.

Hold the breath for 2 seconds.

Let it out slowly for 2 seconds.

Hold for 2 seconds.

.

Tip : If nobody is around, make a hissing sound as you exhale. You may need only five or six breaths before you feel much better.

Caution: Watch out for hyperventilating. If you take in too much air, too quickly, you could get lightheaded and even pass out. *Square Breathing* gives your body time to absorb the oxygen through your lungs. That's why you pause for 2 seconds at each step. You may need only a few square breaths to get the benefit . . . too many will leave you lightheaded and giddy.

Calm Down Breathing

The next technique is a variation of *Square Breathing* called *Calm Down Breathing*. It's my DePaul students' favorite communication anxietybusting technique. They like it because it's simple, fast, and effective, and because people can't see them doing it. You keep your confident cool.

Calm Down Breathing is like *Square Breathing,* with the addition of a private message to your mind. The deep breaths address your body. The silent messages of "calm" and "down" soothe your troubled mind. Before you go on stage, take a deep breath. As you are inhaling, say to yourself: "Calm." Hold your breath for a few moments, and then exhale. As you release your breath, slowly say the word "Down." (Please see **Figure 5.5—*Calm Down Breathing.***)

Stretch away your tension

You'll feel more confident if your muscles are loose and free of tension. When you feel anxious, the blood sugar and adrenaline make your muscles rigid with tension. So do stretching exercises to remove tension from your upper back, shoulders, and neck.

This tension makes your throat feel thick and your voice sound funny. Tension makes you look nervous. The Women's Heart Association offers excellent stretches that ease the effects of communication anxiety, and they can help your heart be healthier, too (see **Figure 5.6—Stretch Away Upper Body Tension**).

Tip : You can control your throat tension by **humming forcefully**. As you feel your throat begin to relax, hum more gently. This will relax your throat muscles, and remove any trace of tension from your voice. You will not sound nervous. You'll sound more confident and natural, and speak with greater ease. (Learn more ways to develop your voice in **Chapter 8— Message Delivery—Performing the Presentation**.)

Action Step Four: Fill your mind with positive thoughts

This technique will give you two great benefits:

You'll be able to reduce your anxiety and fill your body with positive energy.

You'll become more powerful. It heightens your leadership qual ity and credibility. Your audience will sense your positive energy.

Remember, you are what you think—The great author Kurt Vonnegut told us, "We are what we pretend to be." Your state of emotional well being, confidence, and dynamism is the direct product of your last sequence of thoughts and experiences. *Your brain is the boss of your body.*

Tip ✓ Test your brain's power—Next time you lift a heavy object, perhaps when working out in a gym, test the power of a positive mental state. As you lift the weight, say the word "strong" or "power" to yourself. Concentrate on that word. You'll sense an immediate upward change in your physical power as you exert yourself against the weight.

Next, think the words "weak" or "heavy," and you'll notice your power rapidly drops off. If a simple word can change your physical strength, what do you think profound

and detailed thoughts can do? When you think positive thoughts that are derived from your experiences, you can generate a positive push wave of energy. People will follow you and believe the words you say. **(**See *The Fourth Component of Credibility* in **Chapter 6—Making People Believe You*: Persuasive Communication*.**)

How to build a list of Personal Power Thoughts©

Think about things in your life that make you confident and happy; things you've done to help people. Think about the people who love you and trust you. Visualize their smiling, loving faces. Remember the times you've been the big winner—in business, in sports, in love. Recall the time you were hired or promoted, landed a big contract, had your ideas accepted. Were you ever a hero?

If you've competed well in sports, think of a moment when you were playing well, without pressure or fear, when you were happy, in control, and winning. As you visualize this great moment, you will transform your nervous energy into positive energy.

Next, you must record these private moments of victory and accomplishment in a list. You will want to have a set of 10 things that will instantly make you feel good about yourself the second you think of them.

Important—The list must produce strong, positive emotions and tie into visual memory. You must see the event vividly in your mind, so you can really feel it throughout your body. This technique takes the energy rushing throughout your body and turns it into positive feelings of physical and psychic power.

Five things that make me feel good

Write down five moments from your life that make you feel great. Do this now, and you will have a tool you can use to decrease communication anxiety. Also, I'll sell more books. See, once you've writ ten in it, the bookstore's resale value will be lower, so you'll probably decide to keep it, which means there will be one less used book on the market. Thanks for helping me sell more books!

Think about the positive outcomes

An effective variation on the *positive thoughts* technique is to focus on the positive outcomes of your communication. If you feel anxious, and you insist on thinking about the impending communications event, think positively. Allow yourself to think only about the wonderful, beneficial things that will happen. You'll begin to feel powerful and energized. For example, picture the audience being delighted with your speech. Rehearse parts of your speech, and visualize the positive response that you'll get from the people in your audience. Think about what will happen after you've spoken, and the group adopts your vision. Visualize the benefits you'll accrue from speaking.

Taking control of persistent fears

Fear, particularly anxiety over an impending event, is a nasty, annoying emotion to live with. Our brains prefer to think about negative, fearful incidents. Unless you take control of your thoughts, left to its own resources, your brain chooses to pay more attention to fearful thoughts than to positive ideas. Your brain would rather think about the bad stuff that could happen than the good things that probably will happen. Think about all the things you've worried about over the past few months. Now, how many of those disasters actually happened? Few, if any, I bet. Next, think about the lousy things that did happen to you. How many of them did you anticipate, think about, and develop a nice set of anxieties over? The answer, for most of us, is that 90% of the things we worry about, or even lose sleep over, never happen. And of the things that actually go wrong in our lives, few of them were expected.

False alarms go off in your head

You know that your brain stem does not understand the dangers you face today. When your brain stem comes to your rescue because you feel threatened, or are intimidated, it can make speaking harder.

Here is why—Your reptilian brain developed millions of years ago, when the dangers our species faced were physical. For example, your cavedwelling ancestors were threatened by sabertoothed tigers or by running off a cliff—not by their coworkers who might laugh and ridicule them when they presented their financial analyses. To protect our ancient ancestors, the brain stem responded to danger by pumping out a rush of chemicals that made our ancestors momentarily stronger and faster, and their

bodies better able to stand and fight, or run from danger (fightorflight). Unfortunately for us, our society has evolved faster than the human brain stem. The dangers we face today are social, not physical. As you prepare to present your ideas, your brain stem senses your fearful thoughts and "thinks" you're in physical danger. It rushes in to rescue you; it shuts down the cerebral cortex, and all brain activity is diverted to combat condition red; it reduces blood flow to your extremities, so if you suffer a cut you won't bleed to death. The brain stem increases your heart rate to pump blood to your upper body's fighting muscles. Sugar is shot into your muscles. You're power ful; your arms shake with energy. If your mission was to tear phone books in half, or leap into your audience and kill 20 people, you could. Your body is ready. But your job is not to become a killing machine; your job is to be cool. You are supposed to project a calm, confident, "I'm in control" attitude, to make your audience believe you are in charge.

Protection you could use

If your brain stem were designed to rescue you from the dangers you face today, it would not turn you into a fighting machine. Instead,

it would produce chemicals to heighten your intelligence and charm. For example, if your brain stem were the type of ally you needed dur ing an important business meeting, it would send chemical messengers to relax your muscles, allowing you to move gracefully and gesture smoothly. Rather than making your mouth dry, it would order the production of extra saliva to lubricate your tongue and lips, so you could speak with greater fluidity. The brain stem would release endor phins to give you a feeling of wellbeing. Other chemical messengers would be released to heighten your intelligence, speed up your cerebral cortex's processing time, and decrease retrieval time from memory, thus allowing you to assess ideas and questions with greater brilliance. Your peripheral vision would be enhanced, so you could see more of your audience. You could read every person's reaction to your ideas. (Now the opposite usually happens: Your visual field narrows, giving you tunnel vision.) And perhaps the brain stem would help you become more socially attractive by releasing a pheromone scent, making you more sexually attractive to your listeners. Now, this is the brain stem you need when faced with social danger—something that will turn you into Cary Grant, not Rambo.

Your brain stem is obsessed with fear

Time and time again, your brain stem makes you miserable. It gives you rotten feelings when you should be feeling excited and powerful. It makes you stupid when you need to be intelligent. You become a klutz when you need grace and charm. Your brain stem can't learn from its past mistakes. It continues on its consistent track record of failure, as it obsesses about things that will go wrong. Fear and anxiety are hard to ignore. Your brain thinks it's protecting you. In reality, it may be harming you with pentup stress and preventing you from optimal performance.

Action Step Five: Know your topic

Earlier, I made what I hope is a convincing case for mastering your subject matter before you speak. You should demonstrate mas tery in the way you deliver your talk. Never read your presentation. You can speak from a bullet point outline using PowerPoint slides or handouts. You will carry on a conversation with your audience, because a good presentation is a lively exchange between you and your listeners.

Never, never, never, never memorize your speech—Note I did not say sometimes, or usually; you should never attempt to memorize a speech. Exception to that rule: If you are so talented that you can take prewritten ideas and deliver them with such elegance and fluidity that your audience is not aware you're speaking canned words, you can memorize what you want to say. But do not waste such a rare and valuable talent by going into business. A fortune and tons of fun await you in showbiz. If you want to stay in business, you can: Be your own manager.

The rest of us cannot take things we've memorized and deliver them in an audienceengaging manner. Sure, you'll get the words out, and if your audience is willing to work hard, they may receive some logical, factual content. But the major message you send them is, "Shut up, don't participate, I'll do the talking, you merely sit there." Your stilted, memorized tone creates a barrier between you and your audience.

The deerintheheadlights look

Many people have told me that one of their biggest fears about speaking before important audiences is that they will go blank during the presentation. They imagine

themselves standing, speechless, before a group of people who undoubtedly will see them as idiots.

A great reason not to memorize a speech is that everyone goes blank in a presentation; we all forget a train of thought, or lose a word for a moment—it's normal. But if you blank in a memorized presentation, as you probably will, it's like death. You stand there frozen; your mind races, you fight panic. You either stand there repeating the last line you said, hoping to recover the link to the idea you've forgotten, or, like the third grader delivering the Pledge of Allegiance, you have to start over at the beginning. Either way, it's not a pretty sight.

Dealing with blanking out

First, you can expect that you'll go blank at least once during a talk. It's natural, and it will happen. In fact, the better your talk—the more spontaneous, the more involved you are, the more your audience is hanging onto your every thought—the greater the chance. You may fail to instantly find the right word or idea, as you create this lively communication experience. Panic can exacerbate the natural blanking that occurs. If you tense up and panic, you're dead. The audience realizes that something is wrong, and transmits fear back to you.

Stay cool, mon

Relax; forgetting is natural, and only lasts a few seconds at the most. See for yourself. Next time you're engaged in a conversation, notice how often you fail to find the right word, or how often you lose your train of thought. My recommendation is to handle it the same way you do in a casual conversation. Just wait, think, and it will come to you.

Two different speed zones— yours and the audience's

Besides the level of tension in you, another factor makes blanking in a presentation especially difficult: *Einstein's Time Shift*□ **(**see **Chapter 7—Message Packaging—Strategies for Formatting Presentations: *How You Say It***). The audience and the presenter move through two different time continua. To you, the speaker, time

moves quickly. It seems as if you have barely started to talk, when time is up. For your audience, time is moving in the other direction: slowly. When you go blank, you feel as if you've been standing speechless before the audi ence, sweating bullets, with everyone staring at you for minutes; but to your audience, it's been only the blink of an eye. If you make too big a deal out of blanking, the audience is likely to be puzzled over what you're talking about. To them, you appear to have paused. So relax, take a few seconds to think about what you want to say. Usually your forgotten thought will come to you. Take a nice pause; your audience will believe you're thinking. You'll look smart and in control.

Move to the groove—Use body movement to unstick your memory. If you've waited, and what you wanted to say doesn't come to you, use the same trick that athletes use to get in the groove and improve their performance: Move. Standing frozen in the spotlight makes it worse. By the simple act of taking a step, you will unlock your mind. The same trick works when you're sitting at a table and you go blank. When you shift your body position, rapidly and with confidence, the movement will trigger recall.

"Look to the Force, Luke"—Use visual cues. You can always glance at your visual supporting aids, such as notes, or much better, the overhead projection of your outline. It's best to have your talk's key words on overheads (see **Chapter 10—Communicating With Tables,**

Confession is good for the soul and memory

If all the above methods fail you, be honest. Tell the audience you forgot what you were going to say. Your candor will build a bridge between you, enhance your credibility, and bring them closer to your side. And, just as in everyday conversation, soon after you tell your listener you can't remember what you wanted to say, you will remember it.

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“The ballot or the bullet speech”

Malcolm X

KNOW MORE ABOUT HOW YOUR MIND WORKS: *ATTRIBUTION OF CAUSE*

This popular psychological technique is a rational approach to under standing how we think. Unlike other theories that describe human behavior as driven by internal states or personality, attribution theory starts with the premise that people are thinking, rational beings. People think like scientists, even though they don't have formal scientific training. We watch other people, notice events, and try to make sense of the world. While much of what we see appears to be chaotic, we still try to sort it out and create order.

For example, imagine what chaos business would be if accountants didn't have rules and rational ways of dealing with money as it flows in and out of the firm—or if marketing people didn't have methods of get ting money for the accountants and finance people to play with.

Attribution theory the scientist observes

We watch the world about us, explaining the events we see, why they happened, and assign causes for effects we observe. For example, imagine that you're sitting on the shore of a lake. You watch a sailor in a rowboat move across the lake. You want to explain what causes the boat to move.

As an intelligent person, trained to use attribution theory, you rely on two fundamental rules to explain causes for effects: "can" and "try."

Can—does the person have the ability to cause the effect? If the answer is yes, he or she may be responsible for causing the effect. But while necessary, "can" information is not sufficient. The person has to try, too.

Try—did the person exert effort?

Together, "can" and "try" evidence are excellent explanations for responsibility.

As you look at the sailor and the boat, what "can" and "try" infor mation do you have?

Test One Does the sailor have oars or sails? (can)

Test Two Is the sailor working the sails or pulling on the oars? (try)

If you answer "yes" to Test One and Test Two, you will attribute cause to the sailor. The sailor is responsible for the boat's progress across the lake.

However, if the answer to either the "can" or "try" test is "no," you'll make attribution to forces outside the sailor: For example, the passive sailor in the powerless boat may be moving because of the wind or current.

Attribution principle—internal or external locus of control

The locus of control is the source of power, or force, that causes things to happen. It's the mojo that moves people, places, and things; it empowers actions and causes results. We have two loci of control: inter nal and external. The power resides or originates either within or out side the person. If you believe that the motivation comes from within the person, you'll make the attribution that he or she is the cause, and is responsible. On the other hand, if you believe that forces outside the person were the cause, you would not hold that person responsible.

It's a foul assignment and your name is written all over it—(See **Table 5.1—Attributions Why Your Supervisor Gave You a Dirty Job**.) For example, consider the internal forces that would cause your supervisor to give you an undesirable assignment. You receive a voice mail from your superior assigning a nasty, bothersome little project that no one in his or her right mind would want. What caused her to give it to you? Here are two lists of possible causes. The first list contains all internal motivations. The second is a set of external attributions you could make to figure out your supervisor's actions.

Law and Order uses attribution theory

Juries make decisions of guilt or innocence using attribution theory. If they believe that a defendant's motivation was due to internal forces, they deliver a guilty verdict.

If the defense can successfully demonstrate to the jury that external forces were at work, the defen dant is pronounced innocent.

For example, imagine that you're on a jury that must decide why a wealthy young man killed his butler.

External: The butler went berserk, and attacked him with a lead pipe in the library. Your verdict: not guilty, selfdefense.

Internal: The butler was blackmailing him with candid photos that showed him committing adultery. Your verdict: guilty, murder.

In a personal injury case, the jury decides why the patient died.

They determine if the doctor was at fault.

External: The patient had a rare fungus that quickly enveloped his body; there was no known cure. Verdict: not guilty.

Internal: The doctor was drinking, ingesting prescription medica tions, and misdiagnosed the case. Verdict: guilty, responsible for the patient's death.

How to use the power of attribution theory to manage speech anxiety

Just as you assign causes for other people's actions and the out comes of events, we use attribution to explain why we feel the way we feel at any given moment.

Humans experience a wide range of emotions: anger, fear, love, passion, envy, desire, greed, anxiety, elation, and more. As an adult, you have become sophisticated in detecting the various types of emotions you experience at any given moment. While you may feel an extensive set of emotions, the physical feelings you have are quite limited. In fact, the same chemicals flow through your body during most emotions. Emotion is rather simple chemically, but is a complex attribution. You use external cues to make complex explanations for a limited set of physiological responses and feelings. You use information from your environment to explain your feelings.

For example, imagine it's late one night; you've just finished shopping at the mall. As you walk to your car from the mall, suddenly, in your peripheral vision, you see a stranger jump out from a dark corner. You take that set of information: human form; sudden, aggressive movement toward you; and the fact you're in a vulnerable

situation; and you make the attribution that the sudden rush of feelings you are experiencing is caused by fear.

Now, change the setting in your mind to a romantic, softly lit watering hole. You're sharing a lively, loving conversation with a per son of the gender you prefer. This person is attractive and charming, and you begin to experience a slowly building set of physical feelings. When they reach their peak, these feelings are almost identical to the body chemical you generated when the stranger startled you in the mall parking lot. The same set of chemicals produce the same body feeling. One feeling is unpleasant and frightened you. You hope in your heart of hearts that it never happens again; the other is a moment you wish could go on forever, one you'll choose to return to again and again in your memory.

Situational information determines your feeling

If you get a letter from the IRS, you might label your feelings as anxiety or fearful expectation. Should you find yourself speaking before an audience, you could attribute your enhanced physical state to the fact that you're about to seize a thrilling opportunity—one that will confirm your exalted status and knowledge. Or you could decide to believe that you are a victim trapped in a frightening experience, one that will mean huge risk, probably failure, and humiliation. How do you decide? Do you realize the attribution you make is entirely up to you? You pick the one you most believe. That will determine how you feel, and it will regulate how you speak.

What is the cause of these feelings?

During significant business communications, your body is alive. Adrenaline is flowing, your blood pressure is up, and your heart is pumping. How do you explain these symptoms? Possible attributions could include that you're weak and vulnerable. Or you could choose to attribute the feelings to excitement and power: You sense that the audience loves you, and you feel totally alive. That second set of attri butions—the feelings of excitement and power—is what successful business leaders make, it's what they tell themselves. And they really believe it.

Seven Keys to Managing Communication Anxiety

Here is a list of seven practical keys that will help you manage your self through communication anxiety.

Key One The natural chemicals flowing through your body and mind, as a result of your excitement, give you a case of "temporary insanity."

During the opening part of your talk, you're under exceptional stress and have an elevated pulse rate. You may not remember what you were going to say. You'll feel as if you're riding on a runaway freight train.

Use the *Question Opening*© technique (**Chapter 7—Message Packaging—Strategies for Formatting Presentations: *How You Say It***).

Know the first 30 seconds well. After you get through the beginning, you'll be fine.

Key Two Let your heightened metabolism work for you.

It's energy, so use it. Move, be dynamic; be excited. Tell your audience you're excited to be speaking to them. Elaborate, and tell them why. Your ideas are superior, and you have found solutions; or better yet, because they are impressive, important people, and you realize the magnitude of the honor bestowed upon you by being invited to speak to this esteemed group. Remember, you must be sincere. If the listeners believe you're only stroking them, they will have to hose you off the sidewalk. You've killed, or badly wounded, your credibility.

Don't try to be cool, whatever you do. Your body is alive with power and energy. Your muscles are filled with adrenaline and sugar; they shake with strength and drive. Your breathing rate is faster and deeper, as your body demands more oxygen to

maintain this heightened metabolism. You'll only increase your stress if you try to stand still and look cool. If you're taking small, cautious breaths, you're not feeding the animal you've become. Breathe deeply; drink in the oxygen. Move, too.

Key Three If you think your excitement is showing . . . tell your audience you're excited to be speaking to them.

They will attribute your obvious agitation to your excitement, and they will be flattered. One result: The audience will like you better, and you'll build credibility.

Key Four Remember, the audience is on your side.

Especially during the opening moments of your presentation, your audience wants you to speak well. Have you ever listened to someone and thought, "I surely hope this speaker is boring?" Your listeners want an entertaining, informative presentation.

Think of your listeners as partners in your presentation. It's as if you're at the same party. Everybody wants to have a good time.

Key Five Try to meet the members of the audience before you speak, shake their hands, and look them in the eye.

Tell them you're one of the speakers. Thank them for coming. This human contact will greatly reduce your anxiety over being a stranger in the room. Even if you know the audience, and work with them every day, a couple of moments of human con tact will greatly enhance your sense of ease, and their sense of participation in the talk. Together, you'll have a better commu nication experience.

A tip for meeting strangers is to look in their eyes. See if you can guess what type of people they are—friendly, serious, analytical, humorous? See if you like them or feel an affinity toward them. Most of us make a rapid, if not accurate, determination during the first few moments when we meet somebody. We either like the person right away, don't like the person, or find it hard to get a reading on the person. Perhaps the person reminds you of someone in your family, someone you work with, or someone you have met before. If you begin your talk with a handful of people you like, you're way ahead. You will focus your attention on them initially. There's more on this technique in **Chapter 8—Message Delivery—Performing the Presentation.**

This is an application of the "meet the audience" technique discussed above. You'll find that some people are naturally better listeners. They give feedback; they look at you with expressions of interest and liking on their faces. If you try to talk to the people who have blank or hostile faces, or who are looking down, you'll find it disconcerting. But by focusing on the good listeners, the people you get a good feeling from, your own attitude will be pos itive and confident as you begin to speak to these better listeners.

As you begin to hold these individual conversations with the good listeners, the others will start tuning in, and become part of the communication experience. Focusing on the bad listen ers, or the people tuning out, will distract you by giving you false feedback. Talk to the good listeners in the audience.

Key Seven Focus on the audience and your message.

Concentrate on your ideas, not on yourself. If you're aware of how you are gesturing or of your physical symptoms, you heighten the communication anxiety reaction. You'll get ner vous if you think of yourself too much. Think hard about how to best express your ideas.

Look at the audience one at a time: Hold brief conversations with each person, moving from one good listener to another.

Forget about yourself. You don't have to spend your limited mental awareness and thinking ability worrying about how you're conducting yourself. You have been beautifully reared and have fine business manners. Your natural gestures, the ones you make in a presentation, are fine.

What counts most in a business presentation is a communica tion with the audience of facts and emotion, spontaneously delivered, by a wellprepared authority on the topic: you.

Great speakers are hungry to share their ideas with the audi ence; they really don't think about what their bodies are doing. Their motions and gestures become automatic. Train yourself to avoid "selfmonitoring behavior."

Speech anxiety: Barrier to success

What keeps people from finding success and recognition in their business lives? Is it too little planning? Bad luck? Not enough effort? Is it lack of capital? Sure, these reasons have been the cause of busi ness failure and lack of advancement. Think about yourself and your career. Like many people, you may find that speaking anxiety has held you back. Not because you got cold feet at the prospect of addressing the 5,000 national sales representatives and distributors at last year's national meeting. That would scare anybody. I am talking about the times when you did not speak up at a meeting, when you were held back by anxiety, or by an unfocused, confused mind. How often have you not made or returned a phone call because you did not want to speak to another person? Perhaps you were afraid of some unknown factor. How often, after the meeting was over, perhaps at your desk or riding in your car, have you kicked yourself for not having spoken up? We regret the things we did not do . . . not the things we did.

Advanced Fear Management

You must make an extra effort to deal with these pesky, anxiety creating fears—Do you have recurring thoughts of fear and anxiety? Do you find yourself revisiting fearful visions or recollections during the day? You can rid yourself of these negative, energydraining moments by taking yourself through a systematic analysis. At the end of this process, you'll find that your fears will be greatly reduced, and better yet, they won't recur as often, if at all. This technique has been known to rid people of their nagging fears forever. If you like, practice this tech nique by thinking about a moment that will put you into a state of speech anxiety. For example, visualize yourself blanking out in front of an important audience and having people laugh at you. The more vividly you recollect the fear, the more you'll experience this technique.

Step One: Sense fear and its cause—Visualize the fear, the negative, clearly. You want to really feel the anxiety.

Step Two: Write down or say aloud exactly what you think will hap pen— Describe the disaster in clear terms. HINT: You must not merely think about the fear. The fear must be brought out into the clear light, where you can examine it, by writing it down or saying it aloud.

Step Three: Rank the magnitude of fear on a scale of 1 to 10— Assume that your worst fears come true. How bad would that be? Or how severe a fear is it? Let 1 be hardly any fear at all, a minor fear, and 10 be the end of your world as you know it, the worst outcome you could imagine.

Step Four: Reassess fear and the likely, realistic outcome—Next, revisit the potential situation that is causing the anxiety. Describe, either by saying aloud to yourself or by writing down, what realisti cally will probably happen.

Step Five: Rerank magnitude of fear on scale of 1 to 10—Finally, sense your fear level, and rerank the magnitude of your anxiety. You'll find fears that started out as an **8** or **9** have dropped way down to a **2** or **3**. You'll find that they aren't worth thinking about.

This technique allows you to put fears under the microscope. Fear is sneaky. It lurks in the background, in the shadows, whispering at you. So your fears may be hard to grasp and deal with. To take back control, you must bring your fears out, one by one, on center stage. Put fear in the spotlight, and give it a microphone. In that cold, ratio nal light, fear can be dealt with.

Give this technique a try. Return to that list of negative outcomes you put together earlier in this chapter. Pick a really ugly, scary fear and use these five steps to whittle down that redwood of a fear to a toothpick.

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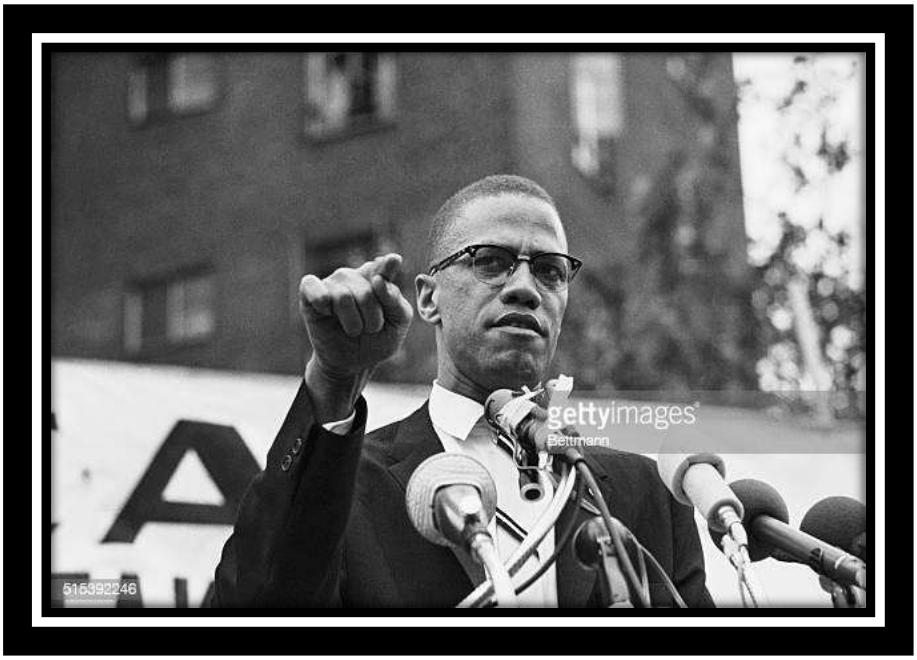
“our greatest glory is not in never falling, but in rising every time we fall” confucius. “magic is believing in yourself. If you can do that, you can make anything happen” johann wolfgang von goethe. “all our dreams can come true, if we have the courage to pursue them” walt Disney

Malcom X



THE ART OF REMEMBERING EVERY THING

Forgetting How to Remember "Our culture constantly inundates us with new information, and yet our brains manage to capture so little of it [91]Now more than ever, because of the ubiquitous presence of smart phones and social media, we're absolutely inundated with information. Yet we actually retain very little of it. We don't tend to get too fussed about it, because we all tend to forget things.

. It's all about technique and understanding how the memory works," and "Anyone can do it, really," Foer Joshua explained.

Using ageold techniques such as building a memory palace to store images in locations in his mind, turning numbers into letters and thus into words, and turning names into images (See: "To Remember A Name"),

The techniques of the memory palace which more recently became known also as the journey method were refined and codified over the years. The principle behind the memory palace is to use our naturally exquisite spatial memory to structure and store information.

By the nineteenth century, people with fantastic memories were no longer feared, but nor were they admired.

"The externalization of memory not only changed how people think; it also led to a profound shift in the very notion of what it means to be intelligent.

[91] In Moonwalking with Einstein, the art and science of remembering everything by Joshua Foer

Our brains are incredibly plastic.

Foer approached Buzan to find out whether it's really true that anyone could learn to quickly memorize huge quantities of information.

Before he met with Buzan, Foer was willing to believe that there were probably certain techniques that one could learn to marginally improve one's memory,

but he didn't believe that "any schmo off the street could learn to memorize entire decks of playing cards."

After speaking with Buzan and others and more importantly after putting the techniques into practice for himself Foer came to see that our memories can be dramatically improved, and that the skills taught by folks like Buzan can be learned by anyone**. How can this be?** Because, **as Foer learned, our brains are incredibly elastic.**

"The threepound mass balanced atop our spines is made up of somewhere in the neighborhood of 100 billion neurons, each of which can make upwards of five to ten thousand synaptic connections with other neurons," explains Foer[92]

"A memory, at the most fundamental physiological level, is a pattern of connections between those neurons. Every sensation that we remember, every thought that we think, transforms our brains by altering the connections within that vast network." What this means is, by the time you read this sentence, your brain will have physically changed.

Still, for all the remarkable scientific advances that have been made in recent decades, it's still the case that no one has ever actually seen a memory

in the human brain. Though advances in imaging technology have allowed neuroscientists to grasp much of the basic topography of the brain, and studies of neurons have given us

[92] In Moonwalking with Einstein, the art and science of remembering everything by Joshua Foer

a clear picture of what happens inside and between individual brain cells, science is still relatively clueless about what transpires deep in our inner circuitry.

One very important thing has become clear, however: The nonlinear associative nature of our brains makes it impossible for us to consciously search our memories in an orderly way. A memory only pops directly into consciousness if it is

cued by some other thought or perception. By implication, therefore, it seems that our memories can easily get lost if they're not well organized.

The human brain is almost entirely "plastic" or changeable

Plasticity is a technical term used to denote that the brain is highly malleable, and able to rewire itself. According to scientists, the primary way our brain "grows" is by creating new and complex pathways that connect different areas to one another.

All of the things we learn and the events we experience throughout our lives create

connections between brain cells, or pathways.

Only 20% of our pathways are "hardwired" from birth and not subject to change. That means the vast majority of our brain can actually be reconfigured, through practice and experience, to work better.

The point of memory techniques that Buzan and his disciples teach is to take the kinds of memories our brains aren't good at holding on to and transforming them into the kinds of memories our brains were built for. One of the most effective

tools for doing just that involves building what's often called a "memory palace."

The Art of Oratory in Jurisprudence

Building a memory palace.

As we've already heard, memory training was once considered a centerpiece of classical education in the language arts, on par with subjects like spelling and grammar. Students were taught not just what to remember, but how to remember it.

The most common mnemonic technique practiced by our ancestors involved building artificial creations called "memory palaces."A memory palace has two basic components: images and places. Images represent the contents of what one wishes to remember (e.g. someone's name, or address). Places or loci, as they're

called in the original Latin are the imaginary spaces in the memory palace where those images are stored.

Typically, these artificial spaces are based on realworld ones that you know well and can easily visualize, such as your office building, or a favorite museum or art gallery. Memory palaces don't have to be palatial. They don't even need to be buildings. They can be routes through your home town, for example. So long as they are spatial constructs, and there's some semblance of order that links one locus to the next. (The fourtime U.S. memory champion Scott Hagwood uses luxury homes featured in Architectural Digest to store his memories.)

Also, once you get good at building them, you might find you soon have dozens, or even hundreds of memory palaces, each built to hold different sets of memories.

The memory palace technique works as well as it does because it works with how our brains are naturally hardwired to remember things. The thing to understand is that humans are very good at remembering spaces, and not as good at remembering most other things.

The principle behind the memory palace is to use our naturally exquisite spatial memory to structure and store information. Having learned about the memory palace technique from one of the memory gurus he spoke with, Foer set about finding and stockpiling memory palaces. He went for walks around the neighborhood and simply observed things.

Then he visited places like Oriole Park at Camden Yards in Baltimore, and the East Wing of the National Gallery of Art, carefully making mental notes all along the way. Once he felt sufficiently familiar with the realworld terrain of these places, Foer began mentally carving each place into discreet loci that would eventually serve as little "cubbyholes" for his memories.

Then, in the early going, whenever someone gave Foer a phone number, he would install it in one of his custom built memory palaces. After he'd mastered the storing of phone numbers, he moved on to shopping lists, and then to license plates. Foer makes no bones about how demanding all of this practicing was, especially in the early going.

It sucked up a lot of his spare time, and almost all of his surplus mental energy. Foer would often ask himself whether his mind was truly up to the task, and there were many points along the journey where he admits he was nearly ready to throw in the towel. But then he would think about something Buzan had told him in the early going.

"Deliberate practice must be really hard." With that advice in mind, Foer stuck with it. And after a few months, it got easier.

Having a Great Memory Pays Dividends

The principles of the memory palace technique are quite simple, but as we've seen, putting those principles into practice takes a lot of work. Is it really worth it?

Most of us would agree that it's little more than a neat parlor trick to be able to memorize long strings of numbers, or decks of cards backwards and forwards.

None of that is terribly useful. But what if you used the same memory techniques

to hold onto important facts, such as bits of information that are relevant to your work? That's where all the hard work starts to pay off, because having a stellar memory can actually lead to more onthejob creativity and innovation.

"In our gross misunderstanding of the function of memory, we thought that memory was operated primarily by rote," explained Buzan to Foer. "In other words, you rammed it in until your head was stuffed with facts. What was not realized is that memory is primarily an imaginative process."

What this means is that memory and creativity are actually two sides of the same coin. Indeed, the art and science of "memory" is about developing the capacity to quickly create images that link disparate ideas, whereas "creativity" is the ability to form connections between disparate images and to forge something entirely new. And so it follows that if the essence of creativity is linking disparate facts and ideas, then the more facility you have making associations and the more facts and ideas you have at your mental disposal the better you'll be at coming up with new ideas.

Foer acknowledges that the notion that memory and creativity are two sides of the same coin may seem counterintuitive to some. At first glance, remembering and creativity seem like very different processes. But the idea that they are actually one and the same is actually quite old, and was once even taken for granted. In fact,

the Latin root invention is the basis of two words in our modern English vocabulary: inventory and invention. Invention is largely a product of inventorying.

That memory is primarily an imaginative process and this means that the memory and creativity are actually two sides of the same coin.

Indeed, the art and science of "memory" is about developing the capacity to quickly create images that link disparate ideas, whereas "creativity" is the ability to form connections between disparate images and to forge something entirely new.[93]

[93] In Moonwalking with Einstein,The art and science of remembering everything by Foer Joshua

Conclusion.

For better or for worse, most of us have gotten pretty good at outsourcing our memories. For example, if you're like most working people, when you wake up, the first thing you do is check your day planner, which remembers your schedule so that you don't have to. Then, when you climb into your car to head to a business meeting across town, you enter your destination into a GPS device, whose spatial memory supplants your own.

You have folders on your computer that store digital photographs to hold onto the important life images you want to remember. You have books on your shelf to store knowledge. And of course, thanks to companies like Google you can access so much of humankind's collective memory easily online.

"These and other technologies of storing information outside our minds have helped make our modern world possible," writes Joshua Foer."

"But along the way, they've also changed how we think and how we use our brains."[94]

[94] ibid

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“I think that any time you look at the fact that boycotts have historically led to change, whatever temporary inconvenience there may be, it in the long run leads toward, in my opinion, a better change for everybody.”

Rev. Al Sharpton

DESTRUCTIVE MANNERISMS

When we talk about mannerisms in public speaking we generally mean any kind of body language or movement that distracts from the speaker's message. Most people have one or more mannerisms when they speak. These often become more noticeable when you are nervous. Here are some examples:

a) Putting your hands in your pockets

b) Touching your hair

c) Pushing up your sleeves

d) Touching a watch or piece of jewellery

e) Rocking back and forth

The fastest way to find out what your mannerisms are is to record yourself and watch the video. Friends, colleagues and coaches may also be able to tell you if you have any mannerisms and if they find them distracting or not.

How can you stop using an unwanted mannerism?

a. **Be aware**

The first step in fixing any problem is acknowledging that you have one. Be conscious of it all the time when you are speaking even if it's not a presentation. It will become easier with time to remember to think about this. Whenever you find yourself doing it, consciously remind yourself to stop.

Continue filming yourself, whenever possible, to see if you improve. This will also serve as a constant reminder that you are working on eliminating this mannerism.

b. **Focus only on the mannerism**

If you are trying to improve too many speaking skills at once, you may not have much success. Eliminating distracting mannerisms is difficult. If you are thinking about too many other things when you are speaking, it will take you even longer to get rid of it.

Try to set a aside a fixed period of time (e.g. 6 weeks or 5 presentations) to work on eliminating the mannerism. Afterwards, you can focus on another speaking skill, while continuing to be aware of the mannerism. After focusing on the mannerism for a long amount of time, you will form a habit of thinking about it.

c. **Ask for help**

You don't need to do this alone. Enlist the help of friends, family, colleagues and especially coaches to remind you if they see the mannerism.

You can also incentivize yourself to eliminate the mannerism. Just like a child who uses bad language has to put money in a 'swear jar', you can pay a fine when you or someone else catches you using the mannerism. Then when you have managed to eliminate the mannerism, you can use the money to treat yourself to a nice reward![95]

Mannerisms are the nervous expressions a speaker might not be aware of such as putting their hands in their pockets, nodding their head excessively, or using filler words like um and ah too often. Put verbs in to action when speaking to an audience by physically acting them out with the hands, face or entire body.

Public speaking mannerisms are described as habitual gestures, a particular manner of talking, or an idiosyncrasy. It may be a conductor way of the idea that others would assume bizarrely.
In public talking, there are ways mannerisms are of situation. The first is gestures that come to be mannerisms and the second is the specific way of talking, mode of conduct, or manner of conception. The first is continually horrific.

Gestures, when you're on a podium in front of a target audience, make you return alive. The larger the target market, the greater alive your appearance. They can emphasize what you are saying. They also can describe what you say.

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https://presentinginenglish.com/2015/06/17 /do-you-have-any-of-these-distracting-mannerisms/

In public speaking, there are two ways mannerisms are of concern. The first is gestures that become mannerisms and the second is the particular way of speaking, mode of behavior or way of thought.

1) The first is always bad.
2) The second may or may not be bad.
3) Public Speaking Mannerisms: When Gestures Go Awry
4) Gestures are icing on the cake of public speaking.
5) Gestures when your on a podium in front of an audience make you come alive. The larger the audience, the more alive you look. They can emphasize what you say. They can also describe what you say.
6) What happens when the gestures go awry.
7) When a gesture becomes the exact same repeated motion it becomes a mannerism. Public speaking mannerisms are very annoying for an audience.

An example is the Bill Clinton Pushing the thumb tack into the TelePrompter. According to the blogosphere, this resulted from a compromise to get him to stop pointing at the audience. So now he locks his pointer finger under his thumb.

Occasionally seeing others emulating this, they have no idea it is not a good thing.

It is annoying to the audience. It serves no useful purpose. Perhaps most of all, it means your out of control. If you give into mannerisms, it can often be from nervousness.

But I Can Not Do Two Things At Once

You may have read studies that say it is impossible to do more than one thing at the same time. Our brains process and preform only one thing at a time. You may feel you cannot do two things at the same time.

Her is the problem with this thinking. Piano players do three things at once. If you count their facial expressions and body mannerism they actually do five things at once. Left and right hand playing keys, foot pumping away and the face and body doing their things.

So if you want to think you cannot do two things then there is no need to read any further.

The key here is not letting the body do something out of nervousness. The goal is to keep the body in control.

Stop the Public Speaking Mannerisms

Many times we are not aware of our mannerisms. If this is the case, have someone in the audience watch you. Better yet, have someone video tape you and watch yourself.

If your hand, face and body gestures are not emphatic or descriptive, if they are repetitive of the same motion, then they are mannerisms.

Only be becoming aware of them can you eliminate them. Once aware, then you have to want to. Or, you can take your chances on having your own trademark, like pushing tacks into the TelePrompter.

Mannerisms of Body and Voice looks at the public speaking mannerisms that go beyond gestures. These too can be annoying to an audience.

Why Mannerism Is Important?

What occurs whilst the gestures go awry?

When a gesture turns into the precise equal repeated movement it turns into a mannerism. Public speaking mannerisms are very annoying for a target audience. An example is Bill Clinton Pushing the thumbtack into the TelePrompTer. According to the blogosphere, this resulted from a compromise to get him to prevent pointing at the target market. So now he locks his pointer finger beneath his thumb. Occasionally seeing others emulating this, they have no concept it is not an amazing element. It is traumatic to the target audience. It serves no beneficial cause. Perhaps a maximum of all, it method you're out of manipulating. If you provide into mannerisms, it is able to regularly be from anxiety.
You may also have study studies that say it's far impossible to do a couple of things on

equal time. Our brains technique and carry out best one aspect at a time. You may experience you can't do two matters on the identical time.
She is the problem with this thinking. Piano players do three matters straight away. If you are counted their facial expressions and frame mannerism they, in reality, do five matters at once. Left and proper hand playing keys, foot pumping away, and the face and frame doing their matters.
So if you want to suppose you cannot do things then there's no need to read any similarly. The key here is not letting the body do something out of anxiousness. The goal is to hold the frame on top of things.

Stop the Public Speaking Mannerisms

Many instances we aren't aware of our mannerisms. If this is the case, have someone within the target market watch you. Better yet, have someone videotape you and watch yourself. If your hand, face, and frame gestures aren't emphatic or descriptive, if they're repetitive of the equal motion, then they're mannerisms. Only by turning into aware of them can you put off them. Once aware, then you have to need to. Or, you can take your possibilities of having your own trademark, like pushing tacks into the Teleprompter.

ANNOYING SPEECH MANAERISIM

Every speaker of a language has their own individual manner of speaking, and this extends beyond pronunciation to include word choice and syntax. Some features of an individual's speech habits may be considered annoying to one's interlocutors or audience, thus coming under the compass of what are called mannerisms. Of course, what one person regards as an annoying mannerism in another's speech may be highly subjective and therefore not shared by all interlocutors or hearers. The frequency with which a mannerism tends to occur obviously has an impact on its assessment as annoying. In fact, any feature of speech that is highly repetitious is in itself liable to be perceived as a mannerism and evaluated accordingly as an annoying habit.

An example of the latter is the constant introduction at the beginning of practically every other utterance of the word *look*, which has the force of peremptoriness and condescension toward one's interlocutor. This annoying habit can be heard with unfailing regularity in the responses of the npr commentator Cokie Roberts on Monday broadcasts of the program "Morning Edition." The fact that what follows this interjection is a string of commonplaces being paraded as insights does nothing to allay its noisome effect.

Here are the top 10 public speaking habits presenters should avoid at all costs, along with their potential consequences and remedies:

1. Not tailoring your message to your audience. As Benjamin Disraeli once said, "Talk to a man about himself and he will listen for hours." On the other hand, if you don't talk to your audience about themselves, they most likely won't listen, Price says. "Speakers frequently fall into the bad habit of giving generic offtheshelf presentations that are not tailored to address the needs of this particular audience. Listeners know when the speaker has not done their homework, and their response ranges from disappointment and frustration to anger and disengaging."

To avoid this, ask yourself: "Who is my audience? What are their burning issues? How does my message help them? How much do they know about my topic? What will I ask them to do in response to my message? "All the best practices in public speaking depend upon this first tenet: Know Your Audience."

2. Eye dart. From beginners to veterans, the majority of speakers fail to maintain meaningful, sustained eye contact with their listeners. "Unconsciously, their eyes scurry from person to person, darting around the room, without ever pausing to actually see the recipients of their message," Price says. "A lack of eye contact implies a list of offenses: insincerity, disinterest, detachment, insecurity, shiftiness, and even arrogance."

To visually connect, maintain eye contact for at least two to three seconds per person, or long enough to complete a full phrase or sentence. Effective eye communication is the most important nonverbal skill in a speaker's toolbox.

3. Distracting mannerisms. There are at least 20 common tics to tackle, including: clenching or wringing your hands, pacing back and forth, keeping your hands in pockets,

jingling change or keys, twisting your ring, gripping the lectern, licking your lips, adjusting your hair or clothing, fidgeting with a pen, bobbing your head, placing your arms behind your back, and touching your face. "One or more of these habits can distract the audience from your message and jeopardize your credibility," Price explains.

As a remedy, record yourself speaking and watch the playback. "Practice often to increase your comfort level and reduce anxiety. Take a public speaking class or enlist the help of a local coach to eliminate distracting mannerisms and habituate purposeful movement."

4. Not rehearsing. Most proficient presenters prepare. "That is, they know the topic, organize their content, design a slide deck, and study their notes," she says. However, according to a recent survey Price conducted, less than 2% of over 5,000 business presenters in Fortune 100 companies actually conduct a dress rehearsal and practice their presentation aloud. This bad habit results in the audience seeing and hearing the unrefined runthrough, versus the finessed final performance. "

To optimize their perception of you and get the outcome you want, perform the entire presentation aloud at least once, and the opening and closing at least three times," she suggests.

5. Low energy. "As the Guinness World Record holder for the most performances in the same Broadway show, George Lee Andrews is famous for playing the role of Monsieur André in The Phantom of the Opera," Price says. "Surely, he must have felt tired during at least one or two of his 9,382 performances, but he didn't show it considering his contract was renewed 45 times over 23 years." Enthusiasm, defined as eager enjoyment and active interest, is an audience's most desired trait in a presenter. Conversely, a boring delivery — evidenced by a low monotone voice, dull facial expressions, and overall lethargy — is their most disliked trait.

"To avoid losing your audience in a New York minute, crank up the energy level. Speak expressively, smile sincerely, move naturally, and enjoy the moment."

6. Data dumping. "It's understandable. After all, our credibility is on the line when we stand up and speak out," Price says. "So, to be safe, we focus almost entirely on what Aristotle called *Logos*, which includes the leftbrain functions of logic, language, analysis, reasoning, critical thinking, and numbers."

When we rely too heavily on this type of content, we end up talking too long, reading too many overcrowded illegible slides, and turning our backs on the most important element of all: the audience. "Ditch the habit of data dumping," she suggests. "It loses the audience and undermines your innate ability to inspire, connect, and persuade."

7. Not inspiring. Even more vital to persuasion than *Logos*, says Aristotle, is *Pathos*, which includes the rightbrain activities of emotions, images, stories, examples, empathy, humor, imagination, color, sounds, touch, and rapport, Price says. "Tomes of studies show human beings typically make decisions based on emotions first (Pathos); *then*, we look for the facts and figures to justify it (Logos). Audience members do the same. With your words, actions, and visuals, seek first to inspire an emotion in them (joy, surprise, hope, excitement, love, empathy, vulnerability, sadness, fear, envy, guilt). Then, deliver the analysis to justify the emotion."

An engaging, memorable, and persuasive presentation is balanced with both information and inspiration. "It speaks to the head *and* the heart, leveraging both facts *and* feelings," she says.

8. Lack of pauses. Many speakers have the bad habit of rushing through their content. Like a runaway train, they speed down the track out of control unable to stop and turn at critical junctures. The causes are often anxiety, adrenalin, or time constraints, Price says. "Regardless of the reason, the three times you definitely want to pause include: before and after you say something very important which you want your audience to remember; before and after you transition from one key talking point to the next; and between your opening, main body and closing."

When you consciously use silence as a rhetorical device, you'll come across as more selfconfident, your message will be more impactful, and your audience will remember more of what you say.

9. Not crafting a powerful opening. "According to Plato, 'The beginning is the most important part of the work.' Yet, it's a common bad habit for speakers to waste those precious opening seconds rambling pointlessly, telling a joke, reading an agenda, apologizing needlessly, all of which fail to grab the audience's attention and motivate them to listen," she says. You, your message, and your audience deserve much more.

So, open with a bang. Invest the thought, time and effort to craft and memorize "the most important part of the work." For example, tell an engaging relevant story; state a startling statistic; or ask a thoughtprovoking question.

10. Ending with Q&A. There's a good chance you've heard a speaker end an otherwise effective presentation with an abrupt, 'That's it. Any questions?' "For the audience, it's like a firework with a wet fuse, otherwise known as a 'dud,'" Price says. "Your grand finale is your last chance to reinforce your key points, ensure the memorability of your message, and motivate the audience to action. Avoid the bad habit of closing on Q&A, which risks ending your presentation on a nonclimatic downintheweeds topic."

It's fine to invite the audience's comments and questions; however, be sure to end strong. "Craft an effective threepart closing where you deliver a strong summary; present a calltoaction; and conclude with a powerful closing statement. Develop the habit of saying *last* what you want your audience to remember *most*," she concludes.

Ethics and Ethos of Public speaking

Why is Ethics Important in Public Speaking?

The concept of free speech is guaranteed to all Americans under the First Amendment of the Constitution. This means everyone in the country has a right to voice their opinion and speak their mind. However, that freedom doesn't mean all speech is ethical. What is ethical speech, and why is ethics important in public speaking?

Ethics is a branch of philosophy that deals with morals and focuses on types of behavior. Morals essentially dictate right from wrong, but the concepts of right and wrong are not black and white. Therefore, ethics becomes a set of unwritten rules that attempts to define how people should conduct themselves within society. There are various debates that seek to determine ethical action. When it comes to language and ethics in public speaking, that same sentiment holds true. For example, everyone may have a right to voice their thoughts, but there is a difference between being allowed to say whatever one feels and hate speech. Free speech also allows a person to spread lies or misinformation, but those behaviors aren't ethical as they can cause harm to others. Two great examples of this type of unethical speech can be found in the history books with Adolf Hitler and the Ku Klux Klan.

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While words cannot physically harm a person, things like hate speech, lies, misinformation, and projected anger can cause severe emotional damage. Words can also cause various forms of lasting consequences within society. From accusations about a person's character to denouncing a group of people, the consequences can be deadly when it comes to unethical public speaking. Therefore, it's important to consider ways to use language ethically in presentations or when speaking to large groups. A great starting point is considering Aristotle's contributions to public speaking.

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“Ambition is the desire to go forward and improve one's condition. It is a burning flame that lights up the life of the individual and makes him see himself in another state. To be ambitious is to be great in mind and soul. To want that which is worth while and strive for it. To go on without looking back, reaching to that which gives satisfaction.”

Marcus Garvey

The Art of Oratory in Jurisprudence

The Five Principles of Public Speaking

Aristotle was a philosopher in ancient Greece who believed there were various aspects of ethical speaking. Stemming from the work of Socrates and Plato, Aristotle didn't have such a mistrust of dialogue and rhetoric. He felt it was a positive and necessary means of keeping a free state. He thought of it more as a creative process than a tool for persuasion. Aristotle understood the importance of ethical dialogue, especially when it came to teaching and government. He decided on the importance of how a person collects information and proposed three types of knowledge:

- Techne: the knowledge that is acquired through a person's experiences; somewhat unreliable as the experiences are subjective
- Episteme: universal knowledge that is acquired from education and exploration; commons truths throughout the world
- Intermediate knowledge: intuitive knowledge that sits in between one's personal experiences and the experiences of the collective (critical thought)

After the ancient Greeks made headway in the realm of rhetoric, the Romans took over, adding to what the philosophers of antiquity had anchored into the subject. In the 1st century AD, Quintilian created the five canons of rhetoric:

i) Invention: compiling and creating the content of the speech

ii) Disposition: arranging and organizing the content in an effective and logical order

iii) Style: the wording (diction and syntax) of the presentation

iv) Memorization: having a deep knowledge of the presentation and its content to show expertise and authority

v) Delivery: the way in which the content is presented

Today, these two facets of ethical public speaking are integral to the process. First, gather knowledge, and then, prepare that knowledge. From here, the following five principles of

ethical speaking are the final pathway toward an ethical public speech in the modern world:

1. Trustworthiness: a speaker must be seen or believed to be trustworthy in order for ethical speaking to take place

2. Integrity in the subject matter: the contents of a speech must be true and backed by various facts and evidence

3. Respect for others: a person's speech must also avoid personal attacks and rhetoric, such as hate speech, defamation, and bias/stereotypes

4. Dignity in conduct: the speaker's tone, body language, and behaviors should reflect the integrity of the speech itself and be conveyed in a meaningful and helpful way

5. Truthfulness in the message: overall, the most important aspect of ethical public speaking is the speaker's message, insofar as it's true and researched

Ethical Obligations of Public Speakers

When understanding the aspects of creating an ethical public speech, it's also important to understand the ethical obligations of public speakers. An ethical public speaker should follow the rules and guidelines listed below.

Content

1. All information used in the speech should be researched and verified to ensure the content is factually accurate and uptodate
2. Avoid plagiarism at all costs; always use newly sourced information, paraphrase, and use quotations when citing someone else's work
3. When using someone else's work or sources, ensure they are cited correctly to avoid plagiarism and give credit to the original thinker/writer/researcher

Presentation

a. Avoid biases and stereotypes

b. Believe in your own claims

c. Show respect for the audience

d. Be prepared

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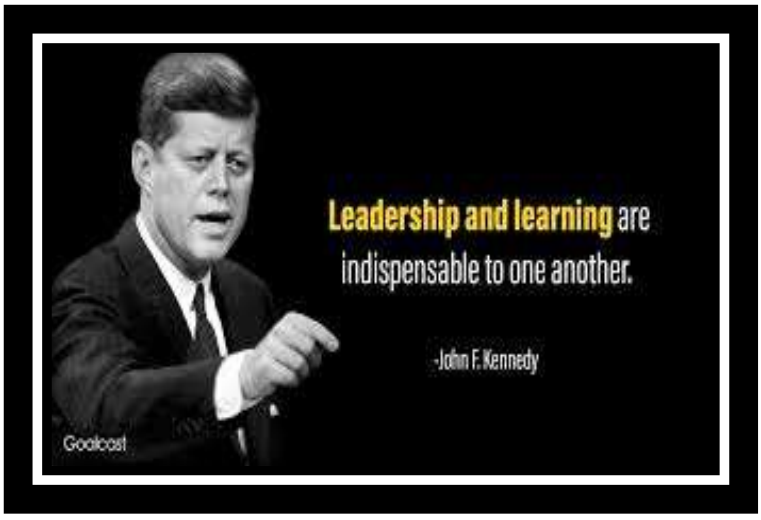
"Every accomplishment starts with the decision to try." "as we express our gratitude, we must never forget that the highest form of appreciation is not to utter words, but to live by them." "those who dare to fail miserably can achieve greatly." "the ignorance of one voter in a democracy impairs the security of all.

J.F Kennedy



The Art of Oratory in Jurisprudence

Why is it important to be an ethical speaker?

When public speaking, it is important to ensure the rules of ethics are followed because misinformation, lies, and manipulations can deeply impact society. Lies can undermine the truth, causing issues of mistrust, and hateful words or thoughts can lead to violence and civil unrest.

How can you be a more ethical speaker?

Being an ethical speaker is easy when you follow the five principles: trustworthiness, integrity, respect for others, dignity in conduct, and truthfulness in the message. It's also important to ensure you cite sources if you take information from a website, book, film, or any other form of media.

What are the characteristics of an ethical speaker?

The characteristics of an ethical speaker are creating a sense of trust with the audience by acting and speaking with integrity. Ethical speakers also respect others by removing bias and prejudice from speeches and ensure all information in a speech is true and cited. The ethical speaker believes in the words they are saying and the message they are sending.

Why does it matter if a speaker or writer commits plagiarism? Why and how do we judge a speaker as ethical? Why, for example, do we value originality and correct citation of sources in public life as well as the academic world, especially in the United States? These are not new questions, and some of the answers lie in ageold philosophies of communication.

Legal Origins of Ethics in Public Speaking

The First Amendment to the Constitution is one of the most cherished and debated in the Bill of Rights. “Congress shall make no law abridging freedom of speech . . . or of the press” has been discussed in many contexts for over two hundred and thirty years. Thomas Emerson (1970), a Constitutional scholar and Yale Law Professor, asserted that freedom

of expression is more than just a right. It is a necessity for having the kind of society we want as Americans. Although we think of "freedom of the press" today as referring to mass media and journalism, "press" here refers to publishing of books, magazines, or pamphlets by anyone.

One of the bases of the First Amendment is an essay written by John Milton in the 1600s, *Aereopagitica.* This essay on freedom of speech is where the phrases "free marketplace of ideas" and "truth will arise from debate of all ideas" originated. Milton lived in a time when the King of England or Parliament could "censor" published material or speakers, either by keeping it from being published and distributed (later called "prior restraint"), by destroying the publications afterward, or by punishing the producers of the content, sometimes harshly.

In the twentieth century, "freedom of speech" has been generalized into a freedom of expression. This was especially true in the important Supreme Court cases on the First Amendment in the 1950s through 1970s. According to Emerson (1970), such expression is important to our development as human beings individually and in a democracy. Thanks to these historical precedents, we can express ourselves freely in our communities and classrooms, keeping in mind ethical responsibilities to present serious, honest, factual, and wellsupported speeches as a matter of respect to your listeners. Additionally, although the First Amendment to the Constitution is usually interpreted by the Supreme Court and lower courts to mean almost no restrictions on freedom of expression, there are a few instances in which the government is held to have a "compelling interest" in controlling, stopping, or preventing certain types of free expression.

One of these instances has to do with threats on the life of the President of the United States, although threats of physical harm against anyone might also result in penalties. Another instance of restrictions on freedom of expression is in those cases where the speaker has the opportunity and means and likelihood of inciting an audience to violence (this is the old "yelling 'fire' in a crowded theatre" example). The government has also allowed local governments to have reasonable requirements to avoid mobs or public danger or to uphold community standards, such as permits for parades or limiting how many people can meet in a certain size of building. "Reasonable" is sometimes a matter of debate, as the extensive history of Supreme Court cases on the First Amendment shows.

Another type of restriction on freedom of speech is **defamatory speech**, which is defined in the United States as:

a false statement of fact that damages a person's character, fame or reputation. It must be a false statement of fact; statements of opinion, however insulting they may be, cannot be defamation under U.S. law. Under U.S. defamation law, there are different standards for public officials [and public figures] and private individuals. (U.S. Department of State, 2013)

Defamatory Speech

a false statement of fact that damages a person's character, fame, or reputation

With the Internet and social media, these issues become more complicated, of course. In the past someone could express himself or herself only in limited ways: standing on a street corner, attending a public meeting, putting the words on paper and distributing them, or maybe getting on radio or television (if allowed or if wealthy). Today, almost anyone with a laptop, a webcam, an ISP, and technical knowhow can be as powerful in getting a message to the masses as someone owning a newspaper one hundred years ago. While most people use technology and the Internet for fun, profit, or selfexpression, some use it for hurt—bullying, defamation, even spreading terrorism. The judicial system is trying to keep up with the challenges that the digital age brings to protecting free expression while sheltering us from the negative consequences of some forms of free expression.

Cultural and Religious Origins of Ethics in Communication

It is hard to separate life aspects such as legal, cultural, religious, and social. Many Americans would say they hold to the Golden Rule: "Do unto others as you would have them do to you." The Golden Rule is seen as a positive expression of fairness, equity, and trust. Even if there is no legal ruling hanging over us, we expect honest communication and return it. The Golden Rule is related to and a step beyond the "Law of Reciprocity" that determines so much of our social interaction. We also value straightforwardness; respect for the individual's freedom of choice; getting access to full information; consistency between action and words; taking responsibility for one's own mistakes (sometimes necessitating an apology and accepting consequences); and protection of

privacy. We fear public humiliation and do not want to violate community norms. We also usually view ourselves as honest and ethical people.

Most religions teach the value of truthfulness and that lying intentionally is wrong. The Books of Proverbs, the Ten Commandments, the Mosaic Law, and Jesus Christ's teaching all point to the immorality of lying and the destruction lying brings personally and communally. Quranic teaching condemns lying, and Buddhism teaches that followers should not deliberately lie. Individuals internalize the norms of their cultures and religions and makes them work for him or her. Sometimes we try to find justification for times when we are untruthful, such as to smooth over relationships and say things that serve as "social lubrication" (Floyd, 2017). Upbringing and family teachings, religious values, experiences, peers, and just plain old "gut reaction" as well as understanding of the First Amendment contribute to our ethical behavior

Philosophers and Communication Ethics

Philosophers throughout history have also written on the subject of communication and public speaking ethics. In fact, one of the first philosophers, Plato, objected to the way rhetoric was practiced in his day, because "it made the worse case appear the better." In other words, the professional public speakers, who could be hired to defend someone in court or the assembly, knew and used techniques that could deceive audiences and turn them from truth. Aristotle responded to this concern from his teacher Plato in his work, *Rhetoric*. Later, Quintilian, a Roman teacher of rhetoric, wrote that rhetoric was "the good man speaking well," meaning the speaker must meet the Roman Republic's definition of a virtuous man.

In more modern times, English philosophers John Stuart Mill (18061873) and Jeremy Bentham (17481832) introduced utilitarianism, which presents the ethic of "The greatest good for the greatest number;" that is, whatever benefits the most people is right. A related philosophy, pragmatism, was first discussed by Charles Sanders Pierce (18391914). Pragmatists judge actions by their practical consequences. Some ethicists would differ with the pragmatic position, claiming it supports an "ends justify the means" philosophy. When we say "the ends justify the means," we are saying that a generally unethical action (intentional misstatement of truth, withholding information, or taking any someone's freedom of choice) is ethical as long as something good comes from it. Many scholars of ethical communication would disagree with the "ends justify the means" philosophy.

The philosopher Immanuel Kant (17241804) proposed what was been called the Categorical Imperative: "Act only according to that maxim by which you can at the same time will that it would become a universal law." To paraphrase, any behavior we engage in should be what we think everyone else on the planet should do ethically. In the twentieth century, JeanPaul Sartre and others called "existentialists" emphasized that the ability and necessity to freely choose our actions is what makes us human, but we are accountable for all our choices. Jurgen Habermas, a more recent scholar, emphasizes the "equal opportunity for participation" of the communication partners (Johannessen, Valde, & Whedbe, 2008).

This very brief overview of ethics in general and in communication specifically is designed to let you know that the best minds have grappled with what is right and wrong when it comes to expression. But what is the practical application? We believe it is adherence to the factual truth and respect for your audience: in this case, your classmates, peers, and your instructor. An individual might be guided by the Categorical Imperative approach, the pragmatic philosophy, the JudeoChristian view of "thou shalt not lie" and "speaking the truth in love" (Ephesians 4:15), the Golden Rule, freedom with accountability, or some other view. However, respect for your audience means that you will do your best to present factual, welldocumented information designed to improve their lives and help them make informed, intelligent decisions with it.

In addition to respect for the humanity, intelligence, and dignity of your audience, you should be conscious of two other aspects related to ethics of communication: credibility and plagiarism.

Credibility and Ethics

When Aristotle used the term *ethos* in the 5th century B.C.E. to describe one of the means of persuasion, he defined it as the "wisdom, sagacity, and character of the rhetor" (see Chapter 13 for more coverage of *ethos* and Aristotle's other artistic proofs). Modern scholars of communication and persuasion speak more about "credibility" as an attitude the audience has toward the speaker, based on both reality and perception, rather than an innate trait of the speaker. Audience members trust the speaker to varying degrees, based on the evidence and knowledge they have about the speaker and how that lines up with certain factors: Similarity: does the speaker have experiences, values, and beliefs in

common with the audience? Can the audience relate to the speaker because of these commonalities?

Character: does the speaker, in word and action, in the speech and in everyday life, show honesty and integrity?

Competence: does the speaker show that he/she has expertise and sound knowledge about the topic, especially through firsthand experience? And does the speaker show competence in his/her ability to communicate that expertise?

Good will: does the audience perceive the speaker to have ethical intentions toward the audience?

In addition to these key areas will be the audience's perceptions, or even gut feelings, about more intangible characteristics of the speaker, such as appearance, friendliness, sense of humor, likability, appearance, poise, and communication ability. Many of these traits are conveyed through nonverbal aspects, such as facial expression, eye contact, good posture, and appropriate gestures Understandably, the same speaker will have a different level of credibility with different audiences. For example, in regard to presidential campaigns, it is interesting to listen to how different people respond to and "trust" different candidates. Donald Trump entered the presidential race as a Republican nominee and quickly became a frontrunner in many of the early polls and primaries, eventually winning the Electoral College votes, to the surprise of many. Those who voted for him often stated that they value his candor and willingness to say what he thinks because they perceive that as honest and different from other politicians. Others think he makes unwise and thoughtless statements, and they see that as a lack of competence and demeanor to be the national leader. Donald Trump is the same person, but different audiences respond to his behavior and statements in divergent ways.

The point is that character and competence are both valued by those who trust and those who distrust President Trump and the audience's perceptions contribute to his credibility (or lack of it). However, these groups express their values in different ways. When trying to develop your own credibility as a speaker with an audience, you have to keep in mind all four of the factors listed above. To portray oneself as "similar" to the audience but to do so deceptively will not contribute to credibility in the long run. To only pretend to have good will and want the best for the audience will also have a

shortterm effect. And to intentionally misrepresent your background, such as experience and credentials, is clearly unethical.

Not only does a speaker's level of credibility change or vary from audience to audience, it is also likely to change even during the presentation. These changes in credibility have been labeled as **initial, derived,** and **terminal credibility**.

Initial credibility is, as you would imagine, the speaker's credibility at the beginning of or even before the speech. There are a number of factors that would contribute to the initial credibility, even such matters as the "recommendation" of the person who introduces the speaker to the audience. Any knowledge the audience has of the speaker prior to the speech adds to the initial credibility. The initial credibility is important, of course, because it will influence the receptivity of the audience or how well they will listen and be open to the speaker's ideas. Initial credibility can be influenced also by the perception that the speaker is not well dressed, prepared, or confident at the very beginning. Initial credibility is why how you walk to the lectern and give your introduction matter.

Initial Credibility

A speaker's credibility at the beginning of or even before the speech

Derived credibility is how the audience members judge the speaker's credibility and trustworthiness throughout the process of the speech, which also can range from point to point in the speech. Perhaps you have seen those videos on a news program that show a political speaker on one pane of the video and a graph of the audience's response in real time to the speaker's message, usually noted as "approval rating" as the politician speaks. This could be based on the perception of the speaker's presentation style (delivery), language, specific opinions or viewpoints on subjects, openmindedness, honesty, and other factors. The point of the derived credibility is that credibility is an active concept that is always changing.

“

“Society in which all persons live together in harmony and with equal opportunities. It is an ideal which i hope to live for and to achieve. But if needs be, it is an ideal for which i am prepared to die.”

Nelson Mandella

Derived Credibility

a speaker's credibility and trustworthiness (as judged by the audience members) throughout the process of the speech, which also can range from point to point in the speech

Finally, **terminal credibility** is, as you would think, credibility at the end of the speech. The obvious importance of terminal credibility is that it would factor into the audience's final decision about what to do with the information, arguments, or appeals of the speaker in other words, his or her persuasiveness. It would also determine whether the audience would listen to the speaker again in the future. The terminal credibility can be seen as a result of the initial and derived credibility.

Terminal Credibility

A speaker's credibility at the end of the speech

Terminal credibility may end up being lower than the initial credibility, but the goal of any speaker should be to have higher terminal credibility. From an ethics standpoint, of course, credibility should not be enhanced by being untruthful with an audience, by misrepresenting one's viewpoint to please an audience, or by "pandering" to an audience (flattering them). One of the primary attributes of credibility at any stage should be transparency and honesty with the audience.

In conclusion, speaker credibility does not exist alone. It is supported by a number of factors, including Aristotle's other two traditional forms of persuasion, *logos* (logic, evidence, good reasoning, lack of fallacious arguments) and *pathos* (personal and emotional appeals).

“

“We, the people, recognize that we have responsibilities as well as rights; that our destinies are bound together; that a freedom which only asks what's in it for me, a freedom without a commitment to others, a freedom without love or charity or duty or patriotism, is unworthy of our founding ideals, and those who died in their defense.”

Barack Obama

THE BODY, THE BRAIN, THE VOICE

Have you ever had the experience of hearing your own voice on a recording and being shocked at the sound? Whether you like the sound of your recorded voice or not, there is a reason it sounds foreign. You aren't really hearing what your voice sounds like while you are producing that sound at all.

The first thing to understand is that we hear the sound of the voice in two different ways. One as we make the sound and it passes through the vocal tract and exits. This sound often vibrates through bone as well as tissue making it sound lower in pitch than it really is.

The second is when the sound bounces off of our eardrum. This is how other people hear us as well with some variation in individual hearing abilities and tendencies. Importantly, these sounds are not entirely in sync so why don't we hear two sound waves (or an echo effect) when we speak and sing? It all comes down to that amazing brain of ours. It syncs the two sounds into one sound. A construct of our brain's making for our comfort.

In actuality, the brain is the most important component of the vocal instrument. It is both your strongest ally in voiceuse and your nemesis.

Let's start with the ways in which your brain might interfere with your vocal production. In a previous post: Friday Focus: The Vocal Tract we learned that at best voice production is the fourth or fifth important function of the vocal cords. Importantly, the top three are all survival functions.

The brain takes our survival functions pretty seriously and doesn't give us discrete control of those systems, with good reason. I, for one, would hate to get distracted and forget to keep my heart beating but I digress. These survival functions are handled within the brain stem and operate separately from what we would recognize as intellect or personality.

So when we start thinking about communication through the application of air thru our primary airway you better believe the brain is paying close attention to how we are trying to use important systems and resources. How it all comes together is a complicated dance of neurons, associations and how much active thinking is involved in the process of singing or speech. In many ways, our perception, thinking and general confusion about the map of the body can interfere here.

The way the brain becomes your strongest ally in voiceuse is implicit in its design. It likes to run the system (this body) as efficiently as possible. The way in which "you" as in your intellect and conscious self can help is by being a trustworthy participant. By assigning a value to alignment, efficient breathuse, and to avoiding and addressing constriction you set up an intention for your brain to align with. As you create clear intentions for your voiceuse, the brain establishes and solidifies pathways for those functions. The great thing is that you don't have to "know" how your brain works in order to have it work in your favor. You simply have to know what you want, set the intention and make sure the system (your body) is set up to for the best aligned, supported and unconstricted voiceuse.

In addition, there is a hierarchy of brain waveforms which can be pressed into the service of your best voiceuse but that is a topic for a different blog entry. Until then, how are you making sure you and your brain are allies in voiceuse? Something definitely worth thinking about.
Gina Razón is the principal voice specialist at GROW Voice LLC, a fullservice voice and speech studio in Boston's Back Bay. She has over 16 years of experience both as a teacher of voice and speech, and a voraciously curious voice user.[96] Gina has worked professionally as a classical singer for over a decade and more recently as a professional public speaker. For more information on the studio or to book Gina visit www.growvoice.com.

Speech, human communication through spoken language. Although many animals possess voices of various types and inflectional capabilities, humans have learned to modulate their voices by articulating the laryngeal tones into audible oral speech.

[96] https://www.growvoice.com/friday-focus-the-brain-and-the-voice/

Uncover the science behind the transformation of sounds into speech

Human speech is served by a bellowslike respiratory activator, which furnishes the driving energy in the form of an airstream; a phonating sound generator in the larynx (low in the throat) to transform the energy; a soundmolding resonator in the pharynx (higher in the throat), where the individual voice pattern is shaped; and a speechforming articulator in the oral cavity (mouth). Normally, but not necessarily, the four structures function in close coordination. Audible speech without any voice is possible during toneless whisper, and there can be phonation without oral articulation as in some aspects of yodeling that depend on pharyngeal and laryngeal changes. Silent articulation without breath and voice may be used for lipreading.

An early achievement in experimental phonetics at about the end of the 19th century was a description of the differences between quiet breathing and phonic (speaking) respiration. An individual typically breathes approximately 18 to 20 times per minute during rest and much more frequently during periods of strenuous effort. Quiet respiration at rest as well as deep respiration during physical exertion are characterized by symmetry and synchrony of inhalation (inspiration) and exhalation (expiration). Inspiration and expiration are equally long, equally deep, and transport the same amount of air during the same period of time, approximately half a litre (one pint) of air per breath at rest in most adults. Recordings (made with a device called a pneumograph) of respiratory movements during rest depict a curve in which peaks are followed by valleys in fairly regular alternation.

Phonic respiration is different; inhalation is much deeper than it is during rest and much more rapid. After one takes this deep breath (one or two litres of air), phonic exhalation proceeds slowly and fairly regularly for as long as the spoken utterance lasts. Trained speakers and singers are able to phonate on one breath for at least 30 seconds, often for as much as 45 seconds, and exceptionally up to one minute. The period during which one can hold a tone on one breath with moderate effort is called the maximum phonation time; this potential depends on such factors as body physiology, state of health, age, body size, physical training, and the competence of the laryngeal voice generator—that is, the ability of the glottis (the vocal cords and the opening between them) to convert the moving energy of the breath stream into audible sound. A marked reduction in phonation

time is characteristic of all the laryngeal diseases and disorders that weaken the precision of glottal closure, in which the cords (vocal folds) come close together, for phonation.

Ways to Use the Pitch and Tone of Your Voice When Presenting

If you are preparing for a presentation, you've most likely dedicated time to preparing your content, putting together the perfect outfit, and rehearsing. However, there is one aspect of your image you may have neglected: the effectiveness of your voice. The way you articulate can have a huge impact on the way others perceive you. If you want to speak clearly and express your emotions, then you need to learn to control your voice, change your tone, and use pitch variation for better stress and intonation. Here are a few tips for improving your speaking voice so you can nail your next presentation.

What is the difference between pitch and tone?

Pitch and tone are two different components of sound. Pitch refers to the degree of highness or lowness of your voice. While some people naturally have a higher or lower pitch, it can also change based on our emotions. For example, when someone is excited, they usually speak with a higher pitch. Tone refers to a vocal sound made when someone speaks and includes pitch, quality, and strength of the voice. Tone can also demonstrate emotions conveyed through the voice. When we are angry or annoyed, for example, we speak with a harsh tone.

How can tone and pitch be used in a presentation?

To Place Emphasis

During your presentation there will be times when you really want to emphasize a certain point. These important points need to be clarified so the audience understands that they are important. We can stress importance by changing the tone and inflection of our voice. Try putting emphasis on particular words to grab the audience's attention by raising your pitch and strengthening your tone.

To Convey Emotion

If you are passionate about something, you can show it through your voice. When you use inflection, you can convey a wide range of emotions such as sadness, anger, excitement, fear, or humor. The tone of your voice also can also convey different feelings to your listeners and this is a great way to captivate them and engage them in your message.

To Demonstrate Authority

If you attend a presentation and the speaker introduces themself loud and clear with a nice low tone, you are likely to assume that this person is confident and credible. Now, if that same person has a very high pitch and speaks softly, you are more likely to assume they are nervous or unsure about speaking. The tone and pitch of your voice can change the way others perceive you, so be sure and speak with the right tone to demonstrate that you are an authority on the topic and a credible speaker.

To Add Vocal Variety

We have all sat through a class or presentation at some point where the speaker had a monotone voice throughout the entire presentation. More than likely, this left you bored, uninterested, and on the verge of falling asleep. The most successful speakers are those who change the tone and pitch of their voice throughout their presentation. Vocal variety increases your charisma and makes you more interesting.

To Make it Conversational

When we are speaking in normal conversation, we are always adjusting our pitch and tone without even thinking about it. You want to do the same in a presentation so you don't sound stagnant. When you use inflection and vocal variety, your presentation feels more like a conversation between you and the audience.

Most people might understand that **Public Speaking** is talking on stage towards 100 or 1000 audiences. I, however, argue that it is formal, facetoface talking of a single person to a group of ones. Though, I will, in this blog, focus on presentation.

There are two main types of communication, which are:

Verbal Communication such as controlling **Tone of Voice**

and
Non Verbal Communication like **Body Language**

This blog includes tricks about above two communication ways and their implementation in real world scenarios.

TONE OF VOICE

Speakers, who can control their **tones of voice**, could manipulate listeners' feelings and emotion. Most human do not know what type of their voices is, its nature and how can it be exploit. It is a good opportunity to share my knowledge and you may adapt it, listen your own voice, and adapt it for the sake of better communication.

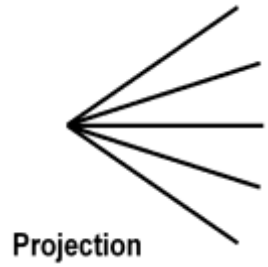
Tone of Voice composes of four parts.

A) PROJECTION

It is how the direction of the voice goes from the mouth when pronouncing. There are two main kinds. They are **Diffuse** and **Direct**. Naturally, most human use only one of these two when speaking (only **Diffuse** or only **Direct**)

1) DIFFUSE

The voice start spreading out in various direction after it goes from the mouth. The picture below demonstrates this.



Diffuse

It has easylistening sound. It can be used in all situation, including informative, persuasive and inspired.

HOW TO USE: While pronouncing, try making the voice out along with breath from your mouth

2) DIRECT

The voice goes directly to the audience like below.

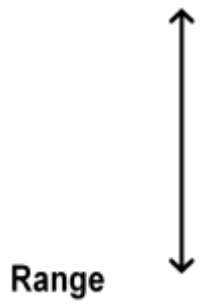
Direct

It has power to attract attention from audience. It is typically used to keep audience focus on the conversation, not being distracted.

HOW TO USE: While belting the voice out, try making the breath from your mouth out **as least as possible.**

B) RANGE

It is widely known and used when singing a song. The **Range** could be adopted to influence or deliver emotion towards audience.



The **Range** is categorized as three ranges.

1.) HEAD TONE

It expresses **extreme** emotions(happiest, angriest etc.).

If **Head Tone** is used correctly, you should feel vibration behind your head and its resonance also should occur around center between your eyebrows.

2) MOUTH TONE

It expresses **normal** or **indifferent** emotion.

If **Mouth Tone** is used correctly, you should feel vibration around your sinus and oral cavity.

3) CHEST TONE

It has bass and resonant sound. It expresses sad, discreet and romantic emotions.

If **Mouth Tone** is used correctly, the breath is used from the chest, you should feel that the tone should be resonating in your chest, and more power should empower the tone up.

3) PACE

It can be considered as **the speed** of speaking, or **pausing** between sentence.

4) INFLECTION

Generally, it is simply combination of **Projection**, **Range** and **Pace** in order to generate a collection of voices.

Inflection

Naturally, audiences lose focus within 5 minutes. Practically, the speaking obviously can not end by that. In other words, audiences tend to be sleepy after a few minutes. If the right tones of voice are adopt, the show will be interesting and draw attention from audiences. To demonstrate this, It is a graph which are not constant, always goes up and down throughout the speaking like picture below.

Each speaker has his or her own unique **tone of voice**.

But How I can find my own signature. The answer is that:

You need to experiment by yourself. You, for example, can try combining **a Little bit faster pace** with **Diffuse Projection**.

A great possibility of combination wait for you.

Nonetheless, I DO NOT suggest using **Head Tone** and **Direct Projection** at the same time, because it might shock some audiences.

BODY LANGUAGE

Apart form the verbal communication I described above, another component is non verbal one. It is **body language**. It does not only change how audiences view the speaker, but it also change our own perspective. Although some speakers may lack of confidence, they could use right **body language** to improve both confident and self esteem.

In this blog, I would like to these **body language** poses.

1) STAND POSE

I would recommend these 5 poses, If you do not have your own.

#1 STARTING POSE

Put your both hand at the waist level and put your fingers like the picture below. I find it is an easy pose to start and change to next poses.

#1

From **#1 Pose**, when you want to introduce new or next points, you can put one hand to the either left or right like below.


#2 To the Right


#3 To the Left

When finishing the sentence, you could turn back to **Pose #1**.

#4 & 5 CIRCLE WRIST

From **#1 Pose**, when you would like to speak about yourself or your experience, you can circle your wrist **towards yourself**.


#4 towards yourself

Alternatively, you can circle your wrist **out of yourself** (#5).

#5 out of yourself

EYE CONTACT

This is one type of communication. It helps audiences to keep focusing to the speaking.

Try to **keep eye contact** with **EVERY** audience if possible. As a result, Audiences see that the speaker pays attention to them, then these listeners feel that they are important.

Nevertheless, If you face **slept** audience, or those who do not make eye contact with you, Let them go, since this could affect the ongoing speaking. Instead, focus on only those who pay attention on you.

MICROPHONE POSE

The correct way is to hold a microphone with 45 degree angle like below.

Credit: doobyskaraoke.com/howtoholdthemic/

How to organize professional presentation

For a successful presentation, three steps are required. They are

Preparation, **Analysis** and **Presentation**.

1) PREPARATION

Preparation is indeed a key success in any **presentation**. Time should taken to plan and prepare as much as possible, so that the message, which is going to be delivered, is totally conveyed to audiences. The two most important things that should be prepared for presentation are **content** , its **structure** and **tools**.

2) PREPARE CONTENT

Let begin with **"context"** first

WHAT CONTEXT IS

Context means either words or sentences which help **clarifying** the meaning of the **message** that speaker want to deliver to audiences.

In any **public speaking**, **content** should always be within **context**.

For example,

Which fitness club should I apply?

Change to:

The fitness club, which I was a member of, has been closed. So, I would like to apply for a new one. I prefer the location near __. It is close to your home. Could you please suggest me?

Typically, speakers generally talk **"content"**, but no **"context"**. This is because those may understand that listeners have already known what they are going to speak.

Therefore,

This **"Context over Content"** Principle is simple to use and can be applied in every daily life.

How to make easy **"Context over Content"** structure

(a) **Tell the audience what are going to tell them**

Its purposes could possibly be telling the objective or problem of the content. The reason is that if the speaker instantly talks about content without **"Open"**, audiences **CAN NOT captivate** the key message of the content. This is because they do not have time to prepare their brains for that content.

(b) **then tell them** all about **"Content"** and its **"Details"**.

(c) **At the end, tell them what you have told them.**

So, this will help audience to easier decide what they have to next, after they have received **"Content"**. The speaker may either **conclude** the content, **suggest** what to do about it, or **ask** the audiences.

It is clear that **"Context over Content"** lead to audiences' perfect understanding.

PREPARE ITS STRUCTURE

Before real presentation, speaker needs to plan for **disposition** with the **"Context over Content"**.

1. "OPEN" COMPONENT

This can include:

- **Greeting words**
- **Objectives**

2. "CONTEXT" COMPONENT

Then, speaker may roughly talk about the **"content"** with **"context".** Now, the content is introduced and linked with audiences. This could composes either of following:

- **Main points** (It should contains **NO MORE THAN 3** points, as common audience can not memorize more than 3 ones)
- **Agendas**
- **Benefits** to audiences
- **Values** to audiences

3. "CONTENT" COMPONENT

Speaker starts going into details. **Contents** can be following:

- **Problems** > Its **Rationals**
- **Causes** > Its **Results**

- **Pros** and **Cons**

The order of the point depends on priority. For instance:

a) **Pros 1** (Most important)

b) **Pros 2** (Second most important)

c) **Pros 3** (Least important)

If the presentation topic is about problems or negative impacts, the order should instead be from low severity to high one. The reason is that it helps relieving negative feeling.

For example,

1. **Problems 1** (Least Impact)
2. **Problems 2** (Higher Impact)
3. **Problems 3** (Highest Impact)

In case that you do not know how you construct the collection of sentences, I recommend you to use **"BIG SIX"**, which comprises of:

1. **WHAT**
2. **WHY**
3. **WHO**
4. **WHERE**
5. **WHEN**
6. **HOW**

The order depends on various contents for different presentations.

If the content topic is about problems or negative impacts, **WHO** should be in last order so that feeling of slander could be reduced. This, for example, can be done by putting

either
WHY, **WHERE** etc. to between **WHAT** and **WHO**.

4. "CLOSE" COMPONENT

This may be the most **crucial** component in presentation, because audiences are **ALWAYS** able to **memorize** only most final part of speaking. This means that speaker has to summarize main points of the content for audiences, as well as help them to **DECIDE** what they should do with the message they have recently gotten. In other words, speaker should make them feel that they have earned some **BENEFITS** or **VALUES** after presentation. They can be following:

- **Results**
- **Suggestions**
- **Risks**

Furthermore, I note that if speaker want audience to **MEMORIZE** and aware of **keywords**. They are, for example, Brand's name or thisyear revenue. Speakers should **REPEAT** them again and again. In particular these **keywords** should be put in **ALL** components if possible(including Open, Context, Content and Close ones).

"Key word" is a word which speaker wishes his or her audiences memorize it after the presentation ends.

PREPARE TOOLS

RULE#1:
TRY TO PREPARE SOME GIMMICKS TO DEAL WITH INFLECTION

Gimmick is a tool or trick, which can help attention drawing from audiences (such as games or a joke).

Inflection

Could you remember **“Inflection”** mentioned in earlier section ? It is the same concept as **Tone of Voice** section. When speaker notices that audiences are out of focus on what he or she is speaking, speaker could ask they to play a game, or release a joke on order to keep a graph**(or Inflection)** remain high. In other words, audience should be awake, not sleepy over the presentation period.

Looking in to **joke** stuff, **“Call Back technique”** should be adopt if possible. In fact, the joke could about what has happened or trendy one, since it is more effective than prepared or traditional ones.

AVOID playing **dirty joke**, as it is absolutely not appropriate for any public speaking and it can destroy **ALL** of speaker’s reputation. Plus, do not use a joke, which is only known within a close group.

Turning into **Game** gimmick, I would like to recommend a really cool tool, which I found it useful to create interactive game. Its name is kahoot.it . It can generate a small game that allow audience to play a game together on the same screen via their own mobile phone.

RULE#2:
TRY TO PREPARE SOME GIMMICKS TO DEAL WITH INFLECTION

Why?

1. Once **slide** is opened, audiences start reading. This means they do not interest in a speaker anymore.

2. The Speaker also read the **slide** too, as well as does not keep contact with audiences. As a result, they will lose focus.

What should I do ? Imagine how Apple does. That's it!!!

Only a few **bullet points** and one of either **image**, a **figure**, or a graph are enough. This kind of slide does not draw do much attraction from audiences.

ANALYSIS

While preparation, a good presentation also needs analysis. This includes **Listener Analysis** and **Feedback Analysis**.

LISTENER ANALYSIS

This is the most important part while developing **content** and plan **disposition** when preparation process.

Speaker has to know who audiences are and what they expect to hear.

For instance, speaker need to know how much is the proportion in art people, business people and developer?. If these figure are know, speaker also know which words speaker can use in each presentation. Specifically, if most of audiences are developers, Speaker may choose to use technical words for these geeks.

Moreover, speaker could set the objectives of the presentation after he or she know the audiences. They, for example, are:

- **Inform**
- **Educate**
- **Persuade**
- **Inspire**
- Give **Pleasure**

Now,

Supposed that if you were audiences, brainstorm what doubt possibly arise during presentation

Next, speaker should try to answer all these questions. The purpose is to **prevent the risk of argument** and make a presentation flow seamlessly.

FEEDBACK ANALYSIS

During presentation, always checking **feedback** should not absolutely be ignored. Speaker should check whether the message has been properly delivered to audience, whether they are sleepy and whether they still focus on the speaking or not.

Try to **ALWAYS** have an interaction with audiences, namely **KEEPING EYE CONTACT**, asking them whether they understand the content or not?. Doing these

allows speaker to know how the presentation is. If there is a mistake, speaker can solve it properly in time.

By way of illustration, in case that a flat joke , lame or dump ones are made, speaker needs a way to solve it and does not allow **DEAD AIR**.

PRESENTATION

In a real presentation, speaker must not, as mentioned before, put **EVERYTHING** in the slides. It should include only bullet points and necessary elements.

In above case, someone may wonder if we forget the content, how can we do?

Some people advise to just use **SCRIPT** and read it. But, **DO NOT DO SUCH THING**. Engagement with audiences will be lost.

I have also provided the principle of memorization below.

PRINCIPLE OF MEMORIZATION

Not Only Words But also....

Status

Opinion

Feeling

Apart from content, speaker do not only have to memorize his or her **status**, they also must be aware of his or her **opinion** towards the status. If argument arises during presentation, speaker is responsible to argue and win it. Last but not least, memorize **feelings** towards content could possibly make the audience felt related with the speaking.

HOW TO MEMORIZE

There are several techniques, which are:

(i) **Find conjunctions**

(ii) **Filter contents**

(iii) Make it a **story telling**

(iv) **Disposition**

(v) **Practice !!!**

For these techniques, the most important one is obviously **practice**. Speaker should practice as much as possible, until speaker find that he or she can smoothly talk when just looking through the slide.

CONCLUSION

The most foremost part in **public speaking** is **"audience"**. To summarize, speaker needs to beforehand know who the audiences are and what they expect **(Listener Analysis)** . Then, **preparation** and **disposition** are required so that the contents are proper for the audiences. During real presentation, speaker should **interact with audiences** as much as possible.

Verbal Communication such as controlling **tone of voice** and **Non Verbal Communication** like **body language** , organizing mini games**.** Also, speaker have to make sure that audiences feel that they have gotten something after presentation.

“

Peace is not absence of conflict; it is the ability to handle conflict by peaceful means.

Ronald Reagan

Lengthening your vowels

The concept of vowel lengthening refers to making vowel sounds longer that they actually are. This phonological phenomenon takes place in English as a way to prevent ambiguity in speech. That is, vowel lengthening is a mechanism the language has to clarify meaning for native speakers, who are not aware of what they are actually pronouncing.

Vowel length is the perceived length of a vowel sound: the corresponding physical measurement is duration.

In some languages vowel length is an important phonemic factor, meaning vowel length can change the meaning of the word, for example in:

Arabic, Estonian, Finnish, Fijian, Kannada, Malayalam, Japanese, Latin, Old English, Scottish Gaelic, and Vietnamese.

While vowel length alone does not change word meaning in most dialects of English, it is said to do so in a few dialects, such as Australian English, Lunenburg English, New Zealand English, and South African English.

It also plays a lesser phonetic role in Cantonese, unlike in other varieties of Chinese.

Many languages do not distinguish vowel length phonemically, meaning that vowel length does not change meaning, and the length of a vowel is conditioned by other factors such as the phonetic characteristics of the sounds around it, for instance whether the vowel is followed by a voiced or a voiceless consonant.

Languages that do distinguish vowel length phonemically usually only distinguish between **short vowels** and **long vowels**. Very few languages distinguish three phonemic vowel lengths, such as Estonian, Luiseño, and Mixe.[97]

[97] https://en.wikipedia.org/wiki/Vowel_length

“

We shall over come...."shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will."

Rev. Dr. Martin Luther King Jr.

ELOCUTION

The skill of clear and expressive speech, especially of distinct pronunciation and articulation.

Elocution is the study of formal speaking in pronunciation, grammar, style, and tone as well as the idea and practice of effective speech and its forms.

It stems from the idea that while communication is symbolic, sounds are final and compelling. It came into popularity in England in the eighteenth and nineteenth centuries and in America during the nineteenth century.

It benefitted both men and women in different ways but overall the concept was there to teach both how to become better, more persuasive speakers, standardize errors in spoken and written English, as well as the beginnings of the formulation of argument were discussed here.

Elocution, from eloqui, to speak out, to express, (e, out; and loqui, to speak,) as now applied, contemplates the whole art of conveying thought through the organs of the body. Before entering directly upon the study of this subject, we may receive a worthy inspiration in considering the broad and abundant opportunity which opens to us.[98]

It concerns the commerce of mind and soul. As such, it involves the capability on the part of the student to comprehend, to appreciate, and to communicate thought and emotion. To this end, he needs the best of all his powers.

It is only the voice that has reached its best, and the eye that beams from the soul, and the hand of grace, and the attitude of manhood and womanhood, that can convey the immortality which has been breathed upon.

Elocution relates to manner or style in speaking. **Good Elocution** consists in the natural expression of thought by speech and gesture.

[98] Practical Elocution by J.W. Shoemaker A.M

Natural must be understood as applying to our highest or Godnature, and should be carefully distinguished from habit or second nature.

The term expression is strengthened, if understood to include conveyance or passage, as of a body from one place to another.

Thought has here its broadest application, and signifies feeling and passion as well as sentiment. We should convey not only the idea contained in the thought, we should also convey the impression made upon us by the thought.

Speech covers every intelligent use of the organs of speech, articulate and inarticulate, whispered and vocal.

Gesture concerns position and facial expression, as well as movements of the body.

Thus it will be seen that correct elocutionary training is the subordination of the entire physical being to the service of mind and spirit, thought being the product of the inner or spiritual man, and speech and gesture its natural outlet through the exterior or physical man.[99]

ELOCUTION IN PUBLIC LIFE IS IMPORTANT IN THE FOLLOWING WAYS;

It will enable us to give accuracy and fullness of meaning to our words, and to convey the spirit of the thought to the hearer. Words are but the dead forms of thought. The human voice may breathe into them the breath of life and make them living influences.

Elocution will give that culture by which we may please the eye and the ear, so that our words shall be presented favorably to the judgment.

It will also add that force and dignity to expression, and that confidence of manner which will command the multitude. A single sentence may be the exponent of years of study and experience, and it is possible only by the most careful practice in the art of expression to pronounce such a sentence with corresponding effect.[100]

[99] Ibid

[100] Practical Elocution by J.W. Shoemaker A.M

Conversation is the simplest and most common form of human expression. It contains the germs of all speech and action, and therefore constitutes the basis of oratorical and dramatic delivery. We exercise these germs of speech and action most in conversation; it is therefore natural that we should here form our most permanent habits of expression.

These habits will control, not only our conversation, buf, as hereafter shown, they will, in a great degree, affect our reading and public address. The importance, therefore, of acquiring in the common intercourse of life, correct habits of voice and manner cannot be overestimated.

This art of conversation includes chaste and appropriate language, and grace and variety of manner, as well as the purity and adaptation of speech. It is, however, only the latter phase of the subject that will concern us in this treatment, namely, correal speech.

To this end, the person should secure the criticism of the ear upon his own and others' Conversation, by attention

TO THE VOICE.

The Voice should be natural, pure, and full. The long vowel sounds, marked " Naturally," as given in the table of Vocal Exercises, and such Conversational Sentences as are here given, should be carefully practiced. „

TO THE ARTICULATION.

The Articulation should be correct and distinct and you master the table of Elementary Sounds and practice the various accompanying exercises.

TO THE EXPEESSION.

The Expression should be adapted to the sentiment. The intelligent student will readily discover some of the leading relations of sound to sense such, for instance, as that of gayety, solemnity, pathos.

“

I have sworn upon the altar of god, eternal hostility against every form of tyranny over the mind of man.

Thomas Jefferson

Conversation in its relation to public address.

Analogy.

With reference to Expression, Conversation may be defined the utterance of our own thoughts in our own words, to one or a few individuals. Reading is the utterance of the author's thought in the author's words, to one or many individuals.

We use, in Conversation, the same voice or material, and the same forms of sound, and call into exercise the same thoughts, feelings and passions as in Reading. The Cultivation of these powers for Conversation will give them cultivation for Reading, and inasmuch as we converse more than we read, it is at once apparent that we have in Conversation the greater opportunity for their cultivation.

Distinction.

Conversation and Public Address both concern the conveyance of thought to the individual. The distinction consists only in the greater accuracy and intensity necessary in Public Address to overcome the obstacles of number and space. This refers to the distinction between the delivery of the same sentence before the multitude, and its delivery to a single individual.

Passages, differing in sentiment, will be expressed differently in Conversation, and will preserve a corresponding difference if delivered publicly.

Conversation is natural communication to the individual. All speech is natural communication to the individual; therefore, all speech is Conversation. Reading and Public Address are but modified forms of Conversation, and are so closely allied to it that excellence in Conversation will secure excellence in Reading and Public Address.

Principles of elocution.

It has been shown that the germs of Elocution are found native in pure Conversation. Principle will concern the processes of their growth and development. These germs are found in Speech and Gesture, which are the two great mediums of communication.

Speech.

Speech is the most direct and the most important instrument for the conveyance of thought. By it men are put in possession of the thoughts and experiences of their fellow men, so that the development of mind itself may be said to depend greatly upon Speech.

The organs uniting in its production are the vocal organs for voice, the organs of speech for articulation, and the intellectual and emotional faculties for expression.

Hence the subdivisions—Voice, Articulation, Expression. Note. The term organs of speech as applied here, is used in its technical sense, and includes, prominently, the lips, tongue, teeth, palate and nasal organs.

Voice.

Voice is the principal material of which speech is made. Its cultivation is closely related to the whole subject of Elocution, and therefore claims the most careful attention of the student. The cultivation of the Voice will depend upon judicious exercise, in harmony with the natural law of human development.

Intelligent investigation and broad experience have established the fact that voice is the product of a physical mechanism, as welldefined as the muscles of the arm or the tissue of the brain, and that its development follows a law of our being, as simple and as natural as that by which the arm moves or the brain thinks.

It is, however, worthy of observation that the voice does not ordinarily receive power or culture, even from the most constant exercise, but it does not follow that it therefore departs from the recognized law of development, but rather that the customary habits of its use are unwise, mistaken, and founded in ignorance of its structure.

The operations of the vocal instrument are so subtle and the liability to false practice so great, that it becomes a matter of primary importance that the Public speaker student be directed to its use in his earliest exercises.

To this end voice is here presented, in its theory and practice, under the two heads. Philosophy of Voice and Utterance.

Utterance.

From the preceding brief explanation, it will be easily understood that the parts of the system involved in the production of voice are, in the order of their use, the Abdominal Muscles, the Lungs, and the Vocal Cords. The cavity of the mouth also contributes much to the purity and richness of the tone.

These several parts exist in every perfect organization, and may be termed the muscular implements of the human voice.

Utterance is the technical term given to all sounds emanating from this vocal instrument, whether whispered or vocal, and is the result of the opposition offered to the escape of the aircurrent, by the projection of the vocal cords across the trachea. Utterance, therefore, implies such an application of breath upon the vocal cords, and such control of them, as to produce sound or voice. It may be regarded simply as practical voiceproduction, and will be treated with reference to its development and its quality.

Development.

A welldeveloped voice imparts force and dignity to every relation of life. It is the first step toward culture in the art of Elocution. The distinctive aim in vocal development is to its purity, power and flexibility.

Examples and Observations

"The word **elocution** means something quite different to us from what it meant to the classical rhetorician. We associate the word with the act of speaking (hence, the elocution contest). But for the classical rhetorician, elocutio meant 'style.'

"All rhetorical considerations of style involved some discussion of choice of words, usually under such headings as correctness, purity, simplicity, clearness, appropriateness, ornateness. Another subject of consideration was the composition or arrangement of words in phrases or clauses (or, to use the rhetorical term, periods).

Involved here were discussions of correct syntax or collocation of words; patterns of sentences (e.g. parallelism, antithesis); proper use of conjunctions and other correlating devices both within the sentence and between sentences

"A great deal of attention was paid, of course, to tropes and figures." (Edward P.J. Corbett and Robert J. Connors, Classical Rhetoric for the Modern Student. Oxford University. Press, 1999)

The Elocutionary Movement

"Various factors contributed to heightened interest in the study of **elocution** in both the 18th and 19th centuries. Numerous scholars recognized that traditional students interested in the ministry or the bar were lacking effective speaking skills, and attempts were made to overcome these deficiencies. Beginning in England and continuing in the United States, elocution became the main focus of rhetoric during this time.

"In studying elocution, students were primarily concerned with four things: bodily gestures, voice management, pronunciation, and vocal production (the actual formation of the sounds of speech)." (Brenda Gabioud Brown, "Elocution." Encyclopedia of Rhetoric and Composition: Communication From Ancient Times to the Information Age, ed. by Theresa Enos. Taylor & Francis101,

[101] https://www.thoughtco.com/ what-is-elocution-1690641

“

“A man who stands for nothing will fall for anything.” “a race of people is like an individual man; until it uses its own talent, takes pride in its own history, expresses its own culture, affirms its own selfhood, it can never fulfill itself.” “sitting at the table doesn't make you a dine

Malcom X

Taming your fear

Always face your fear. If you're like most people, you dread speaking in front of an audience. Surveys, in fact, show that people often fear public speaking more than death.

It's easier said than done, but you have to confront your fear, says Nicole Wells. The founder of Communication Gym (www.communicationgym.com) and an adjunct faculty member at New York University, she trains lawyers to become better public speakers. Realize that every speaker gets uncomfortable or nervous. "Usually you think you're much worse than you really are," adds Wells.

And don't apologize for any nervousness or anxiety this just distracts from your message. The audience, judge or jurors probably won't notice anyway. And if they do, they're likely to be sympathetic.

Start with a small audience

For your first engagement, don't stand up in front of a crowd of two thousand people. Get comfortable addressing family members or friends first. Then try speaking in front of a small group of strangers. When you're ready, move onto larger audiences.

Prepare

Preparation is key to controlling your fear. If you know your material inside and out, and are ready to answer audience questions, you're well on your way to giving a good speech.

As soon as you know your topic, start work on your speech. Think about what you want to get across. Do your research and write an outline.

Then: practise, practise, practise. Rehearse your speech in front of the mirror as well as family and friends. Ask for feedback. Record your speech and listen to yourself. Revise the areas that need improvement.

Focus on your message

Don't focus on yourself and your anxiety. Look outward. Concentrate on your message and the people in your audience. Remind yourself how important it is for them to hear what you have to say.

Use relaxation techniques

Relieve nervous tension by breathing deep into your belly. Before you are introduced, clench your fists, hold for five seconds, then release. Continue to inhale slowly and exhale completely.

Practice

To ease the terror of speaking in public, you have to do it often. Familiarity reduces the fear. Take advantage of opportunities where you can speak in front of an audience:

- When attending a seminar or sitting in an audience yourself, ask questions of the speaker. (Often you have to move to a microphone to ask your question.)
- Call in to a radio station to ask a question or voice an opinion.
- Tell stories to your spouse, children and coworkers.
- Volunteer to introduce a speaker.
- Join an organization like your homeowner's association, a volunteer board, or your parent teacher association. These offer many occasions to speak in front of a crowd.
- Volunteer to be part of a continuing legal education panel.

Join Toastmasters International (see "Where to go for more information and training" at the end of this article).

Common public speaking mistakes

Reading from your notes

The fastest way to bore your audience is to read your notes. The best public speakers don't rely on any notes at all. If you must, use index cards printed with key words or points. Glance at the key word to prompt your next thought. Then look into the eyes of the audience before expounding on that thought.

Speaking too fast

Most people speak too quickly, especially if they're nervous. And usually they think they're speaking more slowly than they actually are.

Monitor your pace. A general pace of 150 to 180 words a minute is considered comfortable for most audiences, says Wells.

Varying the pace and volume creates variety and helps to keep your audience's attention. So you can speed up to 220 words a minute at times, then slow down when delivering key important points. You also want to pause at the end of any complex sections.

To speak more slowly, find a newspaper phrase, count 160 words, and practice reading it for one minute.

Many people also rush too quickly into their speech. To get started, evenly distribute your weight so you're grounded. Look confident. Pick out someone in the audience to look at. Take a breath, pause this adds dramatic tension then start speaking.

Trying to say too much

An audience's attention span is short. Yet many speakers attempt to cram in too many details in their speeches. You won't be successful if you try to get across five main points in a fiveminute speech aim for just one major point.

How long should your talk be? That depends on the occasion.

A good length for a speech after lunch or dinner is 15 to 20 minutes, says Conrad Teitell, a Connecticutbased lawyer who founded and teaches the American Bar Association's course on public speaking for lawyers and appears on PBS television programs.

An educational seminar may range from 40 minutes to two hours. But if the length is two hours, you should break that down into six separate 20minute talks.

Lack of eye contact

Failing to look at your audience is another common mistake. You want to create a rapport and make a connection with them. Don't, however, gaze mechanically left to right, scanning the room like a surveillance camera.

Instead, make eye contact with specific individuals in the audience. Talk to one person directly for one thought, then move on to another person for your next thought.

Failing to use good transitions

If you don't segue properly from one point to another, your speech will be muddy and disjointed. People perk up at transitions, says Wells. "They think, 'I have to listen to this new idea. There's a new point coming along,' so they pay extra attention."

Recap the point you've just made, then transition smoothly to the next. Examples of easy transitions include:

- "Consequently..."
- "Because of this..."
- "On a similiar note..."
- "My third point is..."
- "Turning now to..."

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- "On a similiar note..."
- "My third point is..."
- "Turning now to..."

Using humor

Humor is a powerful tool. It can help you establish a bond with your audience, defuse hostility, illustrate a point, lighten up heavy material, keep your audience from nodding off, and make you and the information in your speech worth remembering.

But what if you're one of those people who can't tell a joke?

"You don't actually have to be funny," submits Wells. "You don't need to tell jokes. Being human, being real, being authentic these are the most important things for a lawyer to remember when giving a speech."

Still, most everyone can use humor effectively, once they find a style of humor that fits with their personality. "Selfdeprecating humor is always a crowd pleaser," says Teitell. And it's okay to be mildly entertaining rather than sidesplittingly hilarious.

For humor to work, remember to avoid being sarcastic or insulting. Keep it clean you don't want to embarrass people.

Teitell also adds that, even with humor, you still need to show that your speech is to be taken seriously. "You don't want to joke around too much," he says. "The more conservative the audience, the less humor you use."

Other ways to spice up your speech? Sprinkle in a few good relevant anecdotes or quotes. Begin by saying, "Winston Churchill once said..." or "It's fitting to conclude with the words of former Supreme Court of Canada judge Bertha Wilson..." There are many books on anecdotes and witty quotes, or go online. If you're giving a lecture or talk on bankruptcy, Google "Bankruptcy anecdotes."

"People also love to hear personal stories," says Teitell. Sharing your own life experiences is a surefire way to connect with the audience**.**

TIPS AND TECHNIQUES FOR BETTER PUBLIC SPEAKING

Check out the venue in advance

It's essential you familiarize yourself with the room in which you'll be speaking in advance. Says Teitell: "It's not your job, but it is your problem if people can't hear you."

Arrive early. Test the microphone and any visual aids, and practise using them.

Also note where your audience will be sitting. If 100 people are confirmed for a 300seat room, they'll be scattered around. Teitell suggests that you bring some masking tape and rope off the back rows, so people will end up sitting closer together and to you.

Do you have a chance to meet your listeners beforehand? Mingling before the presentation allows your audience to get to know you, enhancing your credibility with them.

Prepare your own introduction

Does the emcee have the right information to introduce you? Give the emcee an introduction you've prepared, containing at least the following pertinent information:

- what the topic is

- why you're speaking on this topic
- who you are
- why you are the speaker

KNOW YOUR AUDIENCE

Just because you can get up and talk for 30 minutes in front of a crowd doesn't mean that you're a good public speaker. Good public speaking is about the ability to communicate and connect with your audience.

Phillip Miller, a Nashvillebased personal injury lawyer and active trial consultant, laments that the whole idea of audience engagement is missing from many speeches. To establish a rapport, understand who your listeners are.

What is their age? What is their education level and cultural background? What do they read? What are their attitudes?

Are they on your side or against you? You'll have a motivated audience in the case of a voluntary continuing legal education program, but could face a sceptical one in the context of a trial.

What's the purpose of your talk? The three main purposes are to persuade, to inform, or to inspire.

Plan your speech accordingly based upon your audience and the purpose of your talk.

MOVE AROUND

"The podium is a huge barrier," says Wells. "Get away from the podium if you're standing. You'll score huge points with your audience." Wear a little clipon microphone so you can move around on the stage. Movement creates interest for the audience and will also help you to release tension.

If you're seated in a panel, stand up and walk about at the front of the room. Or at least lean forward onto the table in front and look out at the audience (not the panel). If you're the moderator of the panel, stand.

START WITH A STRONG LEAD

Don't begin with a weak "Thank you for that kind introduction." Or "It's a pleasure to be here. I'll begin with a funny joke I heard last night." Just smile at the emcee, pause, then launch right into your speech.

Your opening statement has to be compelling to get the audience to listen to you. Grab attention with:

- a thoughtful question
- a relevant anecdote or personal story
- a startling statistic
- an appropriate and interesting quote
- a challenging statement
- a pertinent news headline

For example, "90 per cent of people who sue never have to go trial..." or "Twelve years ago, as I was walking down..." After your opening, move on to: "Today, I'm going to talk about..."

BE ORGANIZED

Your speech should be organized in a logical sequence, like chapters in a story. Or it could follow a timeline. It should have a clear beginning, middle and an end. Surveys show that what judges and lawyers value when listening to a presentation is a clearlystated case using plain and straightforward language. Close your speech with a bang a relevant thoughtprovoking question, a succinct summary, a great quote, a powerful story, or a call for action.

BE BOLD

Speak loudly, clearly and with confidence. Vary the tone and volume of your voice to keep your speech lively.

INVITE QUESTIONS Questions are important, as you become more intimately involved with your audience this way, says Teitell. So welcome questions. Teitell invites people to ask questions throughout his speeches not just at the end.

If no one has a question, get the ball rolling by asking yourself a question: "Many audiences ask my views on the theory of...."

When you get a question, repeat it, as not all people will have heard the question (perhaps reframing it).

If you prefer to take questions at the end of your talk, don't end with a questionandanswer session. Tell the audience instead that you will take questions after your closing point. After the questions, end with a second very short closing.

SEEK FEEDBACK

To improve your public speaking skills, you need to find out how others perceive you. Ask a friend or trusted colleague for honest but constructive feedback. Should you speak louder? Does your speech move them? (Why or why not?) What three areas could be improved? (How?).

USING VISUAL AIDS

Using visual aids and PowerPoint presentations

Visual aids will enhance almost any presentation. Learning is most effective when people see as well as hear. Studies indicate that message retention is only 10% after three days for an oral presentation, but increases to 65% for both showing and telling.

Remember, however, that visual aids are only to be used to support your talk don't rely on them as a crutch. Here are some specific tips:

a) Keep your visuals simple, relevant and easy to follow.

b) Make your text size large. Images too should be easily visible and large enough to be seen by everyone in the room.

c) Use bullet points, not complete sentences.

d) Choose bold colours that help the text stand out.

Flipcharts and overhead projectors

A flipchart on a portable easel or an overhead projector with transparencies is easy to use (no computer wizardry required!) and inexpensive.

Flipcharts are most suitable for small audiences of 20 or fewer people. You can prepare the flipchart before your talk and write on it as well during your presentation to make a specific point or jot down audience responses. Just be sure not to look at your flipchart when speaking.

An overhead projector with transparencies can also help seize your audience's attention with pie graphs and bulleted points.

Computerbased visuals

Microsoft PowerPoint is the most commonly used computer presentation software (less common, though still popular, is Adobe Acrobat Professional). You can use your laptop to fire up the program and with an added screen and other equipment, you can display some pretty impressive visual simulations and illustrations. With a remote control, you can change the image and still move around the room.

ORAL ADVOCACY SPEAKING IN THE COURT ROOM

Oral advocacy in the courtroom is a specialized form of public speaking, where persuasion is key. For jury presentations, research shows that jurors make decisions based

on the story model, says Miller. So you need to tell the jury what they want to know, not just what you think is important.

For example, with a product liability case, it's not enough to call on experts to testify that the product was defective. There's no story there. You need to answer questions relating to why the product was defective. Why did the manufacturers in good conscience make a product that could kill or injure people?

If you don't fill in the blanks, jurors tend to supply their own answers, which may be completely inaccurate and offbase. Your goal, says Miller, is to create a trial story that incorporates the facts critical to your case and resonates with the way the jury sees the case.

Some people find understanding a concept much easier if they can see the concept represented as a diagram. Others tend to think in words. Everyone is unique, although the differences may only be a matter of degree.[102]

When you present an argument, you need to recognize that your audience may have different ways of understanding the presentation of your argument. No one in your audience will think in exactly the same way as you. As a consequence, your carefully constructed plan that makes perfect sense to you may not make sense to someone else.

Whatever the context in which the communication of ideas is taking place whether you are presenting a submission in a moot court, delivering a speech or making a point in a tutorial you need to make sure that your points will be effectively and efficiently understood

by your audience. The responsibility for this is borne both by you and your audience, and will depend on the occasion and the nature of the communication. If you are presenting to a large group, such a class, then the class members have to individually assimilate the information in a manner that is most effective and efficient for

them. However, you as the presenter should arm them with the ability to do this by briefly explaining the basis of your thinking on the topic. When you are acting as an advocate in

[102] The Art of Argument A guide to mooting by Christopher Kee

the smaller environment of a moot competition or courtroom, you must bear more of the responsibility and adapt to the needs of the audience.

How to structure an oral submission

The ideal oral submission is one in which you are always in complete control. You take your moot masters on a stepbystep journey to the conclusion you want them to reach. You control how the issues are framed. You control what and when questions are asked. Sound

impossible? It is difficult and a challenge, but it is by no means impossible. The keys to success are preparation and practice. It certainly helps if you have a charismatic presence, but good preparation will always beat charisma alone.[103]

Making a start

Building an argument"

you will already have done substantial preparation. You will have already done the work necessary to ensure you are in command of the subject matter of the moot. This section of the book discusses how to put all that work into a convincing oral submission.

The first step is to be aware of the environment in which you are making your submission. The second step is to identify your aim and purpose, which will help you determine the overall structure of your submission.

The principles that apply to preparing an oral submission for a moot competition will also apply to preparation for a real court or arbitration hearing.

Find out how much time has been allocated for you to make your presentation. While fixedtime presentations are most commonly found in moots, they are certainly not uncommon in arbitrations, and are becoming increasingly seen in courts. Be aware of any time limits and ensure that you work within them.

[103] ibid

Finally, remember that it is not necessary to win the case to win the moot.

Dealing with multiple court officials

If you are appearing before a panel, you may encounter masters from a range of legal traditions. Your challenge is to develop a submission that will appeal and impress every type of moot master, although of course you can only predict what these expectations might be.

Creating a persuasive case

Express your case in the simplest possible terms

Although the arguments and points of law upon which you want to rely may be quite complex, it is important that you express them as simply as possible. The simple case will appeal to the majority of people. To begin the simple case, start with a short and concise statement of the crux of your submission.

Here is an example.

The Appellant has suffered loss because of the Respondent's wrongful avoidance of the contract.

This is a strong opening that leaves the audience in no doubt about the direction of your submissions.

Use 'signposting'

You should then break down the assertion into its constituent parts.

On behalf of the Appellant I will be addressing the wrongful avoidance of the contract, and my cocounsel will address the entitlement to damages.

The Appellant's submissions on wrongful avoidance are made in three parts. One, there has not been a fundamental breach by the Appellant that would allow avoidance.

Two, even if the breach was fundamental the Appellant had validly exercised its right to cure thereby preventing avoidance.

Three, in any event the Respondent has failed to give the obligatory notice. Each of these arguments is made in the alternative. This Honorable Court need only accept one of these submissions to find that the Respondent wrongfully avoided the contract.[104]

This paragraph demonstrates the use of several techniques that should be utilized throughout the entire submission. **First**, each separate part the advocate intends to address is clearly identified and listed. The numerical references are important. Numbers, particularly small numbers, are understood by everyone.

By associating each aspect of the submission with a number, the advocate makes it easier for the Court to follow the submission. It is a technique that is often referred to as "signposting". Signposting is very important in an oral presentation. In essence, signposting is simply providing an outline of your arguments.

This technique has a number of advantages. With a written submission, a reader can look back through earlier pages if necessary.

However, during an oral submission, your audience will need to rely on their memory (or notetaking ability) to recall what was said in the earlier parts of your submission. As a consequence, you want your audience to be thinking forwards not backwards. Describing where you intend to take your audience naturally shifts their attention forwards towards that destination.

Second, by giving your audience the broad structure of your submission at the beginning you will make it much easier for them to follow the progression of your arguments. You enable your audience to immediately satisfy themselves that there is a prima facie logic to your argument. Their focus then shifts from your overall argument to the detail of your argument. They will now simply be considering whether each successive point follows.

Finally, and this follows on from the second point, you take the guesswork out of your submission, leaving your audience free to concentrate on what you are saying. You are in

[104] The Art of Argument A guide to mooting by Christopher Kee

control of how the issue will progress. Your audience is not distracted by wondering which way your argument will go.

The audience knows exactly in any form of advocacy, your intention is to persuade your audience to reach a particular conclusion. One way of doing this is to make it easy for your audience to reach that conclusion.

The physical delivery of a submission of this kind is critical.

Do not be strident and forceful; be demure and calm. Identify the authorities that appear to be against you. Acknowledge that there is a certain appeal to the opposing argument, but dismiss it by implication.

In the above example, the analogy is described as "overly Simplistic". The demure and calm presentation will suggest a considered approach. The audience will appreciate that you have recognized and investigated the point, and are not overly concerned by it.

In contrast, a strident and forceful submission will suggest that you are defensive about the point. Displaying defensiveness will create the impression that you are worried, and if you are worried your moot masters will be too.

Handling questions

Preparing to answer questions is an integral part of structuring your oral argument. How can you predict the questions you are going to be asked?

With a wellstructured oral submission you will go beyond merely predicting questions to being in control of what is asked and when it is asked. Your ability to do this will be a product of your experience in many practice moots.

Responding to a submission

Although a moot is not a debate, it is very important that you respond to the submissions made by your opponent. This is often a variable that you will have little ability to

anticipate, so you need to prepare for and make use of those areas that are in within your control.[105]

One such area is the flexibility of your submission. The relative importance of different arguments within your submission will be affected by the submissions made by your opponent.

For example, if your opponent concedes a particular issue it is not necessary for you to make significant submissions on it. This may give you an opportunity to include another argument that you had previously discarded because of time constraints.

You cannot know this will happen until it actually occurs in the moot, and so you need to be able to adjust your structure at a moment's notice.

A much more difficult situation occurs when your opponent focuses on a point you had previously thought to be weak. This should not represent a substantive or contentbased problem because your preparation will ensure that you are familiar with the point.

However, it will impact on the structure of your submission.

The emphasis of your submission must change. Be ready to pick up alternative arguments that you had previously discarded, and be prepared to drop other arguments that you wanted to make.

So, particularly in the context of responding, the architecture of your submission must be sound. You then simply add or remove content as appropriate. What content you should add or remove is principally governed by the submissions made by your opponents.

It is very important, therefore, that you pay close attention while those submissions are being made. You must also listen carefully and closely to the questions the moot master is asking your opponents. We have already discussed how questions tended to identify concerns or logical flaws in a submission.

[105] The Art of Argument A guide to mooting by Christopher Kee.

Whereas during the preparation stage you analysed these questions to improve your own case, now analyse them to help you critique the submissions made by your opponent. This can be done in two complementary ways**. First**, the substance of the questions to your opponents will suggest areas worthy of emphasis in your submission.

Second, you can take the opportunity to involve the moot masters by referring back to their questions during your submission.

When doing this, be careful not to imply that the moot master was actually making a point. Do not use expressions such as,

"Your Honour was correct to question . . ." or

"Your Honour made the point . . .".

Moot masters may react negatively to phrases such as this, because they are not allowed to make a point at this stage of the moot. You are in effect implying that the moot masters have prejudged the merits of the case, albeit in your favour.

Instead repeat the question, note its importance to your client, and respond.

Presenting an oral submission

Not surprisingly there are considerable similarities between the advice offered for presentation of oral submissions and the advice offered for composing written documents. One very important common piece of advice is the value of developing an awareness of your environment. [106]

Just as different competitions call for different styles of written document, there will be stylistic differences in the oral presentation. For example, in courts you are expected to stand, whereas in arbitrations you would normally sit.

In a court you refer to the judges with phrases such as "Your Honour" and "Your

[106] The Art of Argument A guide to mooting by Christopher Kee.

Worship", whereas in an arbitration you might address "Madam, Arbitrator".

The peculiarities of each competition should be investigated very early in your preparation. You do not want to get into the habit of referring to your moot master in an incorrect manner.

This book cannot list the stylistic requirements of every competition there are simply too many differences in too many competitions. The task will be easy for you because you can research the requirements of the particular competition you are participating in!

Instead, we will be focusing on presentation issues that will be relevant to any form of oral advocacy. Indeed, much of the advice provided will be relevant to public speaking of any kind.

Physical appearance

How you dress can affect your presentation and the impression you leave upon the audience. Although in some parts of the world we are starting to see a relaxation in dress codes, there is still an almost universal presumption that professionals will wear suits. Furthermore, what might be acceptable in some cultures may not be acceptable in others.

It is always better to err on the side of caution and adopt the more conservative approach. By way of demonstration, consider the following events that occurred in a real moot.

It was an unseasonably warm day, and as the moot was being conducted during a university break, the preprogrammed airconditioning was not working. Because the door was closed, the room became stuffy and quite uncomfortable for everyone inside it, particularly the advocates.

There were three moot masters: two from civil law jurisdictions and one from a common law jurisdiction.

Time keeping

One of the strongest indications that advocates are in control is when they are acutely aware of the time their submission is taking.

Time keeping is essential. If the rules permit, this may be done by your cocounsel.

For example, you may have a small piece of paper with various time intervals noted on it. When you only have 10 minutes left your co counsel very quietly and inconspicuously crosses off the number

It is necessary to emphasise that this should be done without attracting any attention; kicking your colleague under the table is not advisable!

In competitions where counsel are not permitted to communicate with e because you will need to do it yourself. In these circumstances it is important you have your own timing device; do not assume there will be a clock visible somewhere in the moot court. Be careful though that your timing device is not going to make any noise.

For example, a countdown timer sounding at the end of 20 minutes is going to look very unprofessional, and will draw the attention of your moot masters to the fact that you are out of time.

Time keeping is a virtue that can lead to a vice: people often start to speak more quickly when they think they are running short of time. Resist this temptation. Instead, if necessary, make time in your submission by dropping one or two of your weaker alternative arguments.

All of this can be preplanned. If you have 20 minutes in which to make your submission and you are expecting questions, do not plan to deliver a 20minute submission.

From your practice moots you will have a reasonable

idea of how much time questions occupy. It is probably reasonable to assume that uninterrupted your submission would only last between 11 and 13 minutes. This is not very long, and there for each other during a submission, the task is a little harder.

Opening formalities

The opening formalities begin with the announcement of your appearance, and encompass everything you do (or should do) from the moment the moot officially begins to the point when you actually begin your submission.

The very first formality you should be aware of is whether you should stand when the moot master enters the room. This may well depend on the type of moot you are participating in, and you should find out in advance what is required for your particular moot. However, as a general rule it is always polite to stand when you are being introduced to someone. It demonstrates respect.

Following the arrival of the moot master, there will usually be a request for appearances. The procedure for this may also differ depending on the forum. Some forums will have appearance slips that advocates will complete prior to the arrival of the moot master.

In these competitions the moot master may well refer to each advocate by name and ask them to confirm that they appear for a particular side. On other occasions you will be expected to verbally announce your appearance. There will be particular customs you should adopt, depending on the forum. May it please the Court, my name is Smith, initial J, and I appear for the Applicant in this matter.

Using case materials

Your familiarity with the facts and materials of the case, and the degree to which you utilise them, will provide a strong indication of your control of your oral submission.

The facts of the problem play a very significant role in your submission.

The first thing most audiences want to know is what happened.

There is a certain logic to this. It would seem odd to look at the consequences of an action without first identifying the action itself. This means that you should state any relevant facts first, then the law, then the consequences of applying the law to the facts.

It should be a familiar sequence to you as it is a frequently recommended method employed in legal exams.

To be able to do this well you need to develop an instantaneous recollection of the facts of the problem. Some people have what is commonly called a photographic memory.

For those lucky few, remembering small details comes quickly and easily. If you are not one of those people, there are techniques you can employ to improve your abilities.

Employing flash cards

One of the simplest ways to become familiar with case materials is to use flash cards. Flash cards are small palmsized cards that have information on both sides. They can be used as a learning aid for many different tasks, such as learning foreign languages and mathematical tables.

In preparing for a moot, you might put a date on one side of a flash card and then anything significant about that date on the reverse side. Once you have a complete set of dates you can ask anyone to test your knowledge.

This will probably be a team member but it could just as easily be a friend or family member. Indeed, it is not even necessary to have someone else test you; you can do it yourself. If a friend is willing to help, have your friend randomly pick up a card and say the date. You need to list everything significant about that date as quickly as possible.

Using a casebook

Case materials encompass not only the official documentation provided by the competition, but any documentation used in the moot.

Any written documentation you have supplied, such as an outline of submissions or casebook, is part of the case materials. It is very important that you also familiarize yourself with these documents and practise working with them effectively. The most significant of these is the casebook.

A casebook, as we have already noted, is a collection of all of the cases and authorities you intend to rely upon in your submissions.

Frequently it will be necessary and appropriate to refer the moot masters to a particular passage in a judgment, or to particular remarks made by a legal commentator. When you do this, have the exact reference ready to offer the moot master.

Make it very easy for the moot master to find what you are looking at. Once you have identified the reference, wait a moment and make sure that the moot master has found the spot before proceeding with your submission.

There is no need to wait until you receive an indication from the moot master to proceed, although this will usually be forthcoming as soon as the master has found the appropriate passage.

Using materials appropriately

The final issue regarding case materials is how to use them appropriately.

It is not necessary to refer to the materials every time you state a fact or make a point. The purpose of authority is to buttress your submission, and to highlight the relevance of what you are saying.

When you do quote a passage from a case, a statute or commentary, make sure that you are not quoting it out of context.

Forexample, an article in a convention may have multiple subarticles, and you might be tempted to only read the subarticle that appears to support your case. That subarticle considered on its own might leave a very different impression than it would if discussed in its wider context.

Moot masters are likely to notice this, and if they do not, you can be almost certain your opposition will. Once discovered, this will reflect badly on your submissions, as at one level it suggests an intention to mislead the moot master.

It is perfectly acceptable for you to draw the moot master's attention to an important phrase or subarticle, but do this through emphasis. Use your voice to emphasise a passage, but keep the correct context.

Voice and delivery

Your voice is one of the most extraordinary and powerful tools at your disposal. All of our voices are different. Some are naturally melodic and calming, others demand attention, a few have an undefinable yet distinct quality, and some are a bit thin or scratchy.

Irrespective of how your voice might be described, we all have an ability to use our voices. You can be demure or forceful, inquisitive or authoritative, caring or dispassionate. You can convey all this simply by saying the same words in different ways.

It would be a terrible shame to waste this tool but waste it many do.

Often those judging your practice moots will be able to tell you whether or not you are taking full advantage of your voice.

However, you can work on this by yourself as well. Get a recording device and record yourself. If you have never heard a recording of yourself before, be prepared for a shock.

Your voice will sound very different, possibly even unrecognizable! When you listen to a recording of yourself you are hearing your voice the way everyone

else does. The physiological reasons why we hear ourselves differently are not important, but it is worthwhile being aware of the phenomenon.

MODERATE YOUR TONE, PITCH AND ACCENT

Once you have recovered from the shock, listen critically to your performance. In particular, focus on your intonation the tone and pitch of your voice. Speaking in a monotone should be avoided.

Even though the subject matter may be extremely interesting, if the presentation is delivered in a monotonous fashion it will almost invariably be labelled by the audience as boring. Make sure you vary your tone appropriately throughout your submission.

It is possible to vary tone inappropriately, and this will simply serve to confuse your audience. Your audience needs to understand the significance of the various tones you adopt. To be able to do this, there needs to be a consistency in your use of tone, and each change must have a particular implication. There are common

conventions about what changes of tone mean in every language; they are not arbitrarily decided upon by an individual speaker. For example, in English we naturally tend to finish questions on a higher pitch.

Different languages use pitch and tones in different ways. This is evident simply from the fact that we have different accents. Accents are an important consideration, particularly for native speakers of the language. The fact that you can speak English perfectly will be of little value if your accent prevents you from being understood.

Ideally you should aim to have your accent sound as neutral as possible. This can, in part, be achieved by simply making sure you enunciate every word and round your vowels. The issue of accents is not something that should alarm or concern nonnative speakers. Indeed, we should have nothing but support, praise and admiration for participants who can moot in a second language. However, to completely ignore the fact that there will be some language difficulties for nonnative speakers would

be silly. In most moot competitions, judges will be specifically instructed not to allow their scoring to be influenced by difficulties of this kind. The easiest way to avoid any kind of language difficulty is to keep your sentences short and simple. This is good advice that applies to everyone.

Speak slowly

Concentrate on speaking slowly. It is almost impossible to speak too slowly. This will have two natural consequences. First, you will automatically begin to fully pronounce each word, which will help you speak clearly. Second, it will give your audience an opportunity to hear and comprehend each word. If you speak too quickly, your audience will hear a string of meaningless sounds. Learning to do this is not as easy as it may seem, and will require practice. You have to battle against the normal impulse to rush in circumstances where you have a lot to say and very little time to say it in.

Moderate the volume

You should also be very conscious of whether you are speaking loudly or quietly. Just as people find it difficult to believe they are speaking too quickly, many people seem surprised by the suggestion that they naturally speak too softly.

Your voice should fill the room to ensure that everyone, especially the moot masters, can hear you easily. Be careful not to yell, but err on the side of being slightly louder than you think you need to be, and this will ensure that your voice will carry to everyone in the room

Body language

The way you use your body as you deliver your submission can speak volumes to your audience. Often subconsciously our body language can reveal our true feelings.

Sometimes we can control these reactions and on other occasions we cannot. For example, some people blush when they are nervous. Then when they sense that they are blushing they get even more nervous and embarrassed.

The cure is to try to be less nervous and certainly not be embarrassed if you start to blush. Admittedly, this is much easier said than done, but it is true that solid preparation and earned selfconfidence do wonders to combat nervousness.

Never fidget

Nervousness can cause some people to fidget during their presentations, for example, clicking pens or tapping their fingers or feet.

A habit of this kind has several disadvantages. It undermines the confident appearance you are trying to present, and it distracts the attention of your moot masters from what you are saying.

Precisely how you cure fidgeting will depend on your environment. If you are standing at a lectern you may be able to discreetly hold the lectern, to stop yourself tapping your fingers. If possible, this should not be seen by the moot master. Instead all the moot master should see is an advocate standing upright and paying attention to the task.

Your hands are firmly holding the lectern so as to not reveal your state of anxiety. Alternatively, if you are sitting at a table, sit at the front of your seat, join your hands together and place them on the edge of the table. Concentrate on feeling the table just below the base of your little fingers. Sitting in this fashion allows

you to push against the table as firmly as you like and it will not be noticed by the moot master.

Furthermore, exerting pressure on that part of your hand will make it harder to wiggle your fingers.

Make use of gestures and posture

Once you have mastered your body language sufficiently so that it will not detract from your submission, begin experimenting with ways of using it to your advantage. Hand movements can be very effective when adding emphasis, as can taking off glasses. Give some thought to how you use your body. What hand movements do you use subconsciously at the moment? How can you utilise them to improve your delivery

Get feedback from your coach and team members about your gestures. Your gestures should add emphasis to what you are saying and create a favourable impression. They should never be distracting or overdone.

Hands are only one part of our body though, and how we carry ourselves is also very important. You need to have good posture. Make sure you are standing upright and are not stooped over. If you are sitting down, do not relax back into the chair.

Put both feet firmly on the ground and sit up straight. This is most easily achieved by sitting at the front of your chair.

Pay attention It stands to reason that if body language is a form of communication, then we are in fact communicating all the time. Just because you are not actually saying anything to the moot masters at a particular moment, you will still be conveying a message to them.

The lesson here is that you must pay attention during the whole moot. Do not start looking out the window or back over your shoulder to the audience when your cocounsel is speaking. This can have a very negative impact on the impression created by your cocounsel's submission. If you do not think it is worth listening to, why should the moot master?

When the opposition are delivering their submission you must also pay attention. The message you send by not paying attention during your opponent's submission is not that the submission is not important, but rather that you are rude. Maintaining a proper posture will in fact help you pay attention.

This can be very important if a moot master turns around and asks you an unexpected question.

Speaking from notes

The use of notes during a presentation is a hotly debated topic. Should you script your presentation and rote learn it? Should you have a complete copy in front of you when presenting, or should you just have a list of key points? The best advice is to do what suits you.

Using a complete script

Many people will tell you not to script your presentation and certainly not to have it written word for word in front of you. This advice is misguided to the extent that it will force some people well outside their comfort zone, which will be detrimental to their overall performance.

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Remember, maintaining a relaxed, measured and confident approach is the most important goal. If having a complete script works for you then do it. The question then becomes how do you know if it is working?

The two most common criticisms of the use of scripts are that people tend to read and that they then lack flexibility. In a moot it is very important not to read. You need to be looking up at the moot masters and talking directly to them.

It is virtually impossible to engage with someone if you are not looking at them. Reading also tends to impact on your tone. It is much easier to slip into a monotone if you are reading. It will also affect your volume.

Our mouths point in the same direction as our eyes, therefore when reading out aloud we are quite literally speaking down to the paper, and not projecting our voices. In short, reading will detract from your submission and should be avoided as much as possible.

People who read will also tend to stick to their script. This affects their ability to answer questions. The need for flexibility was briefly discussed under the heading "Varying the order in your submission and it is an equally relevant consideration at this stage. Moot masters will move you around your presentation, possibly at the most inconvenient stages.

If you are If you are relying on reading your submission, you will need to be able to sort through your notes instantaneously. This can be difficult for you and distracting for the moot master.

You need to establish what is right for you during your practice moots or court. Try different approaches and see how they work. Think about the environment you will be in when delivering your submission.

Using summarized notes

If you decide that you are going to use notes, practise using them and think about how they should be designed for maximum effectiveness.

For example, it may be advisable not to bind your notes in any way. This means you should not use an exercise book, or staple your notes together. This will allow you greater flexibility to vary the order of your presentation in response to questions from the moot master, as we have already discussed.

Notes can be a very effective and useful tool when used well. You need to give some thought to how your notes can best be designed to suit your requirements.

It was suggested earlier that rather than speed up when you are running out of time it is far better to discard arguments. To be in a position to do this, you need to have prioritized your arguments. Which arguments are essential, which are desirable and which are dispensable, but would still be included in an ideal presentation?

How you have designed your notes can greatly assist you in this process.

Building rapport with the moot master

People who are naturally charismatic and charming seem to effortlessly command attention when they walk into a room. They have vibrant personalities and can socialise easily. They have a presence, and always seem to impress an audience. These people can be extremely intimidating to those who do not see the same characteristics in themselves.

It is often the case that how we see ourselves is very different from the way others see us. Many of us tend to assume the worst.

This is particularly true of people in stressful situations. Imagine you walk into a moot court and glance at the moot master. At that precise moment the moot master appears to sneer at you. What do you think? Do you assume you are already off to a bad start and basically give up without having said a word? The real reason for the moot master's apparent sneer might have nothing to do with you whatsoever. It may have been the onset of a sneeze, for instance.

The attractive and endearing people you may feel intimidated by are the ones who have learnt to overcome their negative assumptions about how others perceive them. These people are generally very comfortable with who they are, and their charisma comes from confidence and selfbelief.

Everyone can develop selfconfidence, and you can too. Confidence in your abilities will be invaluable in helping you build a good rapport with the moot master. To develop rapport with someone, you must engage with them. The tips on presentation that we have discussed so

MULTIPLE MOOT MASTERS

Convincing one person can be relatively easy. If you have three moot masters, you may think that your task will be three times harder.

This is not necessarily the case, although there is no doubt that it is harder to some degree. Fortunately, it is possible to overcome many of these difficulties with practice.

The most difficult aspect of appearing before multiple moot masters is establishing a rapport with all of them simultaneously.

It is physically impossible to make eye contact with more than one person at a time, so you will need to divide your attention between each of the moot masters. This can be particularly difficult when one of the moot masters does not appear to be making any attempt to engage with you. For example, where only two of the three moot masters are asking questions, it is very easy to ignore the third.

But you would do so at your peril. This moot master needs to receive an equal share of your attention because each moot master has the same capacity to award points and is therefore equally important to you. If your competition has multiple moot masters, your practice moots should have the same number. Get used to shifting your

Order of submissions

Advocates are frequently taken by surprise when the moot master changes the order of submissions. For example, the Respondent may have challenged the jurisdiction of the court.

In this situation it would not be unreasonable if the Respondent was asked to make its submission on that issue first. Suddenly the Respondent is not responding any more but presenting an affirmative case. It is also

important to remember that the first speaker should always offer a summary of the facts, and this means it may be the Respondent who has to present this summary.

Rebuttal

The availability of rebuttal will vary from moot to moot. If you are representing the party bringing the case, always request a right of rebuttal. This is not to say you will always exercise that right, but have it up your sleeve if it is granted.

If possible confer with your opposition before the moot begins and agree on how you would jointly like the moot to be run. The moot masters may ask whether there has been any agreement on these issues, or they may simply begin the moot.

In either case the first advocate, whichever side the advocate represents, should clarify the procedure with the moot master in particular the time available to each advocate, the order of arguments and the right of rebuttal (and occasionally surrebuttal).

This can be done very politely by indicating that there were discussions between counsel before proceedings began and that you are jointly proposing a particular procedure to the moot master.

The moot master may acquiesce or allow some matters like rebuttal. Ultimately it remains in the moot masters' hands and you can only ask. Even if you have the right of rebuttal, you may not always wish to exercise it. Knowing when to rebut and when not to will come from an understanding of the purpose of rebuttal.

Rebuttal does not exist so that you get the last chance to restate your case. On the contrary, rebuttal should not involve a restatement of the case at all. Rebuttal

Dealing with mistakes

Good preparation is preparation that prepares you for every contingency. However unlikely you may wish it to be, it is possible that you will make a mistake. In a moot, and often in real life, that fact that you have made a mistake is not as relevant as how you deal with it.

Sadly, ignoring a mistake will not make it go away. If you have made a mistake do not be frightened to correct it. It is far better to acknowledge that you "spoke in error" and to correct any misunderstanding that the moot master may have, than to simply push on. However, do not be too quick to assume that it is you who has indeed made an error, particularly if the moot master has suggested that one of your wellresearched arguments is wrong. Remember that you will know much more about the problem than your moot master because of your extensive and detailed research on the topic.

Have confidence in yourself and your submissions. Restate your proposition and clarify with the moot master precisely why they believe there is an error. If it is there, acknowledge it, downplay its significance to your overall submission and move on.

If the moot master is wrong, take a moment to reexplain your point, specifically identifying why you are not in error and move on. When doing so you should not attribute the confusion to anyone.

Your Worship, perhaps I could rephrase this point . . .

Irrespective of who is actually in error, the crucial point is to proceed with your submission. Battle on. Do not lose confidence or be too embarrassed to proceed. Standing dumbstruck, not knowing what to do next, will have a much greater impact on the moot.[107]

For more information, see Miller's "Storytelling: A Technique for Jury Persuasion" cited at the end of this article. Many continuing legal education programs also offer courses on trial advocacy skills. Check with your local bar association or trial advocacy society.

Critical thinking for lawyers

When preparing and conducting a speech, you also increase your critical thinking skills by working through problems, imagining positive and negative consequences, and finding solutions.

Critical Thinking Skills

Critical thinking is the ability to objectively analyze information and draw a rational conclusion. It also involves gathering information on a subject and determining which pieces of information apply to the subject and which do not, based on deductive reasoning. The ability to think critically helps people in both their personal and professional lives and is valued by most employers.

[107] The Art Of Argument A guide to mooting by Christopher Kee

Critical thinking refers to the ability to analyze information objectively and make a reasoned judgment. It involves the evaluation of sources, such as data, facts, observable phenomena, and research findings.[108]

As a lawyer, to be a great leader and public speaker, you must also have impressive critical thinking skills.

According to the University of Louisiana's studies of definitions of critical thinking, it was determined that "critical thinking is the intellectually disciplined process of actively and skillfully conceptualizing, applying, analyzing, synthesizing, and/or evaluating information gathered from, or generated by, observation, experience, reflection, reasoning, or communication, as a guide to belief and action."

Being a critical thinker means that the information you intake can be analyzed and utilized in even the most stressful situations, like public speaking engagements. Being able to reframe the delivery of your message based on the audience's reaction can prove to be incredibly helpful.

In order to develop critical thinking skills on your own, you should always be openminded and willing to listen. Process the information you hear and consider your own opinion of it, rather than falling back on the opinions of others. Stay up to date on current events, and always challenge your own dated and limited beliefs. Keep your mind sharp, while also being open to learning more.

Good critical thinkers can draw reasonable conclusions from a set of information, and discriminate between useful and less useful details to solve problems or make decisions. Employers prioritize the ability to think critically—find out why, plus see how you can demonstrate that you have this ability throughout the job application process.

Why Do Lawyers Value Critical Thinking Skills?

[108] University of Louisville ''what is critical thinking''

Someone with critical thinking skills can be trusted to make decisions independently, and will not need constant handholding.

How to Be a Critical Thinker?

To become one takes time, practice, and patience. But something you can start doing *today* to improve your critical thinking skills is apply the 7 steps of critical thinking to every problem you tackle—either at work or in your everyday life.

Steps of Critical Thinking

1. Identify the problem or question.

Be as precise as possible: the narrower the issue, the easier it is to find solutions or answers.

2. Gather data, opinions, and arguments.

Try to find several sources that present different ideas and points of view.

3. Analyze and evaluate the data.

Are the sources reliable? Are their conclusions databacked or just argumentative? Is there enough information or data to support given hypotheses?

4. Identify assumptions.

Are you sure the sources you found are unbiased? Are you sure you weren't biased in your search for answers?

5. Establish significance.

What piece of information is most important? Is the sample size sufficient? Are all opinions and arguments even relevant to the problem you're trying to solve?

6. Make a decision/reach a conclusion.

Identify various conclusions that are possible and decide which (if any) of them are sufficiently supported. Weigh strengths and limitations of all possible options.

7. Present or communicate.

Once you've reached a conclusion, present it to all stakeholders.

Top Critical Thinking Skills

Keep these indemand critical thinking skills in mind as you update your resume and write your cover letter. As you've seen, you can also emphasize them at other points throughout the application process, such as your interview or public speaking.[109]

Analysis

Part of critical thinking is the ability to carefully examine something, whether it is a problem, a set of data, or a text. People with analytical skills can examine information, understand what it means, and properly explain to others the implications of that information.

- Asking Thoughtful Questions
- Data Analysis
- Research

[109] https://www.thoughtco.com/ critical-thinking-definition-with-examples-2063745

- Interpretation
- Judgment
- Questioning Evidence
- Recognizing Patterns
- Skepticism

Communication

Often, you will need to share your conclusions with your employers or with a group of colleagues. You need to be able to communicate with others to share your ideas effectively. You might also need to engage in critical thinking in a group. In this case, you will need to work with others and communicate effectively to figure out solutions to complex problems.

- Active Listening
- Assessment
- Collaboration
- Explanation
- Interpersonal
- Presentation
- Teamwork
- Verbal Communication
- Written Communication

Creativity

Critical thinking often involves creativity and innovation. You might need to spot patterns in the information you are looking at or come up with a solution that no one else has thought of before. All of this involves a creative eye that can take a different approach from all other approaches.

i) Flexibility

ii) Conceptualization

iii) Curiosity

iv) Imagination

v) Drawing Connections

vi) Inferring

vii) Predicting

viii) Synthesizing

ix) Vision

OpenMindedness

To think critically, you need to be able to put aside any assumptions or judgments and merely analyze the information you receive. You need to be objective, evaluating ideas without bias.

a) Diversity

b) Fairness

c) Humility

d) Inclusive

e) Objectivity

f) Observation

g) Reflection

Problem Solving

Problemsolving is another critical thinking skill that involves analyzing a problem, generating and implementing a solution, and assessing the success of the plan. Employers don't simply want employees who can think about information critically. They also need to be able to come up with practical solutions.

- Attention to Detail
- Clarification
- Decision Making
- Evaluation
- Groundedness
- Identifying Patterns
- Innovation

More Critical Thinking Skills

- Inductive Reasoning
- Deductive Reasoning
- Compliance
- Noticing Outliers
- Adaptability

- Emotional Intelligence
- Brainstorming
- Optimization
- Restructuring
- Integration
- Strategic Planning
- Project Management
- Ongoing Improvement
- Causal Relationships
- Case Analysis
- Diagnostics
- SWOT Analysis
- Business Intelligence
- Quantitative Data Management
- Qualitative Data Management
- Metrics
- Accuracy
- Risk Management
- Statistics
- Scientific Method
- Consumer Behavior

Examples of Critical thinking skills

There are six main skills you can develop to successfully analyze facts and situations and come up with logical conclusions:

1. **Analytical thinking**

Being able to properly analyze information is the most important aspect of critical thinking. This implies gathering information and interpreting it, but also skeptically evaluating data. When researching a work topic, analytical thinking helps you separate the information that applies to your situation from that which doesn't.

2. **Good communication**

Whether you use it for gathering information or convincing others that your conclusions are correct, good communication is crucial in the critical thinking process. Getting people to share their ideas and information with you and showing your critical thinking are components of success. If you're making a workrelated decision, proper communication with your coworkers will help you gather the information you need to make the right choice.

3. **Creative thinking**

Being able to discover certain patterns of information and make abstract connections between seemingly unrelated data will improve your critical thinking. When analyzing a work procedure or process, you can creatively come up with ways to make it faster and more efficient. Creativity is a skill that can be strengthened over time and is valuable in every position, experience level and industry.

4. **Openmindedness**

Previous education and life experiences leave their mark on a person's ability to objectively evaluate certain situations. By acknowledging these biases, you can improve your critical thinking and overall decision process. For example, if you plan to conduct a meeting in a certain way and your partner suggests using a different strategy, you could hear them out and adjust your approach based on their input.

5. **Ability to solve problems**

The ability to correctly analyze a problem and work on implementing a solution is another valuable skill. For example, if your restaurant's waitstaff needs to improve service speeds, you could consider reassigning some of their duties to bussers or other kitchen personnel so the servers can deliver food more quickly.

6. **Asking thoughtful questions**

In both private and professional situations, asking the right questions is a crucial step in formulating correct conclusions.

Openended questions

Asking openended questions can help the person you're speaking to provide you with relevant and necessary information. These are questions that don't allow a simple "yes" or "no" answer, requiring the person who receives the question to elaborate on the answer.

Outcomebased questions

When you feel like another person's experience and skills could help you work more effectively, consider asking outcomebased questions. Asking someone how they would act in a certain hypothetical situation will give you an insight into their own critical thinking skills and help you see things you hadn't thought about before.

Reflective questions

You can gain insight by asking a person to reflect and evaluate an experience and explain their thought processes during that time. This can help you develop your critical thinking by providing you realworld examples.

Structural questions

An easy way to understand something is to ask how something works. Any working system results from a long process of trial and error and properly understanding the steps that needed to be taken for a positive result could help you be more efficient in your own endeavors.[110]

[110] https://www.indeed.com/career-advice/ career-development/critical-thinking-examples

The Art of Oratory in Jurisprudence

Why Are Critical Thinking Skills Important?

When you think critically, you'll constantly challenge what seems given. Say, in your job, even if something appears to be functioning properly, critical thinking will help you try and identify new, better solutions.

Speaking legally

Public speaking is an art, and mastery of rhetoric contributes to the success of politicians, lawyers and the like. As a (court) lawyer, you will encounter many situations when you have to speak in public.

Your job demands that you master the art of public speaking: the speeches lawyers make determine the fate of people like many momentous speeches politicians deliver change the course of history.

Always refer to the laws while delivering a speech as a lawyer however knowing the law and legal practices is not enough to become a successful lawyer, your success largely depends on your ability to speak well in public.

No one is born a great and eloquent speaker, some have more talent for public speaking than others, but it is an acquired skill like the skill of playing the piano.

As an advocate in a moot or in professional practice you need to develop and deliver a compelling and convincing argument to support your case. So how do you build an argument? There are a variety of approaches you might take.[111]

The basic steps

Before you start to build an argument, think about how you are going to develop the structure of your argument, and most importantly think about how you are going to test it.

[111] The art of Argument A guide to mooting by Christopher Kee

Step 1

Read the facts and decide instinctively who should win.

Whenever you encounter a set of facts, you will instinctively form an opinion of who should win. This is human nature. Your opinion

will be influenced by many factors, from the way the problem is presented to the personal experiences that have shaped your beliefs and values. For example, we each have our own notions of what is fair and just, and of what is right and wrong. These are emotive and subjective responses. For most people, their emotive and subjective responses will be the instinctive ones As an advocate you will need to either exploit or overcome these emotive and subjective responses, depending on which side you are representing. Your own instinctive response will be influenced by your training.

A legal education trains you to have a response that goes beyond subjective prejudice. Lawyers are taught to think objectively. We do our best to remove emotion from a conflict and to apply the law without fear or favour. Legal philosophers may debate whether ultimately this is a good or bad thing, but as a general rule it is what judges and arbitrators are called upon to do.

Once you have identified instinctively who should win, influenced by your legal knowledge and training, you have the base from which you can build your arguments. Bear in mind that well written moot problems will tend not to be designed so that one side is clearly favoured, so irrespective of who you are representing, there will be prejudices that work for and against your arguments.

Step 2

Identify who you are representing.

At first this may seem a little obvious. Naturally you need to identify which party you are acting for! But the question goes deeper than that. You need to remember that you are representing the client's case not yours. Make sure that you stay sufficiently objective so that you can identify weaknesses in your own case.

This is reasonably easy to do in a moot case, but it can be much more difficult in real cases when you are dealing with a fleshandblood client whose future may depend on the outcome.

Over the time you spend building your arguments you will have made a considerable emotional investment in your case. You will feel some ownership of your arguments and may tend to become protective of them. While it is very important to be willing to defend all your arguments, It must be a "defence" and not simply a dismissal of the criticism.

In moot competitions this issue tends to display itself within the team, particularly if any of the team members are battling insecurities. One member of the team will come up with an argument that they think is compelling, and another member of the team will disagree and the battle ensues. This process should be seen to be constructive rather than obstructive. Ideally every argument by every team member should be criticized, as criticism will either confirm the validity of the argument or lead to its improvement.[112]

Step 3

Compile a list of arguments

As a lawyer you need to begin compiling a list of reasons why your side should win. These need to be reasoned and supported arguments. The untrained and instinctive responses we talked about above are examples of unreasoned and unsupported arguments, which need to be developed.

For example, "just because it is right" is not a reasoned argument. You need to explain why it is right.

You need to immerse yourself in research. This is when you begin to learn the complexities of the subject matter. Your arguments must be supported by primary sources, such as the law itself, and secondary sources, such as commentaries.

[112] The art of Argument A guide to mooting by Christopher Kee

What amounts to a primary or secondary source will depend on the area of law you are dealing with? You should be very careful to avoid false reasoning. In simple examples, it can be easy to identify an error of logic in an argument.

For example: all dogs have four legs; this cat has four legs; this cat is a dog. However, when the propositions in an argument are much more complex, it can be difficult to spot problems with the reasoning.

It is very important to write or record your arguments as you develop them. During later stages of the process, you will need to be able to review every stage of the argument's development. In a nutshell, then, your task is to prepare the longest list of reasoned and supported arguments you possibly can to persuade any moot master that your client should win.

Structure the list so that your most convincing points are at the top and the really weak arguments are at the bottom. Set yourself a time limit to complete this task, bearing in mind the overall time pressures that you face.[113]

Step 4

Imagine you represent the other side

This step is harder than step 3 as it involves more work. You now have two tasks. You need to develop a response to every one of the arguments in the list you have prepared, thus simultaneously develop an equally reasoned and supported list of arguments why the opposing side should now win.

Why do we do this? Some advocates argue that the way to build the strongest case for your client is to first build the case for the other side. In doing so you effectively identify the weaknesses in your case and the challenges you will need to meet. Being aware of all the weak points in your case allows you to build stronger arguments.

Sometimes criticising your earlier arguments can be an easy task, if you have already come across authorities that support an opposing view during your initial research. If you made

[113] The art of Argument A guide to mooting by Christopher Kee

a note of these authorities, you can now go back to them and use them to support your new arguments. On other occasions it will not be as easy, and the process will take some time. Make sure that at every stage you are recording the development of each of your arguments.

Step 5

Repeat steps 3 and 4 at least five times

At first, you might think that repeating steps 3 and 4 at least five times seems tedious and unnecessary. But do not take an ordinary approach to answering your moot problem. Most people will work on an argument until they reach the first obvious "clear win" for one side. However, to use a card game analogy, there are never any trumps in mooting.

If you believe you have arrived at the perfect argument for your client, you do so at your own peril. It is dangerous simply because you have stopped developing the argument. What happens when, while sitting in the final of a moot competition, your opponent delivers an effective response to your brilliant argument?

You are unlikely to be able to reply, which means that your opponent gets the last word and most importantly makes the final positive impression on the moot master. While no one can ever guarantee that you will win a competition, if you follow this process you will be certainly be among the best prepared in the moot. Be better than ordinary. Find the answer that beats the initially best argument, then have the reply that beats that, and so on. You must always strive to beat your own best argument.

There is a flip side to this point that you need to think about. Just as people tend to stop at what they presume to be an obvious answer, they will ignore arguments they assume to be bad or weak ones. If you take the time to develop these arguments, you will catch your opponents unawares. They will be left speechless and unprepared. It would not be unusual if your first really weak argument ultimately becomes your most effective!

Avery significant advantage of undertaking step 5 is that it forces you to come up with innovative arguments. To beat seemingly impregnable arguments, you need to investigate every single possible line of inquiry. This will often take you beyond the specific subject matter of the moot problem and into general areas of the field of law you are studying. This process increases your peripheral knowledge. Demonstrating this knowledge in answer to a moot master's question can often win you a moot.

This is only one possible approach you might take to developing your arguments. However, it is a very practical and very efficient method of tackling moot problems. Remember that most international competitions will require you to act for both sides at different stages of the moot. For example, in your first moot you may be representing the party bringing the claim, and in your second moot the party defending the claim. The suggested fivestep approach effectively allows you to prepare the arguments for both sides simultaneously.[114]

The following tips can help you improve your public speaking skills.

- Watch talks and speeches. There are a lot of (TED) talks with greatest speakers, watch them get the feel of what a good speech should be like. Pay attention to details: the way speakers move, their gestures, change of voice and tone. Observing others speak is the first step on your way to becoming a good speaker.
- Find a role that fits you; like an actor has to fit the role he/she plays, you need to fit the role you will assume in court. Do not try to sound and speak like others, find your style, be yourself. Find the style that suits you best so that you feel comfortable when delivering a speech.
- Practice and rehearse. Practice makes perfect. Practice when you are alone in the room, practice in front of the mirror, record your speech, and replay it. Once you are satisfied with your speech, practice in front of others. It can be a friend or a

[114] The art of Argument A guide to mooting by Christopher Kee

family member, somebody who will give you an honest feedback. Do not be discouraged by negative feedback. There is always room for improvement and knowing your weak points will only help you improve.

- Be confident, look confident, sound confident. Even if you are not very sure that your words and reasoning will work in a particular situation, never show you doubt about your own words, inspire confidence, never let anyone sense you are not confident enough. The same speech delivered with and without confidence will have a different effect. To convince others, first you need to be sure of what you are saying and be able to display your confidence.

- Improve your language skills and learn to use rhetorical devices. Eloquence and figurative language make your speech much better. Do not use simple words and short sentences but do not use complicated language either. Improving your language will take time but it is worth it. Read, watch, and repeat. Take time to prepare your speeches, read relevant literature, study precedents, and similar cases, write your speech properly, read and reread it to refine it, use synonyms, repetitions, metaphors, etc. Bare facts and succinct texts will hardly impress anyone. Your task is to impress in order to convince.

- Respect your audience by showing it in your words and gestures. Never say anything that might hurt people in the audience. Always be respectful. Maintain eye contact. While talking to people, look at people.

- Be flexible and ready to debate. Things do not always go as you have planned. Be ready to adapt your speech while delivering it. Be ready to dispute, even if you disagree with what is being said. Never show emotions defeat your opponents not by your anger but by your confidence and reasoning. Believe in your success in order to succeed.

- Take every opportunity to speak. Practice is the key to success but nothing compares to real speeches. The floor is yours.[115]

[115] consumerlawmagazine.com7-lawyer-public-speaking-techniques/

Delivery methods

There are four basic methods of speech delivery: manuscript, memorized, impromptu, and extemporaneous. We'll look at each method and discuss the advantages and disadvantages of each.

Manuscript

A manuscript speech is when the speaker writes down every word they will speak during the speech. When they deliver the speech, they have each word planned and in front of them on the page, much like a newscaster who reads from a teleprompter.

The advantage of using a manuscript is that the speaker has access to every word they've prepared in advance. There is no guesswork or memorization needed. This method comforts some speakers' nerves as they don't have to worry about that moment where they might freeze and forget what they've planned to say. They also are able to make exact quotes from their source material.

When the exact wording of an idea is crucial, speakers often read from a manuscript, for instance in communicating public statements from a company.

However, the disadvantage with a manuscript is that the speakers have MANY words in front of them on the page. This prohibits one of the most important aspects of delivery, eye contact. When many words are on the page, the speakers will find themselves looking down at those words more frequently because they will need the help. If they do look up at the audience, they often cannot find their place when the eye returns to the page. Also, when nerves come into play, speakers with manuscripts often default to reading from the page and forget that they are not making eye contact or engaging their audience. Therefore, manuscript is a very difficult delivery method and not ideal. Above all, the speakers should remember to rehearse with the script so that they practice looking up often.

Memorized

A memorized speech is also fully prepared in advance and one in which the speaker does not use any notes. In the case of an occasion speech like a quick toast, a brief dedication, or a short eulogy, wordforword memorization might make sense. Usually, though, it

doesn't involve committing each and every word to memory, Memorizing a speech isn't like memorizing a poem where you need to remember every word exactly as written. Don't memorize a manuscript! Work with your outline instead. Practice with the outline until you can recall the content and order of your main points without effort. Then it's just a matter of practicing until you're able to elaborate on your key points in a natural and seamless manner. Ideally, a memorized speech will sound like an offthecuff statement by someone who is a really eloquent speaker and an exceptionally organized thinker!

The advantage of a memorized speech is that the speaker can fully face their audience and make lots of eye contact. The problem with a memorized speech is that speakers may get nervous and forget the parts they've memorized. Without any notes to lean on, the speaker may hesitate and leave lots of dead air in the room while trying to recall what was planned. Sometimes, the speaker can't remember or find his or her place in the speech and are forced to go get the notes or go back to the PowerPoint in some capacity to try to trigger his or her memory. This can be an embarrassing and uncomfortable moment for the speaker and the audience, and is a moment which could be easily avoided by using a different speaking method.

Impromptu

An impromptu speech is one for which there is little to no preparation. There is often not a warning even that the person may be asked to speak. For example, your speech teacher may ask you to deliver a speech on your worst pet peeve. You may or may not be given a few minutes to organize your thoughts. What should you do? DO NOT PANIC. Even under pressure, you can create a basic speech that follows the formula of an introduction, body, and conclusion. If you have a few minutes, jot down some notes that fit into each part of the speech. (In fact, the phrase "speaking off the cuff," which means speaking without preparation, probably refers to the idea that one would jot a few notes on one's shirt cuff before speaking impromptu.)[1]

An introduction should include an attention getter, introduction of the topic, speaker credibility, and forecasting of main points. The body should have two or three main points. The conclusion should have a summary, call to action, and final thought. If you can organize your thoughts into those three parts, you will sound like a polished speaker.

Even if you only hit two of them, it will still help you to think about the speech in those parts. For example, if a speech is being given on a pet peeve of chewed gum being left under desks in classrooms, it might be organized like this.

- **Introduction**: Speaker chews gum loudly and then puts it under a desk (attention getter, demonstration). Speaker introduces themselves and the topic and why they're qualified to speak on it (topic introduction and credibility). "I'm Katie Smith and I've been a student at this school for three years and witnessed this gum problem the entire time."
- **Body**: Speaker states three main points of why we shouldn't leave gum on desks: it's rude, it makes custodians have to work harder, it affects the next student who gets nastiness on their seat (forecast of order). Speaker then discusses those three points
- **Conclusion**: Speaker summarizes those three points (summary, part 1 of conclusion), calls on the audience to pledge to never do this again (call to action), and gives a quote from Michael Jordan about respecting property (final thought).

While an impromptu speech can be challenging, the advantage is that it can also be thrilling as the speaker thinks off the cuff and says what they're most passionate about in the moment. A speaker should not be afraid to use notes during an impromptu speech if they were given any time to organize their thoughts.

The disadvantage is that there is no time for preparation, so finding research to support claims such as quotes or facts cannot be included. The lack of preparation makes some speakers more nervous and they may struggle to engage the audience due to their nerves.

Extemporaneous

The last method of delivery we'll look at is extemporaneous. When speaking extemporaneously, speakers prepare some notes in advance that help trigger their memory of what they planned to say. These notes are often placed on notecards. A 4"x6" notecard or 5"x7" size card works well. This size of notecards can be purchased at any office supply store. Speakers should determine what needs to go on each card by reading through their

speech notes and giving themselves phrases to say out loud. These notes are not full sentences, but help the speakers, who turn them into a full sentence when spoken aloud. Note that if a quote is being used, listing that quote verbatim is fine.

The advantage of extemporaneous speaking is that the speakers are able to speak in a more conversational tone by letting the cards guide them, but not dictate every word they say. This method allows for the speakers to make more eye contact with the audience. The shorter note forms also prevent speakers from getting lost in their words. Numbering these cards also helps if one gets out of order. Also, these notes are not ones the teacher sees or collects. While you may be required to turn in your speech outline, your extemporaneous notecards are not seen by anyone but you. Therefore, you can also write yourself notes to speak up, slow down, emphasize a point, go to the next slide, etc.

The disadvantage to extemporaneous is the speakers may forget what else was planned to say or find a card to be out of order. This problem can be avoided through rehearsal and doublechecking the note order before speaking.

Many speakers consider the extemporaneous method to be the ideal speaking method because it allows them to be prepared, keeps the audience engaged, and makes the speakers more natural in their delivery. In your public speaking class, most of your speeches will probably be delivered extemporaneously.[116]

Overcoming nervousness

When we have to speak in front of others, we can envision terrible things happening. We imagine forgetting every point we want to make, passing out from our nervousness, or doing so horribly that we'll lose our job. But those things almost never come to pass! We build them up in our minds and end up more nervous than we need to be.

Many people cite speaking to an audience as their biggest fear, and a **fear of failure** is often at the root of this. Public speaking can lead your "fight or flight" response to kick in: adrenaline courses through your bloodstream, your heart rate increases, you sweat, and your breath becomes fast and shallow.

[116] https://courses.lumenlearning.com//wm-publicspeaking/chapter/methods-of-speech-delivery

Although these symptoms can be annoying or even debilitating, the **InvertedU Model** shows that a certain amount of pressure enhances performance. By changing your mindset, you can use nervous energy to your advantage.

First, make an effort to stop thinking about yourself, your nervousness, and your fear. Instead, focus on your audience: what you're saying is "about them." Remember that you're trying to help or educate them in some way, and your message is more important than your fear. Concentrate on the audience's wants and needs, instead of your own.

If time allows, use **deep breathing exercises** to slow your heart rate and give your body the oxygen it needs to perform. This is especially important right before you speak. Take deep breaths from your belly, hold each one for several seconds, and let it out slowly.

Crowds are more intimidating than individuals, so think of your speech as a conversation that you're having with one person. Although your audience may be 100 people, focus on one friendly face at a time, and talk to that person as if he or she is the only one in the room

Compelling testimony

Section 131 of the evidence act cap 6 is to the effect that witnesses are not excused from answering on ground that the answer will incriminate.

Section 120(2) of the evidence act is to the effect that in criminal proceedings, the wife or husband of the accused person shall be a competent and compellable witness for the defence whether the accused person is charged alone or jointly with another person.

Section 121 of the same act is to the effect that in all civil proceedings the parties to the suit, and the husband and the wife of any party to the suit shall be competent and compellable witnesses.

Witnesses have a right to safety and security when testifying which is a fundamental human right. It is an opportunity for the State to perform its duty of care to ensure protection of its citizens from any harm or intimidation and to ensure rule of law.

A witness is compellable if he or she may lawfully be required to give evidence. Most witnesses who are competent can be compelled to give evidence.

Witness Summons

Prosecutors are reminded that where they are not satisfied that the witness will attend court voluntarily; they can apply for a witness summons. A witness summons can either require a person to give evidence or require a person to produce documents needed as evidence.

A person, who disobeys a witness order or summons requiring him or her to attend Court, is guilty of contempt of the court if he or she fails to attend without just cause. He or she may be punished summarily by that Court as if his or her contempt had been committed in the face of the Court. The maximum penalty is three months' imprisonment.

The Court in *Popat* (2009) 172 JP 24 emphasised that it is the disobedience of a summons which represents the contempt and there is no requirement for an arrest warrant to have been issued in addition.

Please see below for the position regarding the compellability of spouses or civil partners in criminal proceedings.

VERBAL COMMUNICATION SKILLS

What are verbal communication skills?

Verbal communication refers to the use of language to convey information. Verbal communication skills represent more than speaking abilities—they demonstrate how you deliver and receive messages in both speaking and written interactions. These skills focus on how you communicate rather than what you say. Because of this, you can utilize nonverbal techniques such as body language to enhance your interactions.

Examples of effective verbal communication skills include:

- Active listening
- Asking for clarification
- Asking openended questions to gain insights
- Recognizing and responding to nonverbal cues
- Speaking clearly and concisely
- Using humor to engage audiences

Why are verbal communication skills important?

Verbal communication skills matter because they enable you to build rapport with other people, which creates more positive interactions and stronger work relationships. With these skills, you can convey a sense of confidence and ensure that your audience understands your message or expectations. The ability to communicate clearly helps you succeed in various work situations, including projects, negotiations and job interviews.

How to improve verbal communication skills

1. Think before speaking

People often feel uncomfortable with silence, but pausing before answering a question can improve your response. Taking time to reflect allows you to organize your thoughts into a concise, clear statement. If you feel rushed to answer, that feeling will get reflected in how you respond, so your message may not come out as intended. Pauses convey a sense of thoughtfulness, so your audience will gain the impression that you considered the best response before speaking.

Similarly, if your counterpart pauses for a moment, do not feel the need to jump in and counter the silence. The person will appreciate that you gave them the time to contemplate their response, rather than interrupting their thought process. Not only does this show professionalism, but it also demonstrates your interest in hearing what they have to say.

2. Use concise language

Being succinct when speaking not only make your message easier to understand but also gets your main points across to the audience sooner. Before speaking, ask yourself how you can present the information as clearly and in as few words as possible. Whether you are writing or speaking, avoid using complicated words and sentences or including irrelevant information. Taking these steps will ensure your audience clearly understands your primary points and can respond accordingly. This skill is especially beneficial when

providing instructions or expectations to colleagues, as your directness ensures there is little confusion.

3. Understand your audience

To effectively communicate messages, you need to understand your audience and put yourself in their position. Not everyone has the same knowledge or background as you, so ensure you explain information in a manner easily understood by anyone—especially when discussing complex or technical topics. Also, try to take your audience's culture or personality into consideration, as different demographics have their own communication preferences. For example, you would speak to a close friend much differently than you would to an executive at a company.

Before presentations, ask yourself what your audience wants and needs to know and what their knowledge base is. When you understand who you are speaking to, it makes it easier to tailor your message to their needs. Taking this tailored approach also ensures your audience stays interested because you provide only the most relevant information they want to hear.

4. Be mindful of your tone

Your tone plays a crucial role in verbal communications, and how you use it can affect the way your audience engages with you. Combing a friendly and warm tone with a smile makes a positive impression. Meanwhile, speaking in a flat or monotone manner can make you appear uninterested, which can put off an audience. Also, try to vary your tone and use inflection to emphasize important points. This technique is an easy way to focus the attention of your audience.

You can also use the verbal modeling method, in which you try to copy the tone of another person. For example, during a conversation, speak softly when they speak softly or if they have excited energy, try to match it. People feel drawn to voices that sound like theirs, making this a helpful method of increasing engagement.

5. Pay attention to your body language

Your body language can affect how you deliver messages despite it being a nonverbal method of communication. Ways to convey confident body language include

maintaining eye contact and having relaxed body language. You can also use gestures or facial expressions to emphasize points and grab audiences' attention or focus.

6. Employ active listening

Listening is as essential as speaking during conversations because it demonstrates a genuine interest in the other speaker and guarantees you understand their needs. As a result, you will find it easier to build rapport and relationships. To apply active listening skills, give the other person your full attention to ensure you not only hear the words they say but also the message they want to convey. When the other person feels heard, they feel more interested in reciprocating and hearing what you have to say.

Some effective active listening techniques include

Avoid making judgments about or stereotyping others.

Remove any potential distractions, such as a noisy setting.

Focus on what the other person is saying, rather than thinking about what you want to say next.

Ask clarifying questions to ensure you fully understand the information or message.

Wait until the other person finishes speaking before responding.

7. Speak with confidence

Confidence is crucial because if you sound like you do not believe in what you are saying, neither will your audience. You want to establish that you have credibility or authority, which makes people trust you and feel more interested in listening to you. There are a variety of ways to convey confidence, including the way you hold yourself during conversations and the tone of voice that you use.

One way to build confidence before planned conversations, presentations or speeches is to make mental or physical notes about what you will discuss. These notes do not have to be a script but should highlight the main points you want to make. Your notes provide a direction for your verbal interaction, showing you know what you need to focus on or

where you need to steer the conversation. Having a plan will make you feel much more prepared, boosting your confidence.

8. Show your authentic self

While you can gain inspiration from other communicators to improve your skills, always bring your honest self to interactions. People feel more drawn to speakers who seem genuine and act transparently. For example, if you do not have the answer to a question, it is okay to admit it. Your colleagues will respect your honesty more than if you pretend to know something and provide a response that ends up inaccurate.

Furthermore, showing your authentic self during a conversation or presentation helps you build relationships because your audience gets to know you as a person. It conveys a sense of comfort and ease that lets them genuinely engage with you. If they feel like you are faking your personality or putting on a show, it can create distance between you. As a result, it may make it harder to build trust because they cannot tell how real the conversation is.

9. Practice your skills

Now that you know the various ways to improve verbal communication skills, you must practice them. Not only will this develop these skills, but it can also help you feel more confident in your speaking abilities. Apply these techniques as often as possible in your daily work and personal interactions to ensure you feel comfortable using them.

Practice alone by speaking in front of a mirror or recording yourself doing a presentation or speech. When watching yourself, you can study your body language and take steps to improve it—for example, by using or limiting your gestures and maintaining a smile or friendly demeanor. When you record yourself, assess your voice and tone. Again, you can use these recordings to determine which areas you need to work on to speak more clearly and concisely.

10. Gain feedback

You can also practice your verbal communication skills in more realistic settings, such as in front of friends or family. Not only will this help you feel more comfortable speaking in front of others, but it also allows you to gain feedback. If you have a speech or

presentation planned, perform it as you would in front of the actual audience and ask these friends and family to judge your verbal and nonverbal communication abilities. Their insights will instruct you on what you already do well and where you need improvement.

Seeking feedback does not strictly apply to practice situations. After you make a presentation at work, ask a trusted colleague or a supervisor for their opinion on your performance. Asking a supervisor can provide added benefits, as it shows them that you strive to develop yourself professionally. Once they know about your interest in building these skills, they can watch your future performances and gauge your progress or provide you with more opportunities for verbal communication development.[117]

According to a study by sociologist, Andrew Zekeri, "Oral communication skills were the number one skill that college graduates found useful in the business world." Communication skills enhance your ability to interact with professionals and fellow colleagues in a qualified and composed manner. Public speaking improves these skills and thus, makes you a more worthy candidate to move up and succeed in your chosen field.

Non verbal communication skills

Nonverbal communication refers to gestures, facial expressions, tone of voice, eye contact (or lack thereof), body language, posture, and other ways people can communicate without using language.

When speaking in public, your nonverbal communication is almost as important as your verbal responses. Anthropologist Ray Birdwhistell's study of kinesics found that over 65% of communication is nonverbal.

Your nonverbal communication skills can create a positive (or a negative) impression. Crossed arms can seem defensive. Poor posture may appear unprofessional. A downward gaze or avoiding eye contact can detract from you being seen as confident and you can use your nonverbal communication skills to make the best impression. If your skills aren't

[117] https://www.indeed.com/career-advice/career-development/ how-to-improve-verbal-communication-skill

topnotch, you can practice them so you make a positive impression on everyone you meet in the workplace and beyond.

The Importance of Nonverbal Communication

Knowing what you will say is only part of the picture. Just as important is understanding how to convey your messages through your body language. Your Speech success will be largely determined by the impression people get of you, and how they respond to what you say.

Nonverbal Communication Skills Examples

Want to brush up on your skills? Review this list of nonverbal skills and work on any areas where you think you could improve.[118]

1) Avoid slouching. Sit with your back straight up against the chair or lean slightly forward to convey engagement.
2) Steer clear of smiles or laughter when messages are serious.
3) Display some animation with your hands and facial expressions to project a dynamic presence. (But avoid talking with your hands excessively, which can appear unprofessional and unpolished.)
4) Don't bring your phone, a drink, or anything else that could distract you during an interview or meeting.
5) Eliminate fidgeting and shaking of limbs.
6) Establish frequent but not continuous or piercing eye contact with interviewers.
7) Focus on the conversation.
8) During public speaking, shift eye contact to the various speakers.

[118] https://www.thebalancecareers.com/nonverbal-communication-skills-2

9) Introduce yourself with a smile and a firm handshake. Be sure that your palms are dry.
10) Keep your hands away from your face and hair.
11) Listen carefully, and do not interrupt.
12) Maintain open arms—folded arms can convey defensiveness.
13) Modulate your vocal tone to express excitement and punctuate key points.
14) Nod to demonstrate understanding.
15) Observe the reaction of others to your statements.

Read the nonverbal signals of others. Provide clarification if they look confused, and wrap up if they have heard enough.

Refrain from forced laughter in response to humor.

Avoid looking at the clock, your phone, or displaying any other signs of disinterest.

Respect the amount of personal space preferred by your communication partners.

Rotate eye contact with various speakers in group interviewing or networking situations.

Shake hands firmly without excessive force.

Show that you're interested in what the interviewer is telling you.

Smile to indicate that you are amused or pleased with the conversation.

Stay calm even when you're nervous.

Steer clear of monotone delivery.

Wait until the person is done talking to respond.

Nonverbal communication is one of many tools that can help you make a good impression in interviews and in your professional life. However, candidate assessments should be based on skills and qualifications, and workplaces should strive to be inclusive and understanding of individual differences in communication styles.

FineTuning Verbal and Nonverbal Skills

Public speaking helps you finetune your verbal and nonverbal communication skills. Whether you competed in public speaking in high school or this is your first time speaking in front of an audience, having the opportunity to actively practice communication skills and receive professional feedback will help you become a better overall communicator.

Often, people don't even realize that they twirl their hair or repeatedly mispronounce words while speaking in public settings until they receive feedback from a teacher during a public speaking course. Some People will often pay speech coaches over one hundred dollars per hour to help them enhance their speaking skills. You have a builtin speech coach right in your classroom, so it is to your advantage to use the opportunity to improve your verbal and nonverbal communication skills.

Use of intelligence

Intelligence is the ability to acquire and apply the knowledge and skills.

By the **Collins English Dictionary**, intelligence is 'the ability to think, reason, and understand instead of doing things automatically or by instinct'. By the **Macmillan Dictionary**, it is 'the ability to understand and think about things, and to gain and use knowledge'.

Intelligence is the global ability of an individual to think clearly and to function effectively in the environment **".**

By breaking down this definition, we can get a clearer understanding of exactly what intelligence is. "Global" means that a person's intelligence affects many areas of their life.

Intelligence also means the ability of a system to calculate, reason, perceive relationships and analogies, learn from experience, store and retrieve information from memory, solve

problems, comprehend complex ideas, use natural language fluently, classify, generalize, and adapt new situations.[119]

According to Psychologists, there are four types of Intelligence

1) Intelligence Quotient (IQ)

2) Emotional Quotient (EQ)

3) Social Quotient (SQ)and

4) Adversity Quotient (AQ)

1. Intelligence Quotient (IQ): this is the measure of your level of comprehension. You need IQ to solve maths, memorize things, and recall lessons.

2. Emotional Quotient (EQ): this is the measure of your ability to maintain peace with others, keep to time, be responsible, be honest, respect boundaries, be humble, genuine and considerate.

3. Social Quotient (SQ): this is the measure of your ability to build a network of friends and maintain it over a long period of time.

- **People that have higher EQ and SQ tend to go further in life than those with a high IQ but low EQ and SQ.**
- **Most schools capitalize on improving IQ levels while EQ and SQ are played down.**
- **A man of high IQ can end up being employed by a man of high EQ and SQ even though he has an average IQ.**

[119] The Oxford English Dictionary, Artificial Intelligence' https:l/en.oxforddictionaries.com/definition/artificial intelligence accessed 1 December 2016.

- **Your EQ represents your Character, while your SQ represents your Charisma. Give in to habits that will improve these three Qs, especially your EQ and SQ.**
- **Now there is a 4th one, a new paradigm:**

4. *The Adversity Quotient (AQ):The measure of your ability to go through a rough patch in life, and come out of it without losing your mind.

When faced with troubles, AQ determines who will give up, who will abandon their family, and who will consider suicide.

Parents, please expose your children to other areas of life than just Academics. They should adore manual labour (never use work as a form of punishment), Sports and Arts.

Develop their IQ, as well as their EQ, SQ and AQ. They should become multifaceted human beings able to do things independently of their parents.

Intelligence **enables humans to remember descriptions of things and use those descriptions in future behaviors**. It is a cognitive process. It gives humans the cognitive abilities to learn, form concepts, understand, and reason, including the capacities to recognize patterns, innovate, plan, solve problems, and employ language to communicate.

Theories of Intelligence

Some researchers argue that intelligence is a general ability, whereas others make the assertion that intelligence comprises specific skills and talents. Psychologists contend that intelligence is genetic, or inherited, and others claim that it is largely influenced by the surrounding environment.

As a result, psychologists have developed several contrasting theories of intelligence as well as individual tests that attempt to measure this very concept.

Artificial intelligence has entered into the sphere of creativity and ingenuity. Recent headlines refer to paintings produced by machines, music performed or composed by algorithms or drugs discovered by computer programs. This paper discusses the possible implications of the development and adoption of this new technology in the intellectual

property framework and presents the opinions expressed by practitioners and legal scholars in recent publications.

The Types of Intelligence theories

Here is an overview of the multiple intelligences' theories;

1. **Naturalist Intelligence**.

Naturalist intelligence designates the human ability to discriminate among living things (plants, animals) as well as sensitivity to other features of the natural world (clouds, rock configurations). This ability was clearly of value in our evolutionary past as hunters, gatherers, and farmers; it continues to be central in such roles as botanist or chef. It is also speculated that much of our consumer society exploits the naturalist intelligences, which can be mobilized in the discrimination among cars, sneakers, kinds of makeup, and the like.

2. **Musical Intelligence.**

Musical intelligence is the capacity to discern pitch, rhythm, timbre, and tone. This intelligence enables us to recognize, create, reproduce, and reflect on music, as demonstrated by composers, conductors, musicians, vocalist, and sensitive listeners. Interestingly, there is often an affective connection between music and the emotions; and mathematical and musical intelligences may share common thinking processes. Young adults with this kind of intelligence are usually singing or drumming to themselves. They are usually quite aware of sounds others may miss.

3. **LogicalMathematical Intelligence**

Logicalmathematical intelligence is the ability to calculate, quantify, consider propositions and hypotheses, and carry out complete mathematical operations. It enables us to perceive relationships and connections and to use abstract, symbolic thought; sequential reasoning skills; and inductive and deductive thinking patterns. Logical intelligence is usually well developed in mathematicians, scientists, and detectives. Young adults with lots of logical intelligence are interested in patterns, categories, and relationships. They are drawn to arithmetic problems, strategy games and experiments.

4. **Existential Intelligence**

Sensitivity and capacity to tackle deep questions about human existence, such as the meaning of life, why we die, and how did we get here.

5**. Interpersonal Intelligence**

Interpersonal intelligence is the ability to understand and interact effectively with others. It involves effective verbal and nonverbal communication, the ability to note distinctions among others, sensitivity to the moods and temperaments of others, and the ability to entertain multiple perspectives. Teachers, social workers, actors, and politicians all exhibit interpersonal intelligence. Young adults with this kind of intelligence are leaders among their peers, are good at communicating, and seem to understand others' feelings and motives.

6. **BodilyKinesthetic Intelligence**

Bodily kinesthetic intelligence is the capacity to manipulate objects and use a variety of physical skills. This intelligence also involves a sense of timing and the perfection of skills through mindbody union. Athletes, dancers, surgeons, and crafts people exhibit welldeveloped bodily kinesthetic intelligence.

7. **Linguistic Intelligence**

Linguistic intelligence is the ability to think in words and to use language to express and appreciate complex meanings. Linguistic intelligence allows us to understand the order and meaning of words and to apply metalinguistic skills to reflect on our use of language. Linguistic intelligence is the most widely shared human competence and is evident in poets, novelists, journalists, and effective public speakers. Young adults with this kind of intelligence enjoy writing, reading, telling stories or doing crossword puzzles.

8. **Intrapersonal Intelligence**

Intrapersonal intelligence is the capacity to understand oneself and one's thoughts and feelings, and to use such knowledge in planning and directioning one's life. Intrapersonal intelligence involves not only an appreciation of the self, but also of the human condition.

It is evident in psychologist, spiritual leaders, and philosophers. These young adults may be shy. They are very aware of their own feelings and are selfmotivated.

9. **Spatial Intelligence**

Spatial intelligence is the ability to think in three dimensions. Core capacities include mental imagery, spatial reasoning, image manipulation, graphic and artistic skills, and an active imagination. Sailors, pilots, sculptors, painters, and architects all exhibit spatial intelligence. Young adults with this kind of intelligence may be fascinated with mazes or jigsaw puzzles, or spend free time drawing or daydreaming.

EMOTIONAL INTELLIGENCE

Emotional intelligence could be considered as a conjunction of interpersonal and intrapersonal intelligences, it implies the ability to recognize and manage one's own and other people's emotions. Proposed by psychologists Peter Salovey and John Mayer, it is composed of five essential capacities: emotional selfawareness, emotional selfcontrol, selfmotivation, empathy, and social skills.

Therefore, emotionally intelligent people are aware of their moods and the emotions and feelings of those around them, being able to manage them assertively. These people have great emotional granularity and empathy, but they do not allow their emotions to overwhelm them but rather have the psychological resources to channel them properly.

Advantages of Artificial Intelligence in the Legal System

- The technology has the ability to identify potentially relevant information from all sources and file types.
- It can apply to analyze contracts and other reports for mistakes, desiring information, and variable language.
- The technology helps to involve in data outcomes, is efficient, and helps reduce overall costs by protecting their clients from their own reputations.

- The automation helps to compare reports and tools to identify the missing information or causes, eccentrically used technology by combing all the data into a single document.
- It can enhance the quality of reports submitted seamlessly and can cover all references on the overall life of the document.
- Automation helps to save tons of time by making a device to perform research and factfinding.
- It improves creativity, providing lawyers to combine unique values and concentrate entirely on the work that machines cannot do.

Legal Analytics

The process of extracting data to analyze and convert into actionable insights that help to make conclusions on diverse matters forecasting improvement, legal strategy, and for legal costs.

With the help of analytics, there is a chance to enhance the chances of winning cases by producing useful patterns in data regarding prior litigation.

If a lawyer needs to convince a judge to allow a substitution of venue in action, they can recognize what trends develop from all of the judge's orders in former cases. If the attorney needs to foretell how long a case will serve, Legal Analytics can provide highlevel data about beginning to end sessions for every general judge.

In extension, litigators can collect intelligence about defending counsel, such as their customer lists, total open situations, and appropriate background.[120]

Conclusion

Artificial Intelligence will benefit lawyers by providing the exact information with resources and collecting them in a single document saves a lot of time and money.

[120] https://www.fusioninformatics.com/

Implementing artificial Intelligence in legal is most important as it enhances the quality of documents and helps to perform various tasks efficiently and quickly.

There is the chance to overcome all manual work by replacing artificial intelligence in the system and the chance to stimulate human intelligence that helps to do more accurately than humans do.

Intelligence for lawyers

We're not all naturally skilled at the same things. Some are more athletic and have better coordination. Some pick up on language and words faster at a young age, while others are good with numbers and visualizing patterns.

But most people don't fully understand their range of abilities, and as a result, may end up in the wrong careers. Or, they might enjoy their jobs, but struggle to identify effective learning techniques that will help them excel further.

Howard Gardner's Theory of Multiple Intelligences

How high you score in one category does not necessarily influence how (high or low) you score in another.

If you want to learn to be exceptional at something, your best bet is to understand the unique areas of intelligence where you have an advantage, and then build upon those strengths.

For example, consider someone who struggled with writing until they attempted to create a graphic story, which turned into a compelling narrative. Or a student who couldn't seem to grasp fractions until they visualized separating apples into slices.

Below are the eight types of intelligence identified by Gardner. As you go through each, score yourself on a scale of one (doesn't come naturally) to five (comes very naturally).

1. Spatial intelligence

The ability to think abstractly and in multiple dimensions. Scoring a five means you have a large capacity for spatial reasoning and conceptualization — something required for fields such as architecture, graphic design, photography, interior design and aviation.

Potential career choices:

- Pilot
- Fashion designer
- Architect
- Surgeon
- Artist
- Engineer

2. Bodilykinesthetic intelligence

The ability to use your body in a way that demonstrates physical and athletic prowess. If you have this skill, you could be an athlete effortlessly running down a field and passing a ball, or a dancer flawlessly performing a complicated routine.

Potential career choices:

- Dancer
- Physical therapist
- Athlete
- Mechanic
- Builder
- Actor

3. Musical intelligence

Sensitivity to rhythm, pitch, meter, tone, melody and timbre. This may entail the ability to sing and/or play musical instruments. Famous people with musical intelligence include Beethoven, Jimi Hendrix and Aretha Franklin.

Potential career choices:

- Singer
- Musical conductor
- DJ
- Music teacher
- Songwriter
- Compose

4. Linguistic intelligence

Sometimes called "language intelligence," this involves sensitivity to the meaning of words, the order among words, and the sound, rhythms, inflections and meter of words. Those who score high in this category are typically good at writing stories, memorizing information and reading.

Potential career choices:

- Poet
- Novelist
- Journalist
- Editor
- Lawyer
- English professor

5. Logicalmathematical intelligence

The ability to analyze problems logically, carry out mathematical operations and investigate issues scientifically. People with this intelligence, such as Albert Einstein and Bill Gates, are skilled at developing equations and proofs and solving abstract problems.

Potential career choices:

- Computer programmer
- Mathematician
- Economist
- Accountant
- Scientist
- Engineer

6. Interpersonal intelligence

The ability to interact effectively with others. Sensitivity to others people's moods, feelings, temperaments and motivations. Essentially, it's being able to understand and relate to those around you.

Potential career choices:

- Team manager
- Negotiator
- Politician
- Publicist
- Salesperson
- Psychologist

7. Intrapersonal intelligence

Sensitivity to one's own feelings, goals and anxieties, and the capacity to plan and act in light of one's own traits. Intrapersonal intelligence is not particular to specific careers; rather, it is a goal for every individual in a complex modern society, where one has to make consequential decisions for oneself.

Potential career choices:

- Therapist
- Counselor
- Psychologist
- Entrepreneur
- Philosopher
- Theorist

8. Naturalistic intelligence

The ability to understand the nuances in nature, including the distinction between plants, animals, and other elements of nature and life. Notable individuals with naturalistic intelligence include Charles Darwin and Jane Goodall.

Potential career choices:

- Geologist
- Farmer
- Botanist
- Biologist
- Conservationist
- Florist

Understand and build upon your strengths

If you struggled to assess yourself, ask people closest to you for their observations. Or, consider the things you gravitated towards during your youth. (It's usually when we're kids that we pick up activities closely linked with our innate abilities.)

Keep in mind that this is just a quick and simple exercise to provide you with a clearer sense of your strengths. Do your top skills and interests align with your career? If not, how can you use them to get to where you want to be?

When we gain a deeper understanding of our natural talents, we have better chance of figuring out how to achieve goals in both our personal and professional lives.

9 Types Of Intelligence Infographic

This infographic shows that being good at math or languages are not the only two ways to be smart.

That is what school beat into us by putting certain types of intelligence on a pedestal and ignoring other types. If you are not good at math or language, you might still be gifted at other things but it was not called "intelligence". Why?

In 1983 an American developmental psychologist Howard Gardener described 9 types of intelligence

- **Naturalist** (nature smart)
- **Musical** (sound smart)
- **Logicalmathematical** (number/reasoning smart)
- **Existential** (life smart)
- **Interpersonal** (people smart)
- **Bodilykinesthetic** (body smart)

- **Linguistic** (word smart)
- **Intrapersonal** (self smart)
- **Spatial** (picture smart)

What other scientists thought were just softskills, such as interpersonal skills, Gardener realized were types of intelligence. It makes sense. Just as being a math whiz gives you the ability to understand the world, so does being "people smart" give you the same ability, just from a different perspective. Not knowing math you may not calculate the rate at which the universe is expanding, but you are likely to have the skills to find the right person who will.

The 9 Types of Intelligence

Here is an overview of the multiple intelligences theory, summarized by ASCD

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Even 20 years after Gardener's book came out, there is still a debate whether talents other than math and language are indeed types of intelligence or just skills. What do you think?

Challenging a milleniaold notion that intelligence is a single kind of human capacity does not necessarily win one friends among the intelligent. Gardener's book is still controversial. If you find it describes exactly what you have suspected to be true since you first went to school, it still isn't an easy pill to swallow. This book questions what we consider a good education, what we consider talent, and how much control one has to acquire them. The insights are there as long as you are willing to follow Gardener's scholarly style he admits he writes for fellow psychologists.
If you prefer a more entertaining but no less profound style, read Ken Robinson's *The Element*. Just as upbeat as his famously animated talk at Ted, the book starts with exploring what went wrong or rather what was so right about your childhood self, what school did to it and why, and how now it's not too late to rediscover your talents and intelligences

In 1983, the psychologist Howard Gardner proposed the existence of different types of intelligence. In his book "Frames of Mind" he postulated that intelligence is not a unitary set but rather a network of capabilities that work in a more or less synchronized way.

With his Theory of Multiple Intelligences he debunked the classical idea of intelligence, proposing that we are all skilled in different areas. There are people with a special talent for numbers and others who are excellent communicators.

Therefore, Gardner redefined the concept of intelligence as the *"Biopsychological potential to process information that can be activated in a cultural setting to solve problems or create products that are of value in a culture."* Therefore, the type of intelligence that we develop will depend on both genetic factors and our experience.

The different types of intelligence that we can develop

At first, Gardner proposed the existence of 7 types of intelligence, but later he included two additional intelligences and with the passage of time other constructs have been added that expand our vision of intelligence.

1. Logicalmathematical intelligence

Logicalmathematical intelligence refers to the ability to analyze problems rationally, perform mathematical operations, and investigate scientific questions. It involves the ability to calculate, quantify, consider propositions and hypotheses, and perform complex logical operations.

These people use abstract and symbolic thinking, develop sequential reasoning skills, and follow inductive and deductive thought patterns. In fact, they have the ability to develop equations and proofs, do calculations and solve abstract problems so they are comfortable in the field of Mathematics and Physics.

2. Linguistic intelligence

Linguistic intelligence refers to a special sensitivity to spoken and written language. It manifests as the ability to learn languages and use language effectively to achieve certain goals. Writers and great communicators, for example, possess this type of intelligence.

People with linguistic intelligence use language to express and appreciate complex meanings. They have the ability to analyze verbal and nonverbal information with great

precision, understand words and nonverbal language, and are also able to create products that involve oral and written language.

3. Spatial intelligence

Spatial intelligence implies the ability to recognize and manipulate patterns in a wide space, such as that used by navigators and pilots, as well as patterns in more confined areas, such as the case of sculptors, surgeons, chess players or architects.

This type of intelligence refers to the ability to think in three dimensions. People who have it have an extraordinary ability to recognize and manipulate detailed and largescale spatial images. They also tend to have a very active imagination.

4. Bodykinesthetic intelligence

Kinesthetic or bodily intelligence is the ability to use the whole body or parts of it to solve problems or create products. People with this type of intelligence can become excellent athletes or dancers, for example, but they can also perform as surgeons, mechanics, physical therapists or carpenters.

People with bodily or kinesthetic intelligence solve problems through a deep mindbody bond. They achieve great control of automatic and voluntary movements, so that they can use their body in a highly differentiated and competent way to solve different problems.

5. Musical intelligence

Musical intelligence refers to the skills of interpretation, composition and appreciation of musical patterns. People with this type of intelligence have the ability to recognize and create musical tones, rhythms, and timbres.

They tend to have a great facility to learn songs and rhythms, as well as to compose music and play different musical instruments. They develop a special sensitivity to music and can easily detect incorrect pitches or outoftune instruments.

6. Interpersonal intelligence

Interpersonal intelligence is the ability to understand other people's intentions, motivations, and desires and use them to assertively engage with others. People with this

type of intelligence develop the ability to recognize and understand the psychological background of the others.

Interpersonal intelligence therefore implies the development of effective verbal and nonverbal communication. These people notice the differences between one another, are sensitive to the moods of the others and have the ability to manage different perspectives from an empathic posture.

7. Intrapersonal intelligence

Intrapersonal intelligence is fundamentally inward since it implies the ability to understand oneself. These people are not only aware of their wishes, feelings, moods and expectations, but they use that information to intelligently manage their lives.

Those who possess this type of intelligence also develop selfcognition; that is, they understand how their cognitive processes (thinking, attention and memory) work, which allows them to make better decisions and solve problems more effectively.

8. Naturalistic intelligence

Naturalistic intelligence is the ability to perceive the relationships between species and people, recognizing possible differences or similarities between them. These people are able to identify, discern, observe and classify members of groups or species of flora and fauna with relative ease.

However, those with this type of intelligence not only identify the variety that exists in the natural world, but also have a special sensitivity towards the environment. They have a natural curiosity to investigate their environment and be in contact with nature.

9. Emotional intelligence

Emotional intelligence could be considered as a conjunction of interpersonal and intrapersonal intelligences, it implies the ability to recognize and manage one's own and other people's emotions. Proposed by psychologists Peter Salovey and John Mayer, it is composed of five essential capacities: emotional selfawareness, emotional selfcontrol, selfmotivation, empathy, and social skills.

Therefore, emotionally intelligent people are aware of their moods and the emotions and feelings of those around them, being able to manage them assertively. These people have great emotional granularity and empathy, but they do not allow their emotions to overwhelm them but rather have the psychological resources to channel them properly.

10. Existential intelligence

Gardner defined existential intelligence as *"The ability to locate oneself with respect to the cosmos and the existential features of the human condition, such as the meaning of life and death, the final destination of the physical and psychological world in deep experiences like love for another person".*

People who have this type of intelligence are likely to reflect on their existence and think about the meaning of life and what could happen after death. Not only do they have a rich spiritual life, but they develop a tendency to philosophize and question everything, based on their deep capacity for selfobservation and observation of the environment.

11. Creative intelligence

Creative intelligence is the result of combining intellect with imagination to create an original idea or product. In fact, although intelligence involves solving problems, it does not always lead to original solutions. People with creative intelligence, on the other hand, think outside the box and often come up with novel solutions.

This type of intelligence implies the ability to go one step ahead and imagine multiple possibilities that have not yet materialized. These are people with open and flexible thinking who are able to see things from different perspectives to find unusual or novel answers

12. Collaborative intelligence

In the organizational and social media environment, has emerged a new type of intelligence that refers to the ability to work as a team to achieve a common goal. Collaborative intelligence implies an orderly deliberation that allows a group of people to create better shared knowledge and make decisions, with greater possibilities of overcoming the challenges and difficulties posed by different human activities in an increasingly complex and changing environment.

It is a very special type of intelligence since it implies being able to work with others, share knowledge and ways of doing things, to achieve a common goal. In fact, it is an intelligence of an eminently practical nature since it is more oriented to action. These people are comfortable working with the others and do their best in these collaborative settings.

Are all these types of intelligence valid?

The Theory of Multiple Intelligences has been widely criticized. Many psychologists consider that these are talents, rather than intelligence in the strictest sense of the term. However, it is undoubtedly a daring proposal that differs from the classic conceptions of intelligence, since it is not limited to the skills that have been traditionally recognized as the manifestations of intelligence and that are usually rewarded in academic contexts.

The idea that there are different types of intelligence grants an equal status to other talents, abilities and capacities, which are not limited to logicalmathematical and linguistic intelligence. Therefore, the idea that there are different types of intelligence presupposes a revolution in the whole society by giving importance or at least putting the focus on skills less valued by the traditional scholastic system.

“Read these sayings and proverbs to inspire yourself when you need motivation.”

“This collection of quotes comes from the minds of legal experts, famous celebrities, and other legendary thinkers”

Quotes for lawyers

"To me, a lawyer is basically the person that knows the rules of the country. We're all throwing the dice, playing the game, moving our pieces around the board, but if there is a problem the lawyer is the only person who has read the inside of the top of the box."

Jerry Seinfeld

"The leading rule for the lawyer, as for the [person] of every calling, is diligence."
Abraham Lincoln

"I busted a mirror and got 7 years bad luck, but my lawyer thinks he can get me 5."
Stephen Wright

"When I'm sometimes asked when will there be enough women on the Supreme Court and I say, 'When there are 9,' people are shocked. But there'd been 9 men, and nobody's ever raised a question about that."
Supreme Court Justice Ruth Bader Ginsburg

"Be sure to put your feet in the right place, and then stand firm."
Abraham Lincoln

"You just hold your head high and keep those fists down. No matter what anybody says to you, don't you let 'em get your goat. Try fighting' with your head for a change."
Harper Lee

"A lawyer is a person who writes a 10,000word document and calls it a 'brief.'"
Franz Kafka

"A lawyer without books would be like a workman without tools."

Thomas Jefferson

"A jury consists of 12 persons chosen to decide who has the better lawyer."
Robert Frost

"My client may deserve serious punishment, but first prove that's the case. And remember at all times that he's a human being, which means he must be treated with minimum standards of decency because doing so redeems not only him but you."
Scott Turow

"The young man knows the rules, but the old man knows the exceptions." **Supreme Court Justice Oliver Wendell Holmes Jr.**

"The remedy for speech that is false is speech that is true. This is the ordinary course in a free society. The response to the unreasonable is the rational. To the uninformed, the enlightened. to the straightout lie, the simple truth." **Supreme Court Justice Anthony Kennedy**

"A judge is a law student who marks his own examination papers."
H. L. Mencken

"The main business of a lawyer is to take the romance, the mystery, the irony, the ambiguity out of everything [s]he touches."
Supreme Court Justice Antonin Scalia

"The study of law can be disappointing at times, a matter of applying narrow rules and arcane procedure to an uncooperative reality; a sort of glorified accounting that serves to

regulate the affairs of those who have power—and that all too often seeks to explain, to those who do not, the ultimate wisdom and justness of their condition. But that's not all the law is. The law is also memory; the law also records a longrunning conversation, a nation arguing with its conscience."
Barack Obama

Laws grind the poor, and rich men rule the law.
Oliver Goldsmith

The law is the public conscience.
Thomas Hobbes

Law is not law, if it violates the principles of eternal justice.
Lydia Maria Child

No organic law can ever be framed with a provision specifically applicable to every question which may occur in practical administration. No foresight can anticipate nor any document of reasonable length contain express provisions for all possible questions.
Abraham Lincoln

People are more afraid of the laws of Man than of God, because their punishment seems to be nearest.
William Penn

There is but one law for all, namely, that law which governs all law, the law of our Creator, the law of humanity, justice, equity the law of nature and of nations.
Edmund burke

The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.
Anatole france

Law is order, and good law is good order.
Aristotle

Lawyers are the only persons in whom ignorance of the law is not punished.
Jeremy bentham

One with the law is a majority.
Calvin Coolidge

Laws are like cobwebs, which may catch small flies, but let wasps and hornets break through.
Jonathan swift

The precepts of the law may be comprehended under these three points: to live honestly, to hurt no man wilfully, and to render every man his due carefully.
Aristotle

Without law men are beasts.
Maxwell anderson

Law is an imperfect profession in which success can rarely be achieved without some sacrifice of principle. Thus, all practicing lawyers and most others in the profession will necessarily be imperfect, especially in the eyes of young idealists. There is no perfect justice, just as there is no absolute in ethics. But there is perfect injustice, and we know it when we see it.

Alan dershowitz

I am free, no matter what rules surround me. If I find them tolerable, I tolerate them; if I find them too obnoxious, I break them. I am free because I know that I alone am morally responsible for everything I do.

Robert a. Heinlein
The law was made for one thing alone, for the exploitation of those who don't understand it.

Bertolt brecht

Lawyers are like the knights of old. You can use them to plunder other people's stuff.
Gene Gordon

Lawyers are like scissors; they never cut each other, but what is between them.
Anonymous

Lawyers must pry into the recesses of the human heart, and become well acquainted with the whole moral world, that they may discover the abstract reason of all laws.
Lord Bolingbroke

When the monetary damages are smaller, lawyers will find themselves less zealous in their pursuit of what they call justice.
Dean O'hare

There is not a more fatal error to young lawyers than relying too much on speechmaking. If any one, upon his rare powers of speaking, shall claim an exemption from the drudgery of the law, his case is a failure in advance.
Abraham Lincoln

The ablest lawyers are always associated with the biggest fees.
Clarence Darrow

The personality traits most common among lawyers are not those usually associated with happy people.
Nancy Levit & Douglas O. Linder

I do not believe in lawyers, in that mode of attacking or defending a man, because you descend to meet the judge on his own ground, and, in cases of the highest importance, it is of no consequence whether a man breaks a human law or not. Let lawyers decide trivial cases.
Henry David Thoreau

The lawyer is judged by the virtue of his pleading, and not by the issue of the cause.
Francis Bacon

There are plenty of reasons for young and aspiring attorneys to stress. Student loans. Gradution. Finding a job. Keeping that job. Impressing the boss. Billablehour pressures. Maybe even hanging your own shingle. That's not even considering the added layer of starting or taking care of a family for many. It's a weight more and more young attorneys are turning to alcohol to handle, according to a recent study. The numbers show about one in five attorneys of the 12,825 licensed, employed attorneys surveyed screened positive for "hazardous" or "harmful" levels of drinking that can lead to dependence.
David Chapman

A lawyer, that entangles all men's honesties
And lives like a spider in a cobweb lurking,
And catching at all flies that pass his pitfalls.
Francis Beaumont & John Fletcher

Lawyers are like foxes, small and innocuous, but all the time stealthily sniffing the air.
Michael O'sullivan

My lord, lawyers are a dangerous species of animals till ha'e any dependence uponthey are always starting punctilios and deeficulties among friends. Why, my dear lord, it is their interest that aw mankind should be at variance; for disagreement is the vary manure wi' which they enrich and fatten the land of leetigation; and as they find that constantly produces the best crop, depend upon it they will always be sure till lay it on ass thick ass they can.
Charles Macklin

Lawyers were notorious for finding cases in the most unlikely places, especially ones with huge potential damagers awards.
Jodi Picoult

Lawyers get you out'n the kind of trouble you'd never get in if there was no lawyers.
Ken Alstad

I don't know who the great lawyers are, and I presume you can't get to them. I know of no case where it can be said for certain that they took part. They defend some people, but you can't get them to do that through your own efforts, they only defend the ones they want to defend. But I assume a case they take on must have progressed beyond the lower court. It's better not to think of them at all, otherwise you'll find the consultations with the other lawyers, their advice and their assistance, extremely disgusting and useless.
Franz Kafka

Lawyers are guardians of the legal order.
Philip Wood

People who are striving to become lawyers aren't usually doing it because they have a keen interest in law, nor do they care about helping people. To a lawyer, those things are usually not even secondary.... The primary concern for most lawyers centers around how to extract as much money as possible from the client. The more the merrier.
Aaron Ross

Lawyers will always buckle under to something, whether its bribes, violence, court orders, or the weight of their own bullshit.
James Alan Gardner

We don't operate a system that guarantees a trial lawyer will really know what he or she is doing before handling a trial. Qualify as an attorney and you immediately have the right to screw up somebody's case in court. We lawyers have been left with a huge field in which to demonstrate our incompetence.
Keith Evans

No manmade law ever, no matter whether derived from the past or projected onto a distant, unforeseeable future, can or should ever be empowered to claim that it is greater than the Natural Law from which it stems and to which it must inevitably return in the eternal rhythm of creation and decline of all things natural.
Wilhelm Reich

Law without justice is a wound without a cure.
William Scott Downey

An unjust law is itself a species of violence.
Mahatma Gandhi

A law is valuable, not because it is a law, but because there is right in it.
Henry ward beecher

"You can speak well if your tongue can deliver the message of your heart."
John Ford

"Be still when you have nothing to say; when genuine passion moves you, say what you've got to say, and say it hot."
D.H. Lawrence

"Let thy speech be better than silence, or be silent."

Dionysius Of Halicarnassus

"What we say is important... for in most cases the mouth speaks what the heart is full of."

Jim Beggs

"If you can't write your message in a sentence, you can't say it in an hour.

" Dianna Booher

"There are always three speeches, for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave."

Dale Carnegie

"It usually takes me more than three weeks to prepare a good impromptu speech."

Mark Twain

"A good orator is pointed and impassioned."

Marcus T. Cicero

"Oratory is the power to talk people out of their sober and natural opinions."

Joseph Chatfield

"He who wants to persuade should put his trust not in the right argument, but in the right word. The power of sound has always been greater than the power of sense."

Joseph Conrad

"There are three things to aim at in public speaking: first, to get into your subject, then to get your subject into yourself, and lastly, to get your subject into the heart of your audience."

Alexander Gregg

"The success of your presentation will be judged not by the knowledge you send but by what the listener receives."

Lilly Walters

"If you don't know what you want to achieve in your presentation your audience never will."

Harvey Diamond

"Best way to conquer stage fright is to know what you're talking about."

Michael H. Mescon

"There are only two types of speakers in the world. 1. The nervous and 2. Liars."

Mark Twain

"No one ever complains about a speech being too short!"

Ira Hayes

"90% of how well the talk will go is determined before the speaker steps on the platform."

Somers White

"It takes one hour of preparation for each minute of presentation time."

Wayne Burgraff

"The most precious things in speech are the pauses."

Sir ralph Richardson

"Welltimed silence hath more eloquence than speech."

Martin Fraquhar Tupper

"They may forget what you said, but they will never forget how you made them feel."
Carl W. Buechner

"The problem with speeches isn't so much not knowing when to stop, as knowing when not to begin."

Frances Rodman

"Words have incredible power. They can make people's hearts soar, or they can make people's hearts sore."

Dr. Mardy Grothe

"Speech is power: speech is to persuade, to convert, to compel." Ralph waldo emerson

"The right word may be effective, but no word was ever as effective as a rightly timed pause."

Mark Twain

"Speech is power: speech is to persuade, to convert, to compel."
Ralph Waldo Emerson

"Be still when you have nothing to say; when genuine passion moves you, say what you've got to say, and say it hot."
H. Lawrence

"A theme is a memory aid, it helps you through the presentation just as it also provides the thread of continuity for your audience."

Dave Carey

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Michael H Mescon

"If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back and hit it again. Then hit it a third time a tremendous whack."

Winston Churchill

"Proper Planning and Preparation Prevents Poor Performance"

Stephen Keague

"Speak clearly, if you speak at all; carve every word before you let it fall."

Oliver Wendell Holmes

"No one ever complains about a speech being too short!"

Hayes

"90% of how well the talk will go is determined before the speaker steps on the platform."

Somers White

"Rhetoric is the art of ruling the minds of men."

Plato

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Wayne Burgraff

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Mark Twain

"If you can't write your message in a sentence, you can't say it in an hour."

Dianna Booher

"Many attempts to communicate are nullified by saying too much. "

Robert Greenleaf

"They may forget what you said, but they will never forget how you made them feel."

Carl W. Buechner

"Extemporaneous speaking should be practiced and cultivated. It is the lawyer's avenue to the public...."

Abraham Lincoln

"You can speak well if your tongue can deliver the message of your heart."

John Ford

"Welltimed silence hath more eloquence than speech."

Martin Fraquhar Tupper

"Had the lecturer added 30 hours of preparation to his presentation, his 30 minute appearance would probably have inspired some of the 300 of us who were listening, but instead we stopped listening after about 30 seconds..."

Erik Drakenberg

"The first sign of greatness is when a man does not attempt to look and act great. Before you can call yourself a man at all, Kipling assures us, you must "not look too good nor talk too wise."

Dale Carnegie

Intelligence rules the world, ignorance carries the burden.
Marcus Garvey

Let us not try to be the best or worst of others, but let us make the effort to be the best of ourselves.
Marcus Garvey

Take advantage of every opportunity; where there is none, make it for yourself.
Marcus garvey

I trust that you will so live today as to realize that you are masters of your own destiny, masters of your fate; if there is anything you want in this world, it is for you to strike out with confidence and faith in self and reach for it.
Marcus garvey

He man who is not able to develop and use his mind is bound to be the slave of the other man who uses his mind
Marcus garvey

Let the sky and god be our limit and eternity our measurement.
Marcus garvey

The pen is mightier than the sword, but the tongue is mightier than them both put together.
Marcus garvey

The thing to do is to get organized; keep separated and you will be exploited, you will be robbed, you will be killed. Get organized and you will compel the world to respect you.
Marcus garvey

Liberate the minds of men and ultimately you will liberate the bodies of men.
Marcus garvey

A race that is solely dependent upon another for economic existence sooner or later dies. As we have in the past been living upon the mercies shown by others, and by the chances obtainable, and have suffered there from, so we will in the future suffer if an effort is not made now to adjust our own affairs.
Marcus garvey

Strive for that greatness of spirit that measures life not by its disappointments but by its possibilities.
W. E. B. Du bois

Now is the accepted time, not tomorrow, not some more convenient season. It is today that our best work can be done and not some future day or future year. It is today that we fit ourselves for the greater usefulness of tomorrow. Today is the seed time, now are the hours of work, and tomorrow comes the harvest and the playtime.
W. E. B. Du bois

There is in this world no such force as the force of a person determined to rise. The human soul cannot be permanently chained.

W. E. B. Du bois

One is astonished in the study of history at the recurrence of the idea that evil must be forgotten, distorted, skimmed over. We must not remember that daniel webster got drunk but only that he was a splendid constitutional lawyer. We must forget that george washington was a slave owner . . . And simply remember the things we regard as creditable and inspiring. The difficulty, of course, with this philosophy is that history loses its value as an incentive and example; it paints perfect man and noble nations, but it does not tell the truth.

W. E. B. Du bois

Every man has a right to his own opinion. Every race has a right to its own action; therefore, let no man persuade you against your will, let no other race influence you against your own.

Marcus garvey

We are going to emancipate ourselves from mental slavery because whilst others might free the body, none but ourselves can free the mind. Mind is your only ruler, sovereign. The man who is not able to develop and use his mind is bound to be the slave of the other man who uses his mind.

Marcus garvey

“Politicians were mostly people who’d had too little morals and ethics to stay lawyers.”

George R.R. Martin

"We are all honorable men here, we do not have to give each other assurances as if we were lawyers."

Mario Puzo

"When cops are on the job they love lawyers like lions love hyenas, only minus the mutual respect."

Reed Farrel Coleman

"Novelists write fiction. Lawyers speak fiction."

Mike Hockney

"The lawyers know a dead man's thoughts too well."

Carl Sandburg

"When in court, the primary role of lawyers is not to prove or disprove innocence; unbeknown to almost all lawyers and their clients, it is to save the court time."

Mokokoma Mokhonoana

"A very clever lawyer can create a lot of damage, we can only hope that lawyers never figure out how to manipulate physical law."

R. A. Delmonico

"To be an effective criminal defense counsel, an attorney must be prepared to be demanding, outrageous, irreverent, blasphemous, a rogue, a renegade, and a hated, isolated, and lonely person few love a spokesman for the despised and the damned."

Clarence Darrow

"Some people don't like lawyers, that is, until they need them."

Kenneth Eade

"Nothing is easy, and, with respect to legal work, that was absolutely true."

Kenneth Eade

Funny and Interesting Lawyer Quotes

"I'm a lawyer; I win arguments for a living."

Bob Goff

"A good lawyer is going to try to protect her client."

John Kennedy

"Discipline is part of my professional training as a lawyer."

Mohamed ElBarad

ei

"It's every lawyer's dream to help shape the law, not just react to it."

Alan Dershowitz

"Ask any lawyer—if a prosecutor thinks he can win a case, he'll prosecute it."

Robert B. Weide

"In the last analysis, our every right is only worth what our lawyer makes it worth."
Robert Kennedy

"I was a lawyer for about ten years. The law teaches one to see things from all different angles."
Alex Flinn

"Everyone wants to say they hate lawyers, and yet I've never met a parent who didn't want their kid to be a lawyer."
Jessi Klein

"The doctor sees all the weakness of mankind; the lawyer all the wickedness, the theologian all the stupidity."
Arthur Schopenhauer

"As a lawyer and a former prosecutor, I know the limits of the power and authority of the president. I know what is legal and what is not."
Rodrigo Duterte

Entertaining and Practical Lawyer Quotes

"As a peacemaker the lawyer has superior opportunity of being a good man."
Abraham Lincoln

"But one type of book that practically no one likes to read is a book about the law. Books about the law are notorious for being very long, very dull, and very difficult to read. This is one reason many lawyers make heaps of money."

Lemony Snicket

"Being a lawyer is not merely a vocation. It is a public trust, and each of us has an obligation to give back to our communities."

Janet Reno

"Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has superior opportunity of being a good man. There will still be business enough."

Abraham Lincoln

"Your attitude will go a long way in determining your success, your recognition, your reputation and your enjoyment in being a lawyer."

Joe Jamail

"The main business of a lawyer is to take the romance, the mystery, the irony, the ambiguity out of everything he touches."

Antonin Scalia

"A good lawyer knows the law; a clever one takes the judge to lunch."

Mark Twain

"Lawyers are men whom we hire to protect us from lawyers."
Elbert Hubbard

"The minute you read something that you can't understand, you can almost be sure that it was drawn up by a lawyer."
Will Rogers

"It is not what a lawyer tells me I may do; but what humanity, reason, and justice tell me I ought to do."
Edmund Burke

Lawyer Quotes on How They Can Be at Odds with the Law at Times

"Necessity knows no law; I know some attorneys of the same."
Benjamin Franklin

"Justice is doing for others what we would want done for us."
Gary Haugen

"I do not say that all lawyers are bad, but I do maintain that the general tendency is bad: standing up in a court for whichever side has paid you, and doing everything you can to win the case, whatever your private opinion may be. The mercenary soldier is not a valued creature, but at least he risks his life, whereas these men merely risk their next fee."
Patrick O'Brian

"Only Lawyers and mental defectives are automatically exempt for jury duty."
George Bernard Shaw

"People are getting smarter nowadays; they are letting lawyers, instead of their conscience, be their guide."
Will Rogers

"Lawyers have been known to wrest from reluctant juries triumphant verdicts of acquittal for their clients, even when those clients, as often happens, were clearly and unmistakably innocent."
Oscar Wilde

"Well, I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell how to do what I want to do."
J. P. Morgan

"A divorce lawyer is a chameleon with a law book."
Marvin Mitchelson

"A lawyer is never entirely comfortable with a friendly divorce, anymore than a good mortician wants to finish his job and then have the patient sit up on the table."
Jean Kerr

"Lawyer One skilled in the circumvention of the law."

Ambrose Bierce

Classy Lawyer Quotes to Motivate Your Legal Case

"Arguing with a lawyer is not the hardest thing in the world; not arguing is."
Raheel Farooq

It is the business of a lawyer to find a hole to creep out of any law that is in his way; and if there is no hole, to make one."
W. Ouseley

"Like all lawyers, I was delighted by gratitude. It happened so rarely."
C.J. Sansom

"Any lawyer worth his salt knew the first offer had to be rejected."
John Grisham

"A prisoner's shackles would always be a lawyer's joy."
Dennis E. Adonis

"Guilo, although a lawyer, never lied; at least not to his friends."
Donna Leon

"Trials for lawyers are like bills. It seems that you finish paying for one, and feel that feeling of relief, then it's time to pay it again."

Kenneth G. Eade

"Hate lawyers all you want. Unlike you, we'll never be replaced with robots. Case closed!"

Natalya Vorobyova

"Lawyers forever overestimate their own intelligence and underestimate their clients'."

Portia Porter

"What they say about lawyers being useless isn't entirely true."

Jennifer Arnett

Dr. Allan Woodcourt to the wrongly accused George Rouncewell, in Charles Dickens's Bleak House

"It could have been prevented. That is the message [to pharmaceutical companies]. Respect us."

Juror Derrick Chizer, who voted against Merck in the first Vioxx case to go to trial, who said the 10 likeminded jurors believed a heart attack triggered the Plaintiff's fatal arrhythmia.

"The first thing we do, let's kill all the lawyers." (Dick the Butcher to Jack Cade in Henry VI, Part 2 (1592) act 4, sc. 2. Shakespeare's misquoted implication that lawyers stand in the way of tyranny.)

W. Shakespeare (15641616)

"I shall not rest until every German sees that it is a shameful thing to be a lawyer."

Adolph Hitler

"The future has several names. For the weak, it is impossible. For the fainthearted, it is unknown. For the thoughtful and valiant, it is ideal."
Victor Hugo

"We love lawyers. If there weren't any lawyers, there wouldn't be any jokes!"
Click and Clack

"The life of the law has not been logic; it has been experience."
Oliver Wendell Holmes

"Where law ends, tyranny begins."
William Pitt

"...Freedom of religion; freedom of the press, and freedom of person under the protection of the habeas corpus, and trial by juries impartially selected. These principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heros have been devoted to their attainment. They should be the creed of our political faith."
Thomas Jefferson, First Inaugural Address (1801)

"No friend ever served me, and no enemy ever wronged me, whom I have not repaid in full."
Selfdictated Epitaph of Lucius Cornelius Sulla (Sulla Felix); 78 B.C.

"For 500 years the West patented six killer applications that set it apart. The first to download them was Japan. Over the last century, one Asian country after another has downloaded these killer apps competition, modern science, the rule of law and private

property rights, modern medicine, the consumer society and the work ethic. Those six things are the secret sauce of Western civilization."
Harvard historian Niall Ferguson, Civilization: The West and the Rest

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"Fiat justitia ruat caelum."
Latin phrase meaning "Let justice be done though the heavens fall"; attributed to Lucius Calpurnius Piso Caesoninus, the fatherinlaw of Julius Caesar

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"As long as the world shall last there will be wrongs, and if no man objected and if no man rebelled, those wrongs would last forever."
Clarence Darrow (18571938), prominent American lawyer

"Consider the reason of the case, for nothing is law that is not reason."
Sir John Powell

"If you can learn a simple trick, Scout, you'll get along better with all kinds of folks. You never really understand a person until you consider things from his point of view...until you climb into his skin and walk around in it."
Atticus Finch, in Harper Lee's To Kill a Mockingbird

"The jury system has come to stand for all we mean by English justice. The scrutiny of 12 honest jurors provides defendants and plaintiffs alike a safeguard from arbitrary perversion of the law."
Winston Churchill

"The one governmental agency that has no ambition."
Justice William O. Douglas, on the Supreme Court

"I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."
Thomas Jefferson (1788)

"Laws are the sovereigns of sovereigns."
Louis XIV

"The pen is mightier than the sword."
Edward BulwerLytton

"What I want is a competent lawyer who will counsel me. ... I also need him with me at my trial and in hearings. ... I would also like to be able to sue him if I later conclude that I have been defectively or inadequately counseled, because I feel that I have received less than satisfactory service in the past. It occurs to me that ... we each will feel as though we are caged with a rattlesnake: There is going to be mutual fear, mistrust, dislike, and a contest for dominance. I don't consider it my fault, however."
Randall S. Boyd of Denton, TX, in a prose motion seeking appointment of counsel

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"To the wise, a word is sufficient."
Prince John Lackland, before the return of King Richard

Truth is incontrovertible. Malice may attack it and ignorance may deride it, but, in the end, there it is.
Sir Winston Churchill (18741965)

"Life's real victories must be shared."
Former President Bill Clinton on the passing of Former President Nelson Mandela

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"There's always room for a good lawyer."
Milas Hale

"A law is valuable not because it is law, but because there is right in it."
Henry Ward Beecher

"If you want peace, work for justice"
Pope Paul VI

"Laws are the very bulkwarks of liberty; they define every man's right, and defend the individual liberties of all men."
J.G. Holland

"Law is the embodiment of the moral sentiment of the people."
William Blackstone

"When you're up to your nose in shit, keep your mouth shut."
Jack Beauregard, played by Henry Fonda. My Name is Nobody.

"The safety of the people shall be the highest law."
Marcus Tullius Cicero

"Plead the Fifth."
Gary Vert

"Justice denied anywhere diminishes justice everywhere."
Martin Luther King, Jr.

"I would remind you that extremism in the defense of liberty is no vice! And let me remind you also that moderation in the pursuit of justice is no virtue!"
Barry Goldwater

"Predicting coding algorithms are already able to do much of the legal research lawyers do. Before long, 'there will be many thousands of lawyers out of work,' one legal expert told Pew. Don't all weep at once."
Rick Newman on the fate of lawyers, in his August 2014 article 28 Jobs Endangered by Technology, via Yahoo Finance

"Whereas the law is passionless, passion must ever sway the heart of man."
Aristotle

"Every man is enthusiastic at times. One man has enthusiasm for 30 minutes, another man has it for 30 days. But it is the man who has it for 30 years who makes a success in life."
Edward B. Butler

"V. The next fpecies of trial is of great antiquity, but much difuted; though ftill in force if the parties chufe to abide by it: I mean the trial by wager of battel. This feems to have owed it's original to the military fpirit of our anceftors, joined to a fuperftitious frame of mind; it being in the nature of an appeal to providence, under an apprehenfion and hope (however prefumptous and unwarrantable) that heaven would give the victory to him who had the right. The decifion of fuits, by this appeal to the God of battels, is by fome faid to have been invented by the Burgundi, one of the northern or German clans that planted themfelves in Gaul. And it is true, that the firft written injuction of judiciary combats that we meet with, is in the laws of Gundebald, A. D. 501, which are preferved in the Burgundian code. Yet it does not feem to have been merely a local cuftom of this or that particular tribe, but to have been the common ufage of all thofe warlike people from the earlieft times. And it may alfo feem from a paffage in Velleius Paterculus, that the Germans, when firft they became knwon to the Romans, were wont to decide all contefts

of right by the fword: for when Quintilius Varus endeavoured to introduce among them the Roman laws and method of trial, it was looked upon (fays the hiftorian) as a "novitas incognitae difciplinae, ut folita armis "decerni, jure terminarentur." And among the antient Goths in Sweden we find the practice of judiciary duels eftablifhed upon much the fame footing as they formerly were in our own country."

"A description of the "great antiquity" of "the trial by wager of battle" from Blackstone's Commentaries on the Laws of England, Volume III, p. 337 (1768)

"A man who is his own lawyer has a fool for a client."
early19th century proverb found in Henry Kett's The flowers of wit, or a choice collection of bon mots (1814)

"All bad precedents begin with justifiable measures."
Julius Ceasar Sallust's Bellum Catilinae, J.T. Ramsey ed (1984)

"The spirit of liberty is the spirit which is not too sure that it is right..."
Judge Learned Hand

"I think the first duty of society is justice."
Alexander Hamilton

"Tremble, all ye oppressors of the world!
Richard Price

"Remember always that all of us...are descended from immigrants and revolutionists."
Franklin D. Roosevelt

"True patriotism hates injustice in its own land more than anywhere else."

Clarence Darrow

"A majority held in restraint by constitutional checks and limitations...is the only true sovereign of a free people. Whoever rejects it does of necessity fly to anarchy or to despotism."
Abraham Lincoln

"When you have no basis for an argument, abuse the plaintiff."
Cicero

"Beware the smoke screen!"
Gary Vert

"Right... is the child of law."
Jeremy Bentham (17481832)

"I wholly disapprove of what you say, but I will defend to the death your right to say it."
S.G. Tallentyre, The Friends of Voltaire (1906)

"Tact is the ability to describe others as they see themselves."
Abraham Lincoln

"Argument weak; speak loudly!"
a handwritten note by Theodore Roosevelt in the margins of one of his speeches

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"When it wishes anything done which is really serious, it collects twelve of the ordinary men standing round. The same thing was done, if I remember right, by the Founder of Christianity."

G. K. Chesterton, speaking of society

"By obliging men to turn their attention to other affairs than their own, it rubs off that private selfishness which is the rust of society."

De Tocqueville On Jury Service

"It may be true that the law cannot make a man love me, but it can stop him from lynching me, and I think that's pretty important."

Martin Luther King, Jr.

"An unlimited power to tax involves, necessarily, a power to destroy; because there is a limit beyond which no institution and no property can bear taxation."

Chief Justice John Marshall

"These are the times that try men's souls."

Thomas Paine, "The Crises" (published after Washington's army had to retreat from Long Island to Breucklyn)

"Take to the study of the law. Possession is nine points of it, which thou hast of me. Selfpossession is the tenth . . ."

R.D. Blackmore, Lorna Doone

"Come now, and let us reason together . . ."

The Song of Solomon Isaiah

The wisdom of our sages and the blood of our heroes has been devoted to the attainment of trial by jury. It should be the creed of our political faith.
Thomas Jefferson First Inaugural Address 1801

"There is sacredness in tears. They are not the mark of weakness, but of power. They speak more eloquently than ten thousand tongues. They are the messengers of overwhelming grief, of deep contrition, and of unspeakable love."
Washington Irving (17831859)

"You will not be punished for your anger, you will be punished by your anger."
Author Unknown

"Very few souls are saved after the first five minutes of the sermon."
Mark Twain

"The law is reason free from passion."
Aristotle

"Reason is the life of the law; nay, the common law itself is nothing else but reason…The law, which is perfection of reason."
First Institute [1628]

"For a man's house is his castle, et domus sua cuique tutissimum refugium."
Third Institute [1644]

"The house of everyone is to him as his castle and fortress, as well for his defense against injury and violence as for his repose."
Semayne's Case. 5 Report 91

"They [corporations] cannot commit treason, nor be outlawed nor excommunicate, for they have no souls."
Case of Sutton's Hospital. 10 Report 32

"Learn to do right; seek justice, encourage the oppressed, defend the cause of the fatherless, plead the case of the widow."
The Song of Solomon Isaiah 1:17

"The Seventh Amendment to the Constitution of the United States: 'In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.'"

"Now see that noble and most sovereign reason,
Like sweet bells jangled, out of tune and harsh.
Shakespeare: Hamlet III, i, 162

"Lincoln's image is sometimes invoked as a model for lawyer advertising, with his advertising having been the feature of at least one recent television campaign for legal services. Other times, he, obviously, is advanced as the highest example of professionalism. He is probably an excellent illustration of the ability of a lawyer in that era to combine aspects of commercialism, competence and dignity in the practice of law."
American Bar Association, Commission on Advertising, Lawyer Advertising at the Crossroads: Professional Policy Considerations 3132 (1995).

"Our reason is our law."
Milton: Paradise Lost, bk. IX, l. 652

"The sleep of reason produces monsters [El sueño de la razón produce monstruos]."
Francisco José de Goya y Lucientes: Los Caprichos [1799]. Plate 43[1]

"Education is what you get by reading the fine print; experience is what you get if you don't read it."
from The Furrow, Volume 119, Issue 6

Judge: "Is there any reason you could not serve as a juror on this case?"
Juror: "I don't want to be away from my job that long."
Judge: "Can't they do without you at work?"
Juror: "Certainly, but I don't want them to know it."
from The Furrow, Volume 119, Issue 6

"Lawyers are like other people — fools on the average; but it is easier for an ass to succeed in that trade than any other."
Mark Twain

"Man is a reasoning animal."
Lucius Annaeus Seneca: Epistles, 41,8

"Eternal vigilance is the price of liberty."
Wendell Phillips (18111884), abolitionist, orator and columnist for The Liberator, in a speech before the Massachusetts Antislavery Society in 1852.

"Woe to those who enact unjust statutes and who write oppressive decrees, depriving the needy of judgment and robbing my peoples' poor of their rights, making widows their plunder, and orphans their prey."
Isaiah 10:12.

"Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance."

Robert F. Kennedy (19251968, American Attorney General, Senator)

"About half the practice of a decent lawyer consists in telling wouldbe clients that they are damned fools and should stop."

Elihu Root

"A crooked thing is ruined and fit only to ruin everything else. (Chose tournée est corrumpue et propre à tout faire tourner par suite.)"

Guillaume le Maréchal, III, 170

"[The law] is a jealous mistress, and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage."

The Value and Importance of Legal Studies

Joseph Story, (17791845)

"All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. The Tudor monarchs sent to prison jurors who refused to convict, and Napoleon caused them to be selected by his agents."

"The institution of the jury, if confined to criminal causes, is always in danger; but when once it is introduced into civil proceedings, it defies the aggressions of time and man. If it had been as easy to remove the jury from the customs as from the laws of England, it would have perished under the Tudors, and the civil jury did in reality at that period save the liberties of England."

De Tocqueville On Civil Jury Trials

"There are three kinds of lies: lies, damned lies and statistics."
Origin unknown; attributed to several sources but made especially popular by Mark Twain's Own Autobiography: The Chapters from the North American Review

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"Injustice anywhere is a threat to justice everywhere."
Martin Luther King, Jr.

"The law is the last result of human wisdom acting upon human experience for the benefit of the public."
Samuel Johnson

"It is a fair summary of history to say that the safeguards of liberty have frequently been forged in controversies involving not very nice people."
Justice Felix Frankfurter, dissenting, United States v. Rabinowitz (1950)

"I used to say that, as Solicitor General, I made three arguments of every case. First came the one that I plannedas I thought, logical, coherent, complete. Second was the one actually presentedinterrupted, incoherent, disjointed, disappointing. The third was the utterly devastating argument that I thought of after going to bed that night."
Robert H. Jackson, Advocacy Before the Supreme Court (1951)

"Judicial reform is no sport for the shortwinded."
Arthur T. Vanderbilt

"To be a successful contingency attorney requires three things: 1). Accept only good cases; 2). Settle the good cases; and 3). Try the rest."
Gary Vert

"And do as adversaries do in law
Strive mightily, but eat and drink as friends.
William Shakespeare: The Taming of the Shrew Act 1 Scene 2

"It usually takes three weeks to prepare a good impromptu speech."
Mark Twain

"The difference between the right word and the almost right word is the difference between lightning and a lightning bug."
Mark Twain

"Should any political party attempt to abolish social security, unemployment insurance, and eliminate labor laws and farm programs, you would not hear of that party again in our political history. There is a tiny splinter group, of course, that believes that you can do these things. Among them are a few Texas oil millionaires, and an occasional politician or businessman from other areas. Their number is negligible and they are stupid."
President Dwight D. Eisenhower, 1952

"What is hateful to you, do not do to your fellow; that is the whole Law: the rest is interpretation."
Hillel (30 B.C. 10.A.D.) Source: Talm

Seek justice for all . . . Champion the cause of those who deserve redress for injury to personal property . . . Promote the public good through concerted efforts to secure safe products, a safe work place, a clean environment, and quality healthcare . . . Further the rule of law in a civil justice system, and protect the rights of the accused . . . Advance the common law and the finest traditions of jurisprudence . . . and uphold the honor and dignity of the legal profession and the highest standards of ethical conduct and integrity.
Mission Statement Association of Trial Lawyers of America

"He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.
He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.
He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:
. . . For depriving us in many cases, of the benefits of Trial by Jury:"
List of Colonists' Grievances against King George III, Declaration of Independence, July 4, 1776

"The law must have the last word."
French President Jacques Chirac in response to rioters in France November 6, 2005

"The study of law is sublime, and its practice vulgar."
Oscar Wilde

"No man is above the law and no man below it."
Theodore Roosevelt

"Justice is conscience, not a personal conscience but the conscience of the whole humanity. Those who clearly recognize the voice of their own conscience usually also recognize the voice of justice."
Alexander Solzhenitsyn

"Simple is good."
Jim Henson

"The great enemy of the truth is very often not the lie deliberate, contrived and dishonest, but the myth persistent, persuasive, unrealistic."
John F. Kennedy

"As citizens of this democracy, you are the rulers and the ruled, the lawgivers and the lawabiding, the beginning and the end."
Adlai Ewing Stevenson

"It is better to risk saving a guilty person than to condemn an innocent one."
Voltaire, Zadig, 1747

"Our defense is not in our armaments, nor in science, nor in going underground. Our defense is in law and order."
Albert Einstein

"Unkindness has no remedy at law."
Thomas Fuller (1654 1734) comp., Gnomologia: Adages and Proverbs, 5402, 1732.

"The precepts of the law are these: to live honestly, to injure no one, and to give everyone his due." Justinian I (482/483565).
Justinian Code, A.D. 533.

"There shall be one law for the native and for the stranger who sojourns among you." Moses (14th Century B.C.).
Exodus 12:49

"They that make laws must not break them."

John Ray (1628 1705). Comp., A Collection of English Proverbs, p. 166, 1678.

"Ignorance of the law excuses no man, not that all men know the law, but 'tis an excuse every man will plead and no man can tell how to confute him."
John Selden (1584 1654). "LAW" (2), Table Talk, 1689, ed. Frederick Pollock, 1927.

"Possession is ninetenths of the law. Lord Mansfield (1705 1793).
Corporation of Kingston upon Hull v. Horner, 1774.

"The success of any legal system is measured by its fidelity to the universal ideal of justice." Earl Warren (1891 1974). "The Law and the Future,"
Fortune Magazine, November 1955.

"Lawyers with a weakness for seeing the merits of the other side end up being employed by neither."
Richard J. Barnet (1929 2004). Roots of War. 3.3, 1971.

Saying
(Latin): The law is not concerned with trifles.
The more laws, the less justice.
Where the law is uncertain, there is no law.
(Spanish): One lawyer makes work for another.
(German): A lawyer and a wagon wheel must be well greased.

"It is unwise to pay too much but it is worse to pay too little. When you pay too much you lose a little money. When you pay too little you sometimes lose everything because the thing you bought was incapable of doing the thing it was bought to do. The commonsense law of business balance prohibits paying a little and getting a lot. It can't be done."
John Ruskin

"When law and nature collide, nature usually wins."
Forrest Reynolds, June 1, 2012, on discussing the verdict in the John Edwards case

"Lawyers are just like physicians; what one says the other contradicts.
Sholem Aleiche

"One thing I have learned from this experience is that it is hard to keep an audience attentive and involved with a "speech," but it's easy if you tell a story that involves your listeners and inspires them with a memorable moral."
Jim M. Perdue

"He is no lawyer who cannot take two sides."
Charles Lamb

"You get a reasonable doubt for a reasonable price."
Criminal attorney's saying

"Lawyers help those who help themselves."
Anonymous

"It is true that, of the people of my Gracious Prince here, some out of all offices and faculties must be executed: clerics, electoral councillors and doctors, city officials, court assessors, several of whom Your Grace knows. There are law students to be arrested. ... The notary of our Church consistory, a very learned man, was yesterday arrested and put to the torture. In a word, a third part of the city is surely involved. The richest, most

attractive, most prominent of the clergy are already executed. ... I have seen put to death children of seven, promising students of ten, twelve, fourteen, and fifteen."
A Letter from Würzburg (1629), reprinted in Witchcraft in Europe 4001700 35354 (Alan Charles Kors and Edward Peters eds., University of Pennsylvania Press, 2001)

"Lawyers are a learned class of very ignorant men."
Erasmus, Dutch philosopher and theologian

"I am not afraid of lawyers as I used to be. They are lambs in wolves' clothing."
Edna St. Vincent Millay

"If you laid all of our laws end to end, there would be no end."
Mark Twain

"'Curio vult advisari,' as the lawyers say; which means, 'Let us have another glass, and then we can think about it.'"
R.D. Blackmore, Lorna Doone

"Law is the second oldest profession."
Anonymous

"Thus, tis we say though quite uncivil, A cunning lawyer beats the devil!"
Early American Rhyme

"Sometimes a man who deserves to be looked upon because he is a fool is despised only because he is a lawyer."
Montesquieu

"May you have a lawsuit in which you know you are right."
Spanish Gypsy curse

"He that loves the law will get his fill of it."
Scottish proverb

"There is no man so good, who, were he to submit all his thoughts and actions to the laws would not deserve hanging ten times in his life."
Michel de Montaigne

"He wastes his tears who weeps before the judge."
Italian proverb
"That one hundred and fifty lawyers should do business together ought not to be expected."
Thomas Jefferson (referring to the U.S. Congress)

"Love all men except lawyers."
Irish proverb

"Pride only breeds quarrels, but wisdom is found in those who take advice"
Proverbs 13:10

"I, Lucius Titus, have written this my testament without any lawyer, following my own natural reason rather than excessive and miserable diligence."
The will of a citizen of Rome

"They do tricks even I can't figure out."

Harry Houdini

"If it weren't for the lawyers we wouldn't need them."
William Jennings Bryan

"Great management decisions make themselves"
Bob Howe

"The very definition of a good award is that it gives dissatisfaction to both parties."
Goodman C. Sayers

"Our holding will be spelled out with some specificity in the pages which follow but briefly stated it is this: the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against selfincrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."
Earl Warren, Miranda v. Arizona, 384 U.S. 436, 444 (1966)

"The power of a sonorous phrase to command uncritical acceptance has often been encountered in the law."
Calvert Magruder, "Mental and Emotional Disturbance in the Law of Torts," 49 **Harvard Law Review 1033, 1033 (1936)**

"I left law school more than 40 years ago, and I still have that dream and not infrequently."
Paul Kelly on anxietyproducing exams

Judge: Are you trying to show contempt for the court?
Flower Bell Lee [played by Mae West]: No, I'm doing my best to hide it.
Mae West and W.C. Fields, My Little Chickadee (screenplay), 1940, quoted in The Wit and Wisdom of Mae West 51 (Joseph Weintraub ed. 1970)

"A cent or a pepper corn, in legal estimation, would constitute a valuable consideration."
Nicholas Emery, Whitney v. Stearns, 16 Me. 394, 397 (1839)

"But there is one way in this country in which all men are created equalthere is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United State or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal."
Harper Lee, To Kill a Mockingbird 218 (1960)

"It is not enough to say, that in the opinion of the court, the damages are too high and that we would have given much less. It is the judgment of the jury, and not the judgment of the court, which is to assess the damages in actions for personal torts and injuries....The damages, therefore, must be so excessive as to strike mankind, at first blush, as being beyond all measure, unreasonable and outrageous, and such as manifestly show the jury to have been actuated by passion, partiality, prejudice, or corruption. In short, the damages must be flagrantly outrageous and extravagant, or the court cannot undertake to draw the line; for they have no standard by which to ascertain the excess."
James Kent, Coleman v. Southwick, 9 Johns. 45, 5152 (N.Y. 1818)

"More truly characteristic of dissent is a dignity, an elevation, of mood and thought and phrase. Deep conviction and warm feeling are saying their last say with knowledge that the cause is lost. The voice of the majority may be that of force triumphant, content with the plaudits of the hour, and recking little of the morrow. The dissenter speaks to the future, and his voice is pitched to a key that will carry through the years."

Benjamin N. Cardozo, Law and Literature 36 (1931)

It shall be unlawful for any teacher in any of the Universitis [sic], Normals and all other public schools of the State which are supported in whole or in part by the publicschool funds of the State, to teach any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.

Act of Mar. 13, 1925, ch. 27, § 1, 1925 Tenn. Pub. Acts 50, 5051

"A grand jury would 'indict a ham sandwich,' if that's what you wanted."

Tom Wolfe (quoting New York State chief judge Sol Wachtler) in The Bonfire of the Vanities

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"If today you can take a thing like evolution and make it a crime to teach it in the public school, tomorrow you can make it a crime to teach it in the private schools, and the next year you can make it a crime to teach it to the hustings or in the church. At the next session you may ban books and the newspapers. Soon you may set Catholic against Protestant and Protestant against Protestant, and try to foist your own religion upon the minds of men. If you can do one you can do the other. Ignorance and fanaticism is ever busy and needs feeding. Always it is feeding and gloating for more. Today it is the publicschool teachers, tomorrow the private. The next day the preachers and the lecturers, the magazines, the books, the newspapers. After while, your honor, it is the setting of man against man and creed against creed until with flying banners and beating drums we are marching backward to the glorious ages of the sixteenth century when bigots lighted fagots to burn the men who dared to bring any intelligence and enlightment and culture to the human mind."

Clarence S. Darrow, Speech at Scopes Trial, Dayton, Tenn., 13 July 1925, in The World's Most Famous Court Trial 87 (1925)

"Those who want the Government to regulate matters of the mind and spirit are like men who are so afraid of being murdered that they commit suicide to avoid assassination."

Harry S. Truman, Address at the National Archives, Washington, D.C., 15 Dec., 1952, in Public Papers of the Presidents: Harry S. Truman, 195253, at 1077, 1079 (1966)

"Since the earliest days philosophers have dreamed of a country where the mind and spirit of man would be free; where there would be no limits to inquiry; where men would be free to explore the unknown and to challenge the most deeply rooted beliefs and principles. Our First Amendment was a bold effort to adopt this principle to establish a country with no legal restrictions of any kind upon the subject's people could investigate, discuss and deny. The Framers knew, better perhaps than we do today, the risks they were taking. They knew that free speech might be the friend of change and revolution. But they also knew that it is always the deadliest enemy of tyranny. With this knowledge they still believed that the ultimate happiness and security of a nation lies in its ability to explore, to change, to grow and ceaselessly to adapt itself to new knowledge born of inquiry free from any kind of governmental control over the mind and spirit of man. Loyalty comes from love of good government, not fear of a bad one."

Hugo L. Black, "The Bill of Rights," 35 New York University Law Review 865, 88081 (1960)

"The issue of a cause rarely depends upon a speech and is but seldom even affected by it. But there is never a cause contested, the result of which is not mainly dependent upon the skill with which the advocate conducts his crossexamination."

"A good advocate should be a good actor. The most cautious crossexaminer will often elicit a damaging answer. Now is the time for the greatest selfcontrol. If you show by your face how the answer hurt, you may lose your case by that one point alone. How often one sees the crossexaminer fairly staggered by such an answer. He pauses, perhaps blushes, and after he has allowed the answer to have its full effect, finally regains his selfpossession, but seldom his control of the witness...."

"Francis Wellman" "The Art of CrossExamination (1903, 1904)"

"The practice of law is a busyness."
Gary Vert

"We can imagine . . . no better way to counter a flagburner's message than by saluting the flag that burns. . . We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents."
William J. Brennan, Jr. Texas v. Johnson, 109 S. Ct. 2533, 254748 (1989)

"It is a pleasant world we live in, sir, a very pleasant world. There are bad people in it, Mr. Richard, but if there were no bad people, there would be no good lawyers."
Charles Dickens, The Old Curiosity Shop

"You can only protect your liberties in this world by protecting the other man's freedom. You can only be free if I am free."
Clarence S. Darrow, Address to jury, Communist Trial, 1920, in Attorney for the Damned 121, 140 (Arthur Weinberg ed. 1957)

"And I honor the man who is willing to sink
Half his present repute for the freedom to think,
And, when he has thought, be his cause strong or weak,
Will risk t' other half for the freedom to speak."
James Russell Lowell, "A Fable for Critics," 1848, in Complete Poetical Works of James Russell Lowell 114, 136 (Horace E. Scudder ed. 1925)

"The wisest thing to do with a fool is to encourage him to hire a hall and discourse to his fellowcitizens. Nothing chills nonsense like exposure to the air."
Woodrow Wilson, Constitutional Government in the United States 38 (1908)

"That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments."

Virginia Declaration of Rights of 1776, § 12, in Federal and State Constitutions 7:3812, 3814 (Francis N. Thorpe ed. 1909)

"Freedom of the press is guaranteed only to those who own one."

A.J. Liebling, "The Wayward Press: Do you belong in Journalism?" New Yorker, 14 May 1960, at 105, 109

Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

Martin Luther King, Jr., "Letter from Birmingham Jail," 16 Apr. 1963, in Why We Can't Wait 77, 79 (1964)

"We disclaim altogether any jurisdiction in the courts of the United States upon the subject of divorce, or for the allowance of alimony."

James M. Wayne, Barber v. Barber, 62 U.S. (21 How.) 582, 584 (1858)

"That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred."

Virginia Declaration of Rights of 1776, § 11, in Federal and State Constitutions 7:3812, 3814 (Francis N. Thorpe ed. 1909)

"Where there is Hunger, Law is not regarded; and where Law is not regarded, there will be Hunger."

Benjamin Franklin, Poor Richard's Almanack, 1755, in Papers of Benjamin Franklin 5:472 (Leonard W. Labaree ed. 1962)

"Ignorance of the law is no excuse in any country. If it were, the laws would lose their effect, because it can always be pretended."
Thomas Jefferson, Letter to Andre Limozin, 22 Dec. 1787, in Papers of Thomas Jefferson 12:451 (Julian P. Boyd ed. 1955)

"I know no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution."
Ulysses S. Grant, First Inaugural Address, 4 Mar. 1869, in Messages and Papers of the Presidents 7:6, 6 (James D. Richardson ed. 1898)

"Never fear the want of business. A man who qualifies himself well for his calling never fails of employment in it."
Thomas Jefferson, Letter to Peter Carr, 22 June 1792, in Writings of Thomas Jefferson 6:92 (Paul L. Ford ed. 1895)

"Our profession is good, if practiced in the spirit of it; it is damnable fraud and iniquity when its true spirit is supplied by a spirit of mischiefmaking and money catching."
Daniel Webster, Letter to James Hervey Bingham, 19 Jan. 1806, in Papers of Daniel **Webster: Legal Papers 1.69**

[When advised not to become a lawyer because the profession was overcrowded:] "There is always room at the top."
Daniel Webster, quoted in Edward Latham, Famous Sayings and Their Authors 65 (1904)

"Whatever their failings as a class may be, and however likely to lose their immortal souls, lawyers do not generally lose papers."
Arthur Train, "HocusPocus," in Tut, Tut! Mr. Tutt 119, 120 (1923)

"Look well to the right of you, look well to the left of you, for one of you three won't be here next year."

Edward H. Warren, quoted in W. Barton Leach, "Look Well to the Right...," 58 Harvard Law Review 1137, 1138 (1945)

On one occasion a student made a curiously inept response to a question from Professor Warren. "The Bull" roared at him, "You will never make a lawyer. You might just as well pack up your books now and leave the school." The student rose, gathered his notebooks, and started to leave, pausing only to say in full voice, "I accept your suggestion, Sir, but I do not propose to leave without giving myself the pleasure of telling you to go plumb straight to Hell." "Sit down, Sir, sit down," said "The Bull." "Your response makes it clear that my judgment was too hasty."

Joseph N. Welch, "Edward Henry Warren," 58 Harvard Law Review 1134, 1136 (1945)

Mahatma Gandhi Quotes

- First they ignore you, then they laugh at you, then they fight you, then you win.
- The best way to find yourself is to lose yourself in the service of others.
- Strength does not come from physical capacity. It comes from an indomitable will.
- The weak can never forgive. Forgiveness is the attribute of the strong.
- In a gentle way, you can shake the world.
- Satisfaction lies in the effort, not in the attainment, full effort is full victory.
- Prayer is the key of the morning and the bolt of the evening.
- A nation's culture resides in the hearts and in the soul of its people.

- Man becomes great exactly in the degree in which he works for the welfare of his fellowmen.
- The essence of all religions is one. Only their approaches are different.
- Action expresses priorities.
- When I admire the wonders of a sunset or the beauty of the moon, my soul expands in the worship of the creator.
- Prayer is not asking. It is a longing of the soul. It is daily admission of one's weakness. It is better in prayer to have a heart without words than words without a heart.
- Anger and intolerance are the enemies of correct understanding.
- My life is my message.
- A man who was completely innocent, offered himself as a sacrifice for the good of others, including his enemies, and became the ransom of the world. It was a perfect act.
- The good man is the friend of all living things.
- The human voice can never reach the distance that is covered by the still small voice of conscience.
- I object to violence because when it appears to do good, the good is only temporary; the evil it does is permanent.
- In prayer it is better to have a heart without words than words without a heart.
- Peace is its own reward.
- Live as if you were to die tomorrow. Learn as if you were to live forever.

- Freedom is never dear at any price. It is the breath of life. What would a man not pay for living?
- It is better to be violent, if there is violence in our hearts, than to put on the cloak of nonviolence to cover impotence.
- A small body of determined spirits fired by an unquenchable faith in their mission can alter the course of history.
- You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty.
- There is a higher court than courts of justice and that is the court of conscience. It supercedes all other courts.
- Even if you are a minority of one, the truth is the truth.
- An eye for an eye only ends up making the whole world blind.
- A man is but the product of his thoughts what he thinks, he becomes.
- Nobody can hurt me without my permission.
- You can chain me, you can torture me, you can even destroy this body, but you will never imprison my mind.
- If I had no sense of humor, I would long ago have committed suicide.
- Honest disagreement is often a good sign of progress.
- All compromise is based on give and take, but there can be no give and take on fundamentals. Any compromise on mere fundamentals is a surrender. For it is all give and no take.
- We may stumble and fall but shall rise again; it should be enough if we did not run away from the battle.

- In matters of conscience, the law of the majority has no place.
- There are people in the world so hungry, that God cannot appear to them except in the form of bread.
- Noncooperation with evil is as much a duty as is cooperation with good.
- Truth never damages a cause that is just.
- Those who say religion has nothing to do with politics do not know what religion is.
- The real ornament of woman is her character, her purity.
- You must be the change you wish to see in the world.
- Happiness is when what you think, what you say, and what you do are in harmony.
- It is health that is real wealth and not pieces of gold and silver.
- Where there is love there is life.
- Power is of two kinds. One is obtained by the fear of punishment and the other by acts of love. Power based on love is a thousand times more effective and permanent then the one derived from fear of punishment.
- The greatness of a nation can be judged by the way its animals are treated.
- An ounce of practice is worth more than tons of preaching.
- There is more to life than increasing its speed.
- Freedom is not worth having if it does not connote freedom to err.

- A coward is incapable of exhibiting love; it is the prerogative of the brave.
- There is a sufficiency in the world for man's need but not for man's greed.
- Man's nature is not essentially evil. Brute nature has been known to yield to the influence of love. You must never despair of human nature.
- I suppose leadership at one time meant muscles; but today it means getting along with people.
- Morality is the basis of things and truth is the substance of all morality.
- A 'No' uttered from the deepest conviction is better than a 'Yes' merely uttered to please, or worse, to avoid trouble.
- Anger is the enemy of nonviolence and pride is a monster that swallows it up.
- To believe in something, and not to live it, is dishonest.
- Whatever you do may seem insignificant to you, but it is most important that you do it.

“

Dr. Martin Luther King Jr Quotes

Ninetythree years after his birth on Jan. 15, 1929, and 58 years after his historic "I Have a Dream" speech, Martin Luther King Jr.'s stirring words and writings remain as relevant and inspiring today as they were when he lived.

- "We must accept finite disappointment, but never lose infinite hope."
- "Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that."
- "Forgiveness is not an occasional act. It is a permanent attitude."

On Aug. 28, 1963, in front of a crowd of 250,000, King departed from his prepared words to share a dream that would mesmerize the nation.

- "I have decided to stick with love. Hate is too great a burden to bear."
- "Faith is taking the first step even when you don't see the whole staircase."

Dr. Martin Luther King Jr. giving his 'I Have a Dream' speech.

"Life's most persistent and urgent question is, 'What are you doing for others?'"

"Never succumb to the temptation of bitterness."

"Our lives begin to end the day we become silent about things that matter."

"We may have all come on different ships, but we're in the same boat now."

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy."

"Change does not roll in on the wheels of inevitability, but comes through continuous struggle."

"Love is the only force capable of transforming an enemy into friend."

“There comes a time when one must take a position that is neither safe, nor politic, nor popular, but he must take it because conscience tells him it is right.”

“Let no man pull you so low as to hate him.”

"If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do you have to keep moving forward."

"Intelligence plus character that is the goal of true education."

"Out of the mountain of despair, a stone of hope."

“The time is always right to do what is right.”

“Be a bush if you can't be a tree. If you can't be a highway, just be a trail. If you can't be a sun, be a star. For it isn't by size that you win or fail. Be the best of whatever you are.”

"We've got some difficult days ahead. But it really doesn't matter with me now because I've been to the mountaintop... I've looked over and I've seen the promised land. I may not get there with you. But I want you to know tonight that we as a people will get to the promised land."

Isaac Christopher Lubogo.

“For when people get caught up with that which is right and they are willing to sacrifice for it, there is no stopping point short of victory.”

"I believe that unarmed truth and unconditional love will have the final word in reality. This is why right, temporarily defeated, is stronger than evil triumphant."

"True peace is not merely the absence of tension; it is the presence of justice."

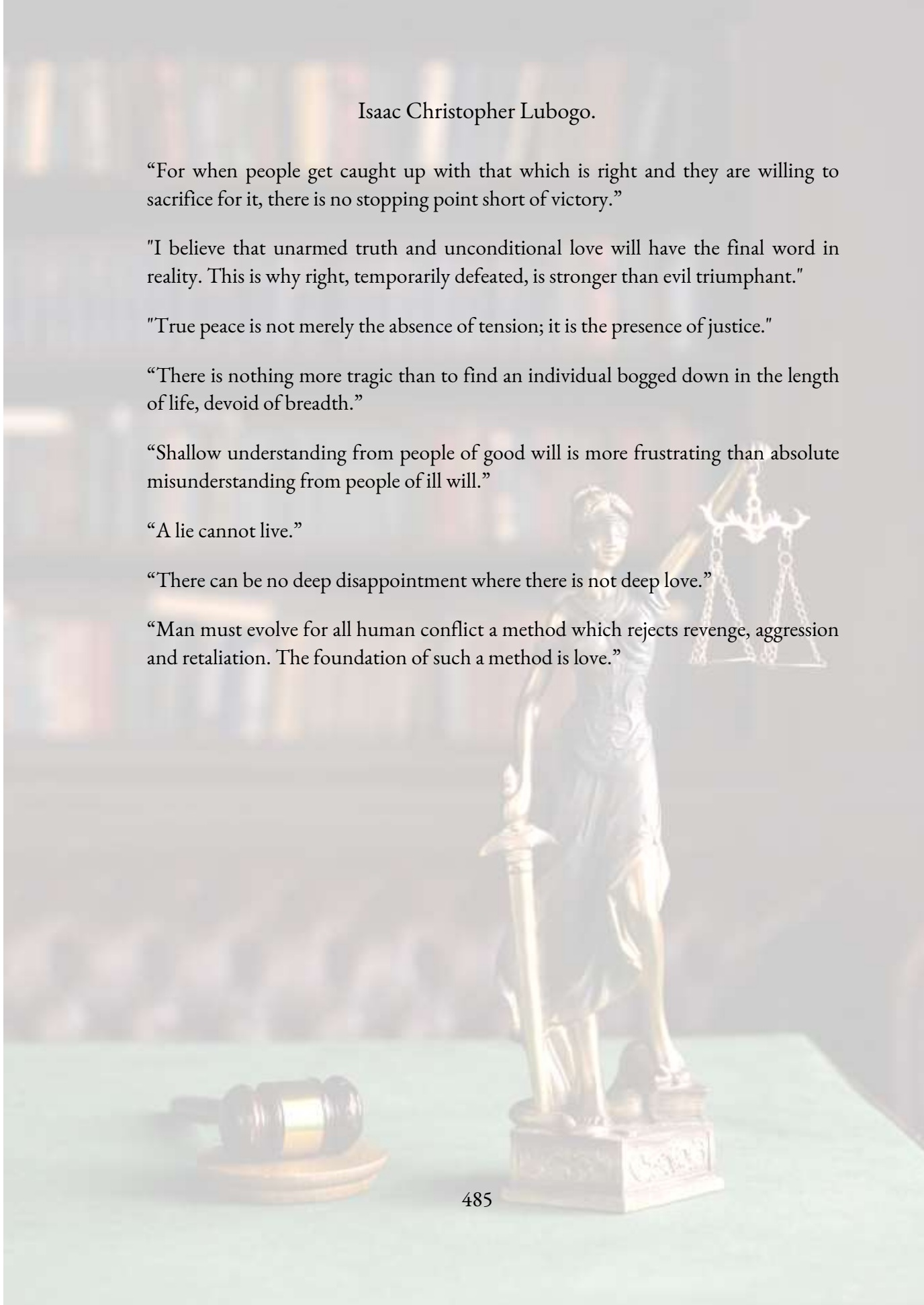
“There is nothing more tragic than to find an individual bogged down in the length of life, devoid of breadth.”

“Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will.”

“A lie cannot live.”

“There can be no deep disappointment where there is not deep love.”

“Man must evolve for all human conflict a method which rejects revenge, aggression and retaliation. The foundation of such a method is love.”



Black history month quotes

"There comes a time when people get tired of being pushed out of the glittering sunlight of life's July and left standing amid the piercing chill of an alpine November."

"We must develop and maintain the capacity to forgive. He who is devoid of the power to forgive is devoid of the power to love. There is some good in the worst of us and some evil in the best of us. When we discover this, we are less prone to hate our enemies."

"Nonviolence is absolute commitment to the way of love. Love is not emotional bash; it is not empty sentimentalism. It is the active outpouring of one's whole being into the being of another."

"We are not makers of history. We are made by history."

"Rarely do we find men who willingly engage in hard, solid thinking. There is an almost universal quest for easy answers and halfbaked solutions. Nothing pains some people more than having to think."

"We must build dikes of courage to hold back the flood of fear."

"Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred."

"Man must evolve for all human conflict a method which rejects revenge, aggression and retaliation. The foundation of such a method is love."

"Hate is just as injurious to the hater as it is to the hated. Like an unchecked cancer, hate corrodes the personality and eats away its vital unity. Many of our inner conflicts are rooted in hate. This is why psychiatrists say, “Love or perish.” Hate is too great a burden to bear."

"Power without love is reckless and abusive, and love without power is sentimental and anemic. Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love."

"In some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty."

"We shall match your capacity to inflict suffering by our capacity to endure suffering. We will meet your physical force with soul force. Do to us what you will. And we shall continue to love you."

"If one loves an individual merely on account of his friendliness, he loves him for the sake of the benefits to be gained from the friendship, rather than for the friend’s own sake. Consequently, the best way to assure oneself that love is disinterested is to have love for the enemyneighbor from whom you can expect no good in return, but only hostility and persecution."

"That’s love, you see. It is redemptive, and this is why Jesus says love. There’s something about love that builds up and is creative. There is something about hate that tears down and is destructive. So love your enemies."

"You know, a lot of people don’t love themselves. And they go through life with deep and haunting emotional conflicts. So the length of life means that you must love yourself. And you know what loving yourself also means? It means that you’ve got to accept yourself."

“All we say to America is, ‘Be true to what you said on paper.’ If I lived in China or even Russia, or any totalitarian country, maybe I could understand the denial of certain basic First Amendment privileges, because they hadn't committed themselves to that over

there. But somewhere I read of the freedom of assembly. Somewhere I read of the freedom of speech. Somewhere I read of the freedom of the press. Somewhere I read that the greatness of America is the right to protest for right."

"You can kill the dreamer, but you can't kill the dream."

"I want to be the white man's brother, not his brother in law."

"Even though we face the difficulties of today and tomorrow, I still have a dream."

"A right delayed is a right denied."

"Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed."

"The hottest place in Hell is reserved for those who remain neutral in times of great moral conflict."

"We must learn to live together as brothers or perish together as fools."

"The quality, not the longevity, of one's life is what is important."

"A genuine leader is not a searcher for consensus but a molder of consensus."

"The moral arc of the universe bends at the elbow of justice."

"I am not interested in power for power's sake, but I'm interested in power that is moral, that is right and that is good."

Malcom X Quotes

'A Man Who Stands for Nothing Will Fall for Anything'—Here Are 150 Best Malcolm X Quotes

The history of civil rights leader and activist Malcolm X is so often muddled by his portrayal in mainstream media. Husband. Father. Speaker. Activist. Radical. Peacemaker. Leader. Throughout the course of his life, he played many roles to many different people in a multitude of ways. And yet when children in America's public schools are first introduced to Malcolm, it's through the narrative that he is an extremist, someone bent on using violent tactics to achieve his goals of equality. Typically compared to the more pacifist ideals of Dr. Martin Luther King Jr., Malcolm X was crucified by the American people, hunted by the FBI and vilified by the media. Even in today's understanding of the civil rights movement, his radical approaches are simplified and he is often seen as foil to Dr. King's heroism.

Malcolm X's life, albeit cut short, was so much more complex than is often depicted. He was a multifaceted man with ideals that grew as he did and a steadfast moral compass. Below are 150 of Malcolm X's most inspiring quotes specifically chosen to help tell the story of his life, his accomplishments and the deeply profound legacy he left behind:

Malcolm X Quotes

“There is no better than adversity. Every defeat, every heartbreak, every loss, contains its own seed, its own lesson on how to improve your performance next time.”

“My alma mater was books, a good library... I could spend the rest of my life reading, just satisfying my curiosity.”

“Any time you beg another man to set you free, you will never be free. Freedom is something that you have to do for yourselves.”

“I have no mercy or compassion in me for a society that will crush people, and then penalize them for not being able to stand up under the weight.”

“Without education, you’re not going anywhere in this world.”

“It is a time for martyrs now, and if I am to be one, it will be for the cause of brotherhood. That’s the only thing that can save this country.”

“Right now, in every big city ghetto, tens of thousands of yesterday's and today's school dropouts are keeping body and soul together by some form of hustling in the same way I did.”

“All of us—who might have probed space, or cured cancer, or built industries—were, instead, black victims of the white man’s American social system.”

“When ghetto living seems normal, you have no shame, no privacy.”

"I think that an objective reader may see how in the society to which I was exposed as a black youth here in America, for me to wind up in a prison was really just about inevitable. It happens to so many thousands of black youth.”

“When a person places the proper value on freedom, there is nothing under the sun that he will not do to acquire that freedom. Whenever you hear a man saying he wants freedom, but in the next breath he is going to tell you what he won’t do to get it, or what he doesn’t believe in doing in order to get it, he doesn’t believe in freedom. A man who believes in freedom will do anything under the sun to acquire . . . or preserve his freedom.

“I'm sorry to say that the subject I most disliked was mathematics. I have thought about it. I think the reason was that mathematics leaves no room for argument. If you made a mistake, that was all there was to it.”

“You're not to be so blind with patriotism that you can't face reality. Wrong is wrong, no matter who does it or says it”

“You don’t have to be a man to fight for freedom. All you have to do is to be an intelligent human being.”

“I have often reflected upon the new vistas that reading has opened to me. I knew right there in prison that reading had changed forever the course of my life. As I see it today, the ability to read awoke inside me some long dormant craving to be mentally alive.

“It is only after slavery and prison that the sweetest appreciation of freedom can come. ”

"[...]After becoming a Muslim in prison, I read almost everything I could put my hands on in the prison library. I began to think back on everything I had read and especially with the histories, I realized that nearly all of them read by the general public have been made into white histories. I found out that the historywhitening process either had left out great things that black men had done, or some of the great black men had gotten whitened.”

“True Islam taught me that it takes all of the religious, political, economic, psychological, and racial ingredients, or characteristics, to make the Human Family and the Human Society complete.”

“America needs to understand Islam, because this is the one religion that erases from its society the race problem. Throughout my travels in the Muslim world, I have met, talked to, and even eaten with people who in America would have been considered white, but the white attitude was removed from their minds by the religion of Islam. I have never before seen sincere and true brotherhood practiced by all together, irrespective of their color.”

“The hardest test I ever faced in my life was praying.”

“We’re not Americans, we’re Africans who happen to be in America. We were kidnapped and brought here against our will from Africa. We didn’t land on Plymouth Rock that rock landed on us.”

“By making our people in the Western Hemisphere hate Africa, we ended up hating ourselves. We hated our African characteristics. We hated our African identity. We hated our African features. So much so that you would find those of us in the West who would

hate the shape of our nose. We would hate the shape of our lips. We would hate the color of our skin and the texture of our hair. This was a reaction, but we didn't realize that it was a reaction."

"I was going through the hardest thing, also the greatest thing, for any human being to do; to accept that which is already within you, and around you."

"[...] anytime you find someone more successful than you are, especially when you're both engaged in the same business you know they're doing something that you aren't."

"Education is the passport to the future, for tomorrow belongs to those who prepare for it today."

"Yes, I'm an extremist. The black race... is in extremely bad condition. You show me a black man who isn't an extremist and I'll show you one who needs psychiatric attention!"

"Sitting at the table doesn't make you a diner, unless you eat some of what's on that plate. Being here in America doesn't make you an American. Being born here in America doesn't make you an American."

"People involved in a revolution don't become part of the system; they destroy the system... The Negro revolution is no revolution because it condemns the system and then asks the system it has condemned to accept them..."

"Power never takes a back step only in the face of more power. "

"We black men have a hard enough time in our own struggle for justice, and already have enough enemies as it is, to make the drastic mistake of attacking each other and adding more weight to an already unbearable load."

"Time is on the side of the oppressed today, it's against the oppressor. Truth is on the side of the oppressed today, it's against the oppressor. You don't need anything else."

"A new world order is in the making, and it is up to us to prepare ourselves that we may take our rightful place in it."

"Speaking like this doesn't mean that we're antiwhite, but it does mean we're antiexploitation, we're antidegradation, we're antioppression."

"Early in life I learned that if you want something, you better make some noise."

“If violence is wrong in America, violence is wrong abroad. If it is wrong to be violent defending black women and black children and black babies and black men, then it is wrong for America to draft us, and make us violent abroad in defense of her. And if it is right for America to draft us, and teach us how to be violent in defense of her, then it is right for you and me to do whatever is necessary to defend our own people right here in this country.”

"A man who stands for nothing will fall for anything."

“In all our deeds, the proper value and respect for time determines success or failure.”

“I don't advocate violence; but if a man steps on my toes, I'll step on his...”

“A race of people is like an individual man; until it uses its own talent, takes pride in its own history, expresses its own culture, affirms its own selfhood, it can never fulfill itself.”

“People don’t realize how a man’s whole life can be changed by one book.”

“If you turn the other cheek, you can be enslaved for 1,000 years.”

"Black people are fed up with the dillydallying, pussyfooting, compromising approach that we’ve been using toward getting our freedom. We want freedom now, but we’re not going to get it saying "We Shall Overcome". We’ve got to fight until we overcome."

“The greatest miracle Christianity has achieved in America is that the black man in white Christian hands has not grown violent. It is a miracle that 22 million black people have not risen up against their oppressors in which they would have been justified by all moral criteria, and even by the democratic tradition! It is a miracle that a nation of black people has so fervently continued to believe in a turntheothercheek and heavenforyouafteryoudie philosophy!"

“I want Dr. King to know that I didn’t come to Selma to make his job difficult. I really did come thinking I could make it easier. If the white people realize what the alternative is, perhaps they will be more willing to hear Dr. King.”

“Concerning nonviolence, it is criminal to teach a man not to defend himself when he is the constant victim of brutal attacks.”

“Be peaceful, be courteous, obey the law, respect everyone; but if someone puts his hand on you, send him to the cemetery.”

“It takes heart to be a guerrilla warrior because you’re on your own. In conventional warfare you have tanks and a whole lot of other people with you to back you up—planes over your head and all that kind of stuff. But a guerrilla is on his own. All you have is a rifle, some sneakers and a bowl of rice, and that’s all you need — and a lot of heart.”

"If you have no critics, you'll likely have no success."

“You don’t have to be a man to fight for freedom. All you have to do is to be an intelligent human being.”

“I believe in a religion that believes in freedom. Any time I have to accept a religion that won’t let me fight a battle for my people, I say to hell with that religion.”

“The real names of our people were destroyed during slavery. The last name of my forefathers was taken from them when they were brought to America and made slaves, and then the name of the slave master was given, which we refuse, we reject that name today and refuse it. I never acknowledge it whatsoever.”

“You can't have capitalism without racism.”

“I see America through the eyes of the victim. I don't see any American dreamI see an American nightmare.”

“If you have a dog, I must have a dog. If you have a rifle, I must have a rifle. If you have a club, I must have a club. This is equality.”

“We cannot think of being acceptable to others until we have first proven acceptable to ourselves.”

“Sometimes you have to pick the gun up to put the Gun down.”

“How can you thank a man for giving you what's already yours? How then can you thank him for giving you only part of what is yours?”

“If you're not careful, the newspapers will have you hating the people who are being oppressed, and loving the people who are doing the oppressing.”

“I have more respect for a man who lets me know where he stands, even if he’s wrong, than the one who comes up like an angel and is nothing but a devil.”

“To have once been a criminal is no disgrace. To remain a criminal is the disgrace.”

“Usually when people are sad, they don't do anything. They just cry over their condition. But when they get angry, they bring about a change.”

“A wise man can play the part of a clown, but a clown can't play the part of a wise man.”

“I believe that there will be ultimately be a clash between the oppressed and those who do the oppressing. I believe that there will be a clash between those who want freedom, justice and equality for everyone and those who want to continue the system of exploitation. I believe that there will be that kind of clash, but I don't think it will be based on the color of the skin...”

"We declare our right on this earth to be a human being, to be respected as a human being, to be given the rights of a human being in this society, on this earth, in this day, which we intend to bring into existence by any means necessary."

“Children have a lesson adults should learn, to not be ashamed of failing, but to get up and try again. Most of us adults are so afraid, so cautious, so 'safe,' and therefore so shrinking and rigid and afraid that it is why so many humans fail. Most middleaged adults have resigned themselves to failure.”

“The greatest mistake of the movement has been trying to organize a sleeping people around specific goals. You have to wake the people up first, then you'll get action.”

“You can’t hate the roots of the tree without ending up hating the tree. You can’t hate your origin without ending up hating yourself. You can’t hate the land, your motherland, the place that you come from, and we can’t hate Africa without ending up hating ourselves."

“It's just like when you've got some coffee that's too black, which means it's too strong. What do you do? You integrate it with cream, you make it weak. But if you pour too much cream in it, you won't even know you ever had coffee. It used to be hot, it becomes cool. It used to be strong, it becomes weak. It used to wake you up, now it puts you to sleep.”

“In the past, the greatest weapon the white man has had has been his ability to divide and conquer. If I take my hand and slap you, you don’t even feel it. It might sting you because these digits are separated. But all I have to do to put you back in your place is bring those digits together.”

“My black brothers and sisters of all religious beliefs, or of no religious beliefs we all have in common the greatest binding tie we could have. We are all black people!”

“In fact, once he is motivated no one can change more completely than the man who has been at the bottom. I call myself the best example of that.”

“In the hectic pace of the world today, there is no time for meditation, or for deep thought. A prisoner has time that he can put to good use. I’d put prison second to college as the best place for a man to go if he needs to do some thinking. If he’s motivated, in prison he can change his life.”

“You don't stick a knife in a man's back nine inches and then pull it out six inches and say you're making progress ... No matter how much respect, no matter how much recognition, whites show towards me, as far as I am concerned, as long as it is not shown to everyone of our people in this country, it doesn't exist for me.”

“I have no mercy or compassion in me for a society that will crush people, and then penalize them for not being able to stand up under the weight.”

“It’s hard for anyone intelligent to be nonviolent.”

“I believe in the brotherhood of man, all men, but I don't believe in brotherhood with anybody who doesn't want brotherhood with me. I believe in treating people right, but I'm not going to waste my time trying to treat somebody right who doesn't know how to return the treatment”

“In any organization, someone must be the boss. If it’s even just one person, you’ve got to be the boss of yourself.”

“And just because you have colleges and universities doesn't mean you have education.”

“I imagine that one of the biggest troubles with colleges is there are too many distractions, too much pantyraiding, fraternities, and boolaboola and all of that.”

“Nobody can give you freedom. Nobody can give you equality or justice or anything. If you're a man, you take it.”

“I want to take Negroes out of the ghetto and put them in good neighborhoods in good houses.”

“When we see that our problem is so complicated and so allencompassing in its intent and content, then we realize that it is no longer a Negro problem, confined only to the American Negro; that it is no longer an American problem, confined only to America, but it is a problem for humanity.”

“You can’t legislate good will that comes through education.”

“I’ve had enough of someone else’s propaganda... I’m for truth, no matter who tells it. I’m for justice, no matter who it is for or against. I’m a human being first and foremost, and as such I’m for whoever and whatever benefits humanity as a whole.”

“The media's the most powerful entity on earth. They have the power to make the innocent guilty and to make the guilty innocent, and that's power. Because they control the minds of the masses.”

“Read absolutely everything you get your hands on because you'll never know where you'll get an idea from...”

“Times change so quickly that if you and I don't keep up with the times, we'll find ourselves with an umbrella in our hand, over our head, when the sun is out. Or we'll find ourselves standing in the rain, with the umbrella inside the door.”

If it doesn't take senators and congressmen and presidential proclamations to give freedom to the white man, it is not necessary for legislation or proclamation or Supreme Court decisions to give freedom to the Black man. You let that white man know, if this is a country of freedom, let it be a country of freedom; and if it's not a country of freedom, change it.

“I tell sincere white people, 'Work in conjunction with us each of us working among our own kind.' Let sincere white individuals find all other white people they can who feel as they do and let them form their own allwhite groups, to work trying to convert other

white people who are thinking and acting so racist. Let sincere whites go and teach nonviolence to white people!"

"As long as you're fighting on the level of civil rights, you're under Uncle Sam's jurisdiction. You're going to his court expecting him to correct the problem. He created the problem. He's the criminal. You don't take your case to the criminal; you take your criminal to court."

"The Negro revolution is controlled by foxy white liberals, by the Government itself. But the Black Revolution is controlled only by God."

"It'll be the ballot or it'll be the bullet. It'll be liberty or it'll be death. And if you're not ready to pay that price don't use the word freedom in your vocabulary."

"I'm a man who believes that I died 20 years ago. And I live like a man who is dead already. I have no fear whatsoever of anybody or anything."

"Betty's a good Muslim woman and wife. I don't imagine many other women might put up with the way I am. Awakening this brainwashed black man and telling this arrogant, devilish white man the truth about himself, Betty understands, is a fulltime job"

"Don't be bitter. Remember Lot's wife when they kill me, and they surely will. You have to use all of your energy to do what it is you have to do. [To his wife Betty Shabazz]"

"If you are in a country that is progressive, the woman is progressive. If you're in a country that reflects the consciousness toward the importance of education, it's because the woman is aware of the importance of education. But in every backward country you'll find the women are backward, and in every country where education is not stressed its because the women don't have education."

"Even Samson, the world's strongest man, was destroyed by the woman who slept in his arms. she was the one whose words hurt him."

"They cripple the bird's wing, and then condemn it for not flying as fast as they."

"To the same degree that your understanding of and attitude towards Africa becomes more positive, your understanding of and attitude towards yourself will also becomes more positive..."

“Segregation is that which is forced upon an inferior by a superior. Separation is done voluntarily by two equals.”

"You can't separate peace from freedom because no one can be at peace unless he has his freedom."

"Power in defense of freedom is greater than power in behalf of tyranny and oppression."

"Usually the black racist has been produced by the white racist. In most cases where you see it, it is the reaction to white racism, and if you analyze it closely, it's not really black racism... If we react to white racism with a violent reaction, to me that's not black racism. If you come to put a rope around my neck and I hang you for it, to me that's not racism. Yours is racism, but my reaction has nothing to do with racism..."

“History is a people's memory, and without a memory, a man is demoted to the lower animals.”

“Brothers and sisters, I am here to tell you that I charge the white man. I charge the white man with being the greatest murderer on earth. I charge the white man with being the greatest kidnapper on earth. There is no place in this world that this man can go and say he created peace and harmony. Everywhere he's gone, he's created havoc. Everywhere he's gone, he's created destruction."

“A man curses because he doesn't have the words to say what's on his mind.”

“How is it possible to write one's autobiography in a world so fastchanging as this?”

“The world since Adam has been white—and corrupt. The world of tomorrow will be black—and righteous. In the white world there has been nothing but slavery, suffering, death and colonialism. In the black world of tomorrow, there will be true freedom, justice and equality for all. And that day is coming—sooner than you think.”

“You will never catch me with a free fifteen minutes in which I'm not studying something I feel might be able to help the black man.”

“Time is more important to me then distance”

“No man has believed perfectly until he wishes for his brother what he wishes for himself.”

“American society makes it next to impossible for humans to meet in America and not be conscious of their color differences. And we both agreed that if racism could be removed, America could offer a society where rich and poor could truly live like human beings....The white man is not inherently evil, but America's racist society influences him to act evilly. The society has produced and nourishes a psychology which brings out the lowest, most base part of human beings.”

“Tell him that he and all of the other moderate Negroes who are getting somewhere need to always remember that it was us extremists who made it possible.”

If they don't want you and me to use clubs, take the clubs away from the racists. If they don't want you and me to get violent, then stop the racists from being violent. Don't teach us nonviolence!!!”

“Why, when all of my ancestors are snakebitten, and I’m snakebitten, and I warn my children to avoid snakes, what does that snake sound like accusing me of hateteaching?”

“All of us who might have probed space, or cured cancer, or built industries were, instead, black victims of the white man's American social system.”

“...the truth can be quickly received, or received at all, only by the sinner who knows and admits that he is guilty of having sinned much. Stated another way: only guilt admitted accepts truth.”

“It's like the Negro in America seeing the white man win all the time. He's a professional gambler; he has all the cards and the odds stacked on his side, and he has always dealt to our people from the bottom of the deck.”

“Do Your Best Work”

“No one will know who we are... until we now who we are! We will be able to go anywhere until we know where we are!”

“In the United States, it is our weakness to confuse the numerical strength of an organization and the publicity attached to leaders with the germinating forces that sow the seeds of social upheaval in our community.”

“It is the process of miseducation that inhibits the full potential of a nation.”

“Let’s just face truth. Facts! Whether or not the white man of the world is able to face truth, and facts, about the true reasons for his troubles—that’s what essentially will determine whether or not he will now survive.”

“If you are born in America with a black skin, you're in prison”

“Yes, I have cherished my “demagogue” role. I know that societies often have killed the people who have helped to change those societies. And if I can die having brought any light, having exposed any meaningful truth that will help to destroy the racist cancer that is malignant in the body of America—then, all of the credit is due to Allah. Only the mistakes have been mine.”

“And concerning anything in this society involved in helping Negroes, the federal government shows an inability to function. But it can function in South Vietnam, in the Congo, in Berlin, and in other places where it has no business. But it can't function in Mississippi.”

"Armed with the knowledge of our past, we can with confidence charter a course for our future. Culture is an indispensable weapon in the freedom struggle. We must take hold of it and forge the future with the past."

“If something is yours by right, then fight for it or shut up.”

“[S]ociety has produced and nourishes a psychology which brings out the lowest, most base part of human beings.”

Either you are a citizen or you are not a citizen at all. If you are a citizen, you are free; if you're not a citizen you are a slave.”

“Once you change your philosophy, you change your thought pattern. Once you change your thought pattern, you change your — your attitude. Once you change your attitude, it changes your behavior pattern and then you go on into some action. As long as you gotta sitdown philosophy, you’ll have a sitdown thought pattern, and as long as you think that old sitdown thought you’ll be in some kind of sitdown action.”

“Change is only a good thing if you change in a good way.”

"In all our deeds, the proper value and respect for time determine success or failure."

“Despite my firm convictions, I have been always a man who tries to face facts, and to accept the reality of life as new experience and new knowledge unfolds it. I have always kept an open mind, which is necessary to the flexibility that must go hand in hand with every form of intelligent search for truth.”

“I believe in human beings, and that all human beings should be respected as such, regardless of their color”

“Hatred and anger are powerless when met with kindness.”

"[...] today this country can become involved in a revolution that won’t take bloodshed. All she’s got to do is give the black man in this country everything that’s due him, everything."

“It is only after the deepest darkness that the greatest joy can come”

“Truth does not change, only our awareness of it.”

“The thing that you have to understand about those of us in the Black Muslim movement was that all of us believed 100 percent in the divinity of Elijah Muhammad. We believed in him. We actually believed that God, in Detroit by the way, that God had taught him and all of that. I always believed that he believed in himself. And I was shocked when I found out that he himself didn’t believe it.”

“I feel like a man who has been asleep somewhat and under someone else’s control. I feel that what I’m thinking and saying is now for myself. Before it was for and by the guidance of Elijah Muhammad. Now I think with my own mind, sir!”

“To me, the thing that is worse than death is betrayal. You see, I could conceive death, but I could not conceive betrayal.”

"Dr. King wants the same thing I want. Freedom.”

“I believe in recognizing every human being as a human beingneither white, black, brown, or red; and when you are dealing with humanity as a family there's no question of integration or intermarriage. It's just one human being marrying another human being or one human being living around and with another human being.”

“He said, one time, that no true leader burdened his followers with a greater load than they could carry, and no true leader sets too fast a pace for his follows to keep up.”

“Don’t be in a hurry to condemn because he doesn’t do what you do or think as you think or as fast. There was a time when you didn’t know what you know today.”

“How can anyone be against love?”

"This is to warn you that I am no longer held in check from fighting white supremacists by Elijah Muhammad's separatist Black Muslim movement, and that if your present racist agitation against our people there in Alabama causes physical harm to Reverend King or any other black Americans who are only attempting to enjoy their rights as free human beings, that you and your Ku Klux Klan friends will be met with maximum physical retaliation from those of us who are not handcuffed by the disarming philosophy of nonviolence, and who believe in asserting our right of selfdefense — by any means necessary."

“Sometimes, I have a dared dream to myself that one day, history may even say that my voicewhich disturbed the white man's smugness, and his arrogance, and his complacencythat my voice helped to save America from a grave, possibly even a fatal catastrophe.”

“One day, may we all meet together in the light of understanding”

Inspirational Quotes from Nelson Mandela

"As long as poverty, injustice, and gross inequality persist in our world, none of us can truly rest."

"Massive poverty and obscene inequality are such terrible scourges of our times — times in which the world boasts breathtaking advances in science, technology, industry, and wealth accumulation — that they have to rank alongside slavery and apartheid as social evils."

"Millions of people in the world's poorest countries remain imprisoned, enslaved, and in chains. They are trapped in the prison of poverty. It is time to set them free."

"Like slavery and apartheid, poverty is not natural. It is manmade and it can be overcome and eradicated by the actions of human beings."

"Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life."

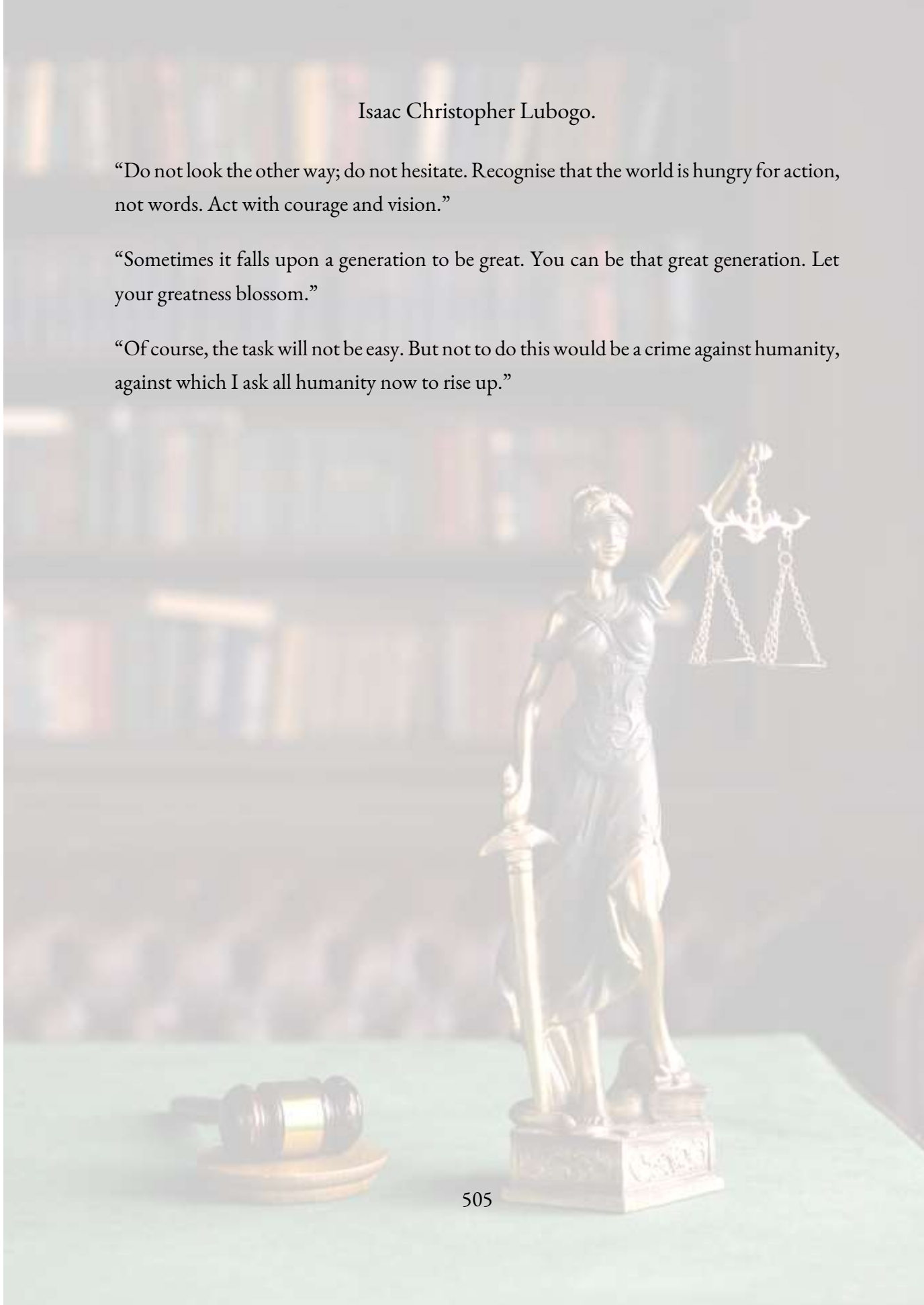
"While poverty persists, there is no true freedom."

Isaac Christopher Lubogo.

"Do not look the other way; do not hesitate. Recognise that the world is hungry for action, not words. Act with courage and vision."

"Sometimes it falls upon a generation to be great. You can be that great generation. Let your greatness blossom."

"Of course, the task will not be easy. But not to do this would be a crime against humanity, against which I ask all humanity now to rise up."



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Ralph Waldo Emerson

When it comes to wisdom, Ralph Waldo Emerson certainly knows his stuff. The esteemed writer, poet, and thinker penned several meaningful phrases throughout the 19th century. Most amazingly of all, despite how many years ago Emerson lived, many of his words still ring true today.

More than ring true—these quotes still resonate with anyone who has thought about life in a big way and ultimately, pondered what it means to be human. In fact, we still see so many of his most poignant sayings on bumper stickers, plastered onto phone cases and lockers, and of course, all over Tumblr.

Ralph Waldo Emerson Quotes

“Our greatest glory is not in never failing, but in rising up every time we fail.”

“Live in the sunshine, swim the sea, drink the wild air.”

“Without ambition one starts nothing. Without work one finishes nothing. The prize will not be sent to you. You have to win it.”

“Nothing great was ever achieved without enthusiasm.”

“Life is a journey, not a destination.”

“It is not the length of life, but the depth.”

“When it is dark enough, you can see the stars.”

“Make the most of yourself....for that is all there is of you.”

“I cannot remember the books I’ve read any more than the meals I have eaten; even so, they have made me."

“Be silly. Be honest. Be kind.”

“Once you make a decision, the universe conspires to make it happen.”

“You cannot do a kindness too soon, for you never know how soon it will be too late.”

“The only way to have a friend is to be one.”

“The only person you are destined to become is the person you decide to be.”

“Don’t be too timid and squeamish about your actions. All life is an experiment. The more experiments you make the better.”

“The earth laughs in flowers.”

“A great man is always willing to be little.”

“Peace cannot be achieved through violence, it can only be attained through understanding.”

“To be great is to be misunderstood.”

“Write it on your heart that every day is the best day in the year.”

“Unless you try to do something beyond what you have already mastered, you will never grow.”

“People do not seem to realise that their opinion of the world is also a confession of their character.”

“When friendships are real, they are not glass threads or frost work, but the solidest things we can know.”

“You become what you think about all day long.”

“Character is higher than intellect... A great soul will be strong to live, as well as strong to think."

"Do not go where the path may lead, go instead where there is no path and leave a trail."

“Big jobs usually go to the men who prove their ability to outgrow small ones.”

“To know even one life has breathed easier because you have lived. This is to have succeeded.”

“To be yourself in a world that is constantly trying to make you something else is the greatest accomplishment.”

“Selftrust is the first secret of success.”

“Enthusiasm is the mother of effort, and without it nothing great was ever achieved.”

“The ancestor of every action is a thought.”

“The good news is that the moment you decide that what you know is more important than what you have been taught to believe, you will have shifted gears in your quest for abundance. Success comes from within, not from without.”

“Most of the shadows of this life are caused by standing in one’s own sunshine.”

“What you are comes to you.”

“The only reward of virtue is virtue; the only way to have a friend is to be one.”

"What you do speaks so loudly that I cannot hear what you say.”

“The health of the eye seems to demand a horizon. We are never tired, so long as we can see far enough.”

“This time, like all times, is a very good one, if we but know what to do with it.”

“Life is a succession of lessons which must be lived to be understood.”

“Beauty without grace is the hook without the bait.”

“Before we acquire great power we must acquire wisdom to use it well.”

“People wish to be settled; only as far as they are unsettled is there any hope for them.”

“How much of human life is lost in waiting.”

“The secret in education lies in respecting the student.”

“Nothing is at last sacred but the integrity of your own mind.”

“People destined to meet will do so, apparently by chance, at precisely the right moment.”

“One of the most beautiful compensations in life is that no person can help another without helping themselves.”

“Imagination is a very high sort of seeing.”

“Throw a stone into the stream and the ripples that propagate themselves are the beautiful type of all influence.”

“Happy will the house be in which the relationships are formed from character.”

“Little minds have little worries, big minds have no time for worries.”

“We are always getting ready to live but never living.”

“We are by nature observers, and thereby learners. That is our permanent state.”

“I do not wish more external goods—neither possessions, nor honors, nor powers, nor persons. The gain is apparent; the tax is certain."

"Never lose an opportunity of seeing anything beautiful, for beauty is God's handwriting."

“What your heart thinks is great, is great. The soul’s emphasis is always right.”

“Belief consists in accepting the affirmations of the soul; unbelief, in denying them.”

“What I must do is all that concerns me, not what the people think.”

"God enters by a private door into every individual."

“Nature is reckless of the individual. When she has points to carry, she carries them.”

“Knowledge is the antidote to fear.”

“Economy does not consist in saving the coal, but in using the time while it burns.”

"We must be our own before we can be another’s.”

“Dare to live the life you have dreamed for yourself. Go forward and make your dreams come true.”

“We cannot overstate our debt to the past, but the moment has the supreme claim.”

“Without a rich heart, wealth is an ugly beggar.”

“The love that you withhold is the pain that you carry.”

"Good men must not obey the laws too well."

"All mankind love a lover."

“Wise men put their trust in ideas and not in circumstances.

"Science does not know its debt to imagination."

“Happiness is a perfume you cannot pour on others without getting some on yourself.”

“If we encounter a man of rare intellect, we should ask him what books he reads.”

"The years teach much which the days never know."

"Men love to wonder; that is the seed of science."

“Concentration is the secret of strength in politics, in war, in trade, in short in all management of human affairs.”

"Don't be too timid and squeamish about your actions. All life is an experiment."

“The sum of wisdom is that time is never lost that is devoted to work.”

"There is creative reading as well as creative writing."

"A good indignation brings out all one's powers."

“He is rich who owns the day, and no one owns the day who allows it to be invaded with fret and anxiety.”

"Let us be silent, that we may hear the whispers of the gods."

"The age of a woman doesn't mean a thing. The best tunes are played on the oldest fiddles."

“He cannot be happy and strong until he too lives with nature in the present, above time.”

"Manners require time and nothing is more vulgar than haste."

"We are a puny and fickle folk. Avarice, hesitation, and following are our diseases."

"We aim above the mark to hit the mark."

"People only see what they are prepared to see."

"Every artist was first an amateur."

"Friendship, like the immortality of the soul, is too good to be believed."

"The greatest gift is a portion of thyself."

“Though we travel the world over to find the beautiful, we must carry it with us, or we find it not.”

"Judge of your natural character by what you do in your dreams."

"A friend may well be reckoned the masterpiece of nature."

“A man’s years should not be counted until he has something else to count.”

"As we grow old, the beauty steals inward."

“Shallow men believe in luck or in circumstance. Strong men believe in cause and effect.”

"All is riddle and the key to a riddle is another riddle."

“All the good of nature is the soul’s, and may be had, if paid for in nature’s lawful coin, that is, by labor which the heart and the head allow.”

“The real and lasting victories are those of peace and not of war.”

"Who you are speaks so loudly, I can't hear what you're saying."

"Flowers... are a proud assertion that a ray of beauty outvalues all the utilities of the world."

"Every man has his own courage, and is betrayed because he seeks in himself the courage of other persons."

"It is one of the blessings of old friends is that you can afford to be stupid with them."

"A man's growth is seen in the successive choirs of his friends."

“No great man ever complains of want of opportunity.”

"The first wealth is health."

"Can anything be so elegant as to have few wants, and to serve them one's self?"

"Adopt the pace of nature: her secret is patience."

“The last change in our point of view gives the whole world a pictorial air.”

"Hitch your wagon to a star."

"The reward of a thing well done is having done it."

"Fate is nothing but the deeds committed in a prior state of existence."

"Beauty without expression is boring."

"In the morning, a man walks with his whole body; in the evening, only in his legs."

"We are rich through only what we give and poor only through what we refuse."

"The sum of wisdom is that time is never lost that is devoted to work."

"With the past, I have nothing to do; nor with the future. I live now."

"All I have seen teaches me to trust the creator for all I have not seen."

"The revelation of thought takes men out of servitude and into freedom."

"The desire for gold is not gold. It is for the means for freedom and benefit."

"A man is usually more careful of his money than he his is principles."

"An ounce of action is worth a ton of theory."

"Beauty is an outward gift, which is seldom despised, except by those to whom it is refused."

"Win as if you were used to it; lose as if you enjoyed it for a change."

"The fox has many tricks. The hedgehog has but one. But that is the best of all."

"Fiction reveals truth that reality obscures."

“All I have seen teaches me to trust the Creator for all I have not seen.”

"What is a weed? A plant whose virtues have never been discovered."

"Bad times have a scientific value. These are occasions a good learned would not miss."

"The older you get, the older you want to get."

"Character is higher than intellect."

"Nothing astonishes men so much as common sense and plain dealing."

"Doing well is the result of doing good. That's what capitalism is all about."

"As soon as there is life, there is danger."

"People with great gifts are easy to find, but symmetrical and balanced ones never."

"Make yourself necessary to somebody."

"In skating over thin ice, our safety is speed."

"Every man I meet is in some way my superior."

"Knowledge is knowing that we cannot know."

"Some books leave us free and some books make us free."

“Make your own Bible. Select and collect all the words and sentences that in all your readings have been to you like the blast of a trumpet.”

"People that seem so glorious are all show; underneath, they are like everyone else."

"There is a tendency for things to right themselves."

“Our chief want is someone who will inspire us to be what we know we could be.”

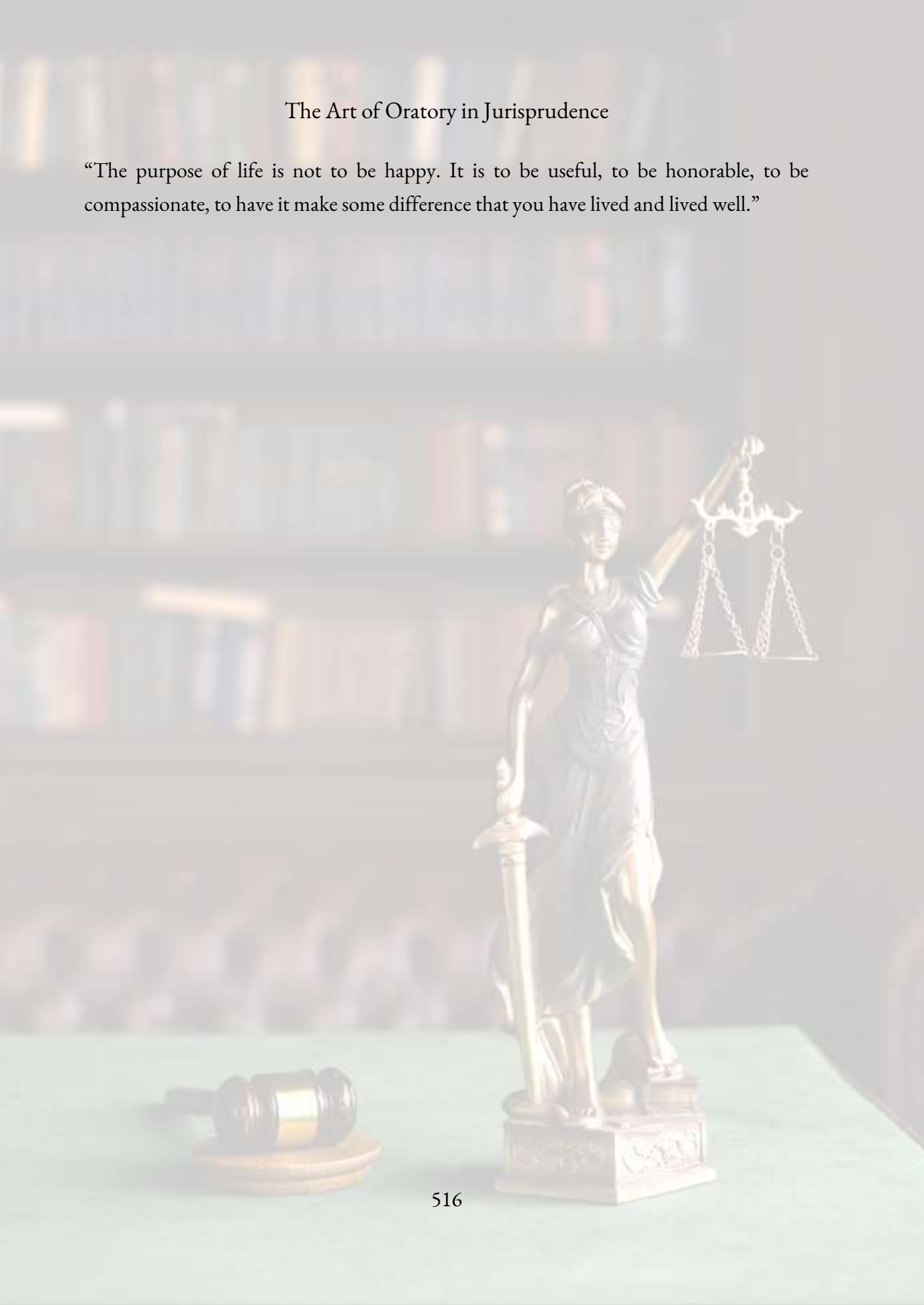
"He who is not everyday conquering some fear has not learned the secret of life."

"What lies behind you and what lies in front of you, pales in comparison to what lies inside of you."

"For every minute you remain angry, you give up sixty seconds of peace of mind."

“A hero is no braver than an ordinary man, but he is brave five minutes longer.”

"The purpose of life is not to be happy. It is to be useful, to be honorable, to be compassionate, to have it make some difference that you have lived and lived well."



Public Speaking Quotes

"A wise man speaks because he has something to say, a fool speaks because he has to say something."
Plato

Once a word has been allowed to escape, it cannot be recalled.
Horace

"Grasp the subject, the words will follow."
Cato

"Rhetoric is the art of ruling the minds of men."
Plato

"Let thy speech be better than silence, or be silent."
Dionysius Of Halicarnassus

"Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment."
Benjamin Franklin

"Be sincere; be brief; be seated."
Franklin D. Roosevelt

"If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back and hit it again. Then hit it a third time a tremendous whack."
Winston Churchill

"Broadly speaking, the short words are the best, and the old words best of all."
Winston Churchill

"I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel"
Maya Angelou

"It usually takes me more than three weeks to prepare a good impromptu speech."
Mark Twain

"There are only two types of speakers in the world. 1. The nervous and 2. Liars."
Mark Twain

"Speech is power: speech is to persuade, to convert, to compel."
Ralph Waldo Emerson

Fear paralyses you fear of flying, fear of the future, fear of leaving a rubbish marriage, fear of public speaking, or whatever it is.
Annie Lennox

"Words ought to be a little wild for they are the assaults of thought on the unthinking."
John Maynard Keynes

"Be still when you have nothing to say; when genuine passion moves you, say what you've got to say, and say it hot."
D.H. Lawrence

"If I went back to college again, I'd concentrate on two areas: learning to write and to speak before an audience. Nothing in life is more important than the ability to communicate effectively."
Gerald R. Ford

"You can speak well if your tongue can deliver the message of your heart."
John Ford

"According to most studies, people's number one fear is public speaking. Number two is death. Death is number two. Does that sound right? This means to the average person, if you go to a funeral, you're better off in the casket than delivering the eulogy."
Jerry Seinfeld

"Knowledge speaks, but wisdom listens."
Jimi Hendrix

There are two types of speakers: Those who get nervous and those who are liars.

Mark Twain

If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back and hit it again. Then hit it a third time.
Winston Churchill

Communication: 20% what you know, 80% how you feel about what you know.
Jim Rohn

It doesn't matter how elegant the argument or inspiring the prose, a presentation won't move anyone if the presenter isn't visibly feeling what they are saying.
John Neffinger

You gain strength, courage and confidence by every experience in which you really stop to look fear in the face. You are able to say to yourself, 'I have lived through this horror. I can take the next thing that comes along'.
Eleanor Roosevelt

Communication works for those who work at it.
John Powell

A speaker should approach his preparation not by what he wants to say, but by what he wants to learn.
Tod Stocker

All speaking is public speaking, whether it's to one person or a thousand.
Roger Love

Once you get people laughing, they're listening and you can tell them almost anything.
Herbert Gardner

Think like a wise man but communicate in the language of the people.
William Butler Yeats

If you can't explain it simply, you don't understand it well enough.
Albert Einstein
Speak clearly, if you speak at all. Carve every word before you let it fall.
Oliver Wendell Holmes

No word was ever as effective as a rightly timed pause.
Mark Twain

Make sure you have stopped speaking before your audience has stopped listening.
Dorothy Sarnoff

I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel.
Maya Angelou

"If your actions inspire others to dream more, learn more, do more and become more, you are a leader."
John Quincy Adams

"There are certain things in which mediocrity is not to be endured, such as poetry, music, painting, public speaking."
Jean de la Bruyere

"If you think you can do a thing or think you can't do a thing, you're right."
Henry Ford

"The mediocre teacher tells. The good teacher explains. The superior teacher demonstrates. The great teacher inspires."
William Arthur Ward

"People will forget what you said, people will forget what you did, but people will never forget how you made them feel."
Maya Angelou

"Never doubt that a small group of thoughtful, concerned citizens can change world. Indeed, it is the only thing that ever has."
Margaret Mead

"You can speak well if your tongue can deliver the message of your heart."
John Ford

"Be still when you have nothing to say; when genuine passion moves you, say what you've got to say, and say it hot."
D. H. Lawrence

"Let thy speech be better than silence, or be silent."
Dionysius of Halicarnassus

"What we say is important... for in most cases the mouth speaks what the heart is full of."
Jim Beggs

"If you can't write your message in a sentence, you can't say it in an hour."
Dianna Booher

"There are always three speeches, for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave."
Dale Carnegie

"It usually takes me more than three weeks to prepare a good impromptu speech."
Mark Twain

"A good orator is pointed and impassioned."
Marcus T. Cicero

"Oratory is the power to talk people out of their sober and natural opinions."
Joseph Chatfield

"He who wants to persuade should put his trust not in the right argument, but in the right word. The power of sound has always been greater than the power of sense."
Joseph Conrad

"There are three things to aim at in public speaking: first, to get into your subject, then to get your subject into yourself, and lastly, to get your subject into the heart of your audience."
Alexander Gregg

"The success of your presentation will be judged not by the knowledge you send but by what the listener receives."
Lilly Walters

"Best way to conquer stage fright is to know what you're talking about."
Michael H. Mescon

"There are only two types of speakers in the world. 1. The nervous and 2. Liars."
Mark Twain

"Before anything else, preparation is the key to success."
Alexander Graham Bell

"90% of how well the talk will go is determined before the speaker steps on the platform."
Somers White

"It takes one hour of preparation for each minute of presentation time."
Wayne Burgraff

"The most precious things in speech are the... pauses."
Sir Ralph Richardson

"Welltimed silence hath more eloquence than speech."
Martin Fraquhar Tupper

"The problem with speeches isn't so much not knowing when to stop, as knowing when not to begin."

Frances Rodman

"Words have incredible power. They can make people's hearts soar, or they can make people's hearts sore.
Dr. Mardy Grothe

"The right word may be effective, but no word was ever as effective as a rightly timed pause."
Mark Twain

"If you can't communicate and talk to other people and get across your ideas, you're giving up your potential."
Warren Buffet

"If I went back to college again, I'd concentrate on two areas: learning to write and to speak before an audience. Nothing in life is more important than the ability to communicate effectively."
Gerald R. Ford

"Always give a speech that you would like to hear."
Andrii Sedniev

"If you don't know what you want to achieve in your presentation your audience never will."
Harvey Diamond

"Find out what's keeping them up nights and offer hope. Your theme must be an answer to their fears."

Gerald C Myers

"In presentations or speeches less really is more."
Stephen Keague

"Speeches measured by the hour die with the hour"
Thomas Jefferson

"It's much easier to be convincing if you care about your topic. Figure out what's important to you about your message and speak from the heart"
Nicholas Boothman

"Only the prepared speaker deserves to be confident."
Dale Carnegie

"Speakers who talk about what life has taught them never fail to keep the attention of their listeners."
Dale Carnegie

"It is not failure itself that holds you back; it is the fear of failure that paralyzes you."
Brian Tracy

"All you need is something to say, and a burning desire to say it... it doesn't matter where your hands are."
Lou Holtz

"If you don't use stories audience members may enjoy your speech, but there is no chance they'll remember it."
Andrii Sedniev

"There is no such thing as presentation talent, it is called presentation skills"
David JP Phillips

"The audience only pays attention as long as you know where you are going."
Philip Crosby

"Ask yourself, 'If I had only sixty seconds on the stage, what would I absolutely have to say to get my message across."
Jeff Dewar

"It's all right to have butterflies in your stomach. Just get them to fly in formation."
Rob Gilbert

"Courage is what it takes to stand up and speak, and to sit down and listen."
Winston Churchill

"tell me and I forget. Teach me and I remember. Involve me and I learn."
Benjamin Franklin

"Designing a presentation without an audience in mind is like writing a love letter and addressing it: To Whom It May Concern."
Ken Haemer

"The goal of effective communication should be for listeners to say 'Me too!' versus 'So what?'"
Jim Rohn

"The royal road to a man's heart is to talk to him about the things he treasures most."
Dale Carnegie

"To communicate, we must realize that we are all different in the way we perceive the world, and use this understanding as a guide to our communication with others."
Tony Robbins

"To sway an audience, you must watch them as you speak."
C. Kent Wright

"If you can't explain it simply, you don't understand it well enough."
Albert Einstein

"If you can't state your position in eight words, you don't have a position. "
Seth Godin

"The way something is presented will define the way you react to it."
Neville Brody

"Think like a wise man but communicate in the language of the people."
William Butler Yeats

"A presentation is a chance to share, not an oral exam."

M.F. Fensholt

"Speech is power. Speech is to persuade, to convert, to compel. It is to bring another out of his bad sense into your good sense."
Ralph Waldo Emerson

"Words do two major things: they provide food for the mind and create light for understanding and awareness."
Jim Rohn

"Every speaker has a mouth, an arrangement rather neat. Sometimes it's filled with wisdom, sometimes it's filled with feet."
Robert Orben

"Humor is a rubber sword it allows you to make a point without drawing blood."
Mary Hirsch

"If you want to tell people the truth, make them laugh, otherwise they'll kill you."
Oscar Wilde
"Once you get people laughing, they're listening and you can tell them almost anything."
Herbert Gardner

"The world is waiting for your words."
Arvee Robinson

"Effective communication is 20% what you know and 80% how you feel about what you know."
Jim Rohn

"A designer knows he or she has achieved perfection, not when there is nothing left to add, but when there is nothing left to take away."
Antoine de SaintExupery

"If God is in the details, then the Devil is in PowerPoint."
AngryPaulRand

"The more strikingly visual your presentation is, the more people will remember it. And more importantly, they will remember you."
Paul Arden

"All the great speakers were bad speakers at first."
Ralph Waldo Emerson

"Communication works for those who work at it."
John Powell

"If you wing it when speaking, you'll get wing it results."
Arvee Robinson

"Your smile is a messenger of your goodwill."
Dale Carnegie

"If it takes a lot of words to say what you have in mind, give it more thought."
Dennis Roth

"Make sure you have stopped speaking before your audience has stopped listening."
Dorothy Sarnoff

"Many attempts to communicate are nullified by saying too much. "
Robert Greenleaf

"If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back and hit it again. Then hit it a third time a tremendous whack."
Winston S. Churchill

"The most valuable of all talents is never using two words when one will do."
Thomas Jefferson

"Failure to prepare is preparing to fail."
John Wooden

"Silence is the ultimate weapon of power."
Charles de Gaulle

"Creative thinking is merely intelligent plagiarism."
Aristotle

"Always be yourself and have faith in yourself. Do not go out and look for a successful personality and try to duplicate it."
Bruce Lee

"Successful leaders see the opportunities in every difficulty rather than the difficulty in every opportunity."
Reed Markham

"Expect the best. Prepare for the worst. Capitalize on what comes."
Zig Ziglar

"A talk is a voyage with purpose and it must be charted. The man who starts out going nowhere, generally gets there."
Dale Carnegie

"I have not failed. I've simply discovered 10,000 ways that don't work."
Thomas Edison

"Buried deep within each of us is a spark of greatness, a spark than can be fanned into flames of passion and achievement. That spark is not outside of you it is born deep within you."
James A. Ray

"The energy level of the audience is the same as the speakers. For better...or for worse."
Andras Baneth

"One important key to success is selfconfidence. An important key to selfconfidence is preparation."
Arthur Ashe

"Our language is the reflection of ourselves. A language is an exact reflection of the character and growth of its speakers."

Cesar Chavez

“I do not speak of what I cannot praise.”
Johann Wolfgang Von Goethe

“If you're not comfortable with public speaking and nobody starts out comfortable; you have to learn how to be comfortable practice. I cannot overstate the importance of practicing. Get some close friends or family members to help evaluate you, or somebody at work that you trust.”
Hillary Clinton

“Speak clearly, if you speak at all; carve every word before you let it fall.”
Oliver Wendell Holmes

“You gain strength, courage and confidence by every experience in which you really stop to look fear in the face. You are able to say to yourself, 'I have lived through this horror. I can take the next thing that comes along.' You must do the thing you think you cannot do.”
Eleanor Roosevelt

As we look ahead into the next century, leaders will be those who empower others.”
Bill Gates

"Good transitions can make a speech more important to the audience because they feel they are being taken to a positive conclusion without having to travel a bumpy road."
Joe Griffith

"When speaking in public, your message no matter how important will not be effective or memorable if you don't have a clear structure."
Patricia Fripp

“The way you overcome shyness is to become so wrapped up in something that you forget to be afraid.”
Lady Bird Johnson

“The best way to conquer stage fright is to know what you are talking about.”
Michael H. Mescon

“Storytelling is the most powerful way to put ideas into the world today.”
Robert McKee

“If something comes from your heart, it will reach the heart of your audience.”
Fawzia Koofi

"Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home and think about it. Go out and get busy."
Dale Carnegie

Public Speaking Quotes on Success

"Speech is power: speech is to persuade, to convert, to compel."
Ralph Waldo Emerson.

"The goal of effective communication should be for listeners to say 'Me too!' versus 'So what?"
Jim Rohn.

"To sway an audience, you must watch them as you speak."
C. Kent Wright.

"All speaking is public speaking, whether it's to one person or a thousand."
Roger Love.

"Words do two major things: they provide food for the mind and create light for understanding and awareness."
Jim Rohn.

"Light travels faster than sound. That's why certain people appear bright until you hear them speak."
Albert Einstein.

"Effective communication is 20% what you know and 80% how you feel about what you know."
Jim Rohn.

"Communication works for those who work at it."
John Powell.

"It's the space you put between the notes that make the music."
Massimo Vignelli.

"Be sincere, be brief, be seated."
Franklin Roosevelt.

"Make sure you have stopped speaking before your audience has stopped listening."
Dorothy Sarnoff.

"If it takes a lot of words to say what you have in mind, give it more thought."
Dennis Roth.

"A wise man speaks because he has something to say; a fool speaks because he has to say something."
Plato.

"No one ever complains about a speech being too short!"
Ira Hayes.

"Speeches measured by the hour die with the hour."
Thomas Jefferson.

"Be still when you have nothing to say; when genuine passion moves you, say what you've got to say, and say it hot."
D. H. Lawrence.

"There are three things to aim at in public speaking: first, to get into your subject, then to get your subject into yourself, and lastly, to get your subject into the heart of your audience."
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Martin Fraquhar Tupper.

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Dr. Mardy Grothe.

"Speakers who talk about what life has taught them never fail to keep the attention of their listeners."
Dale Carnegie.

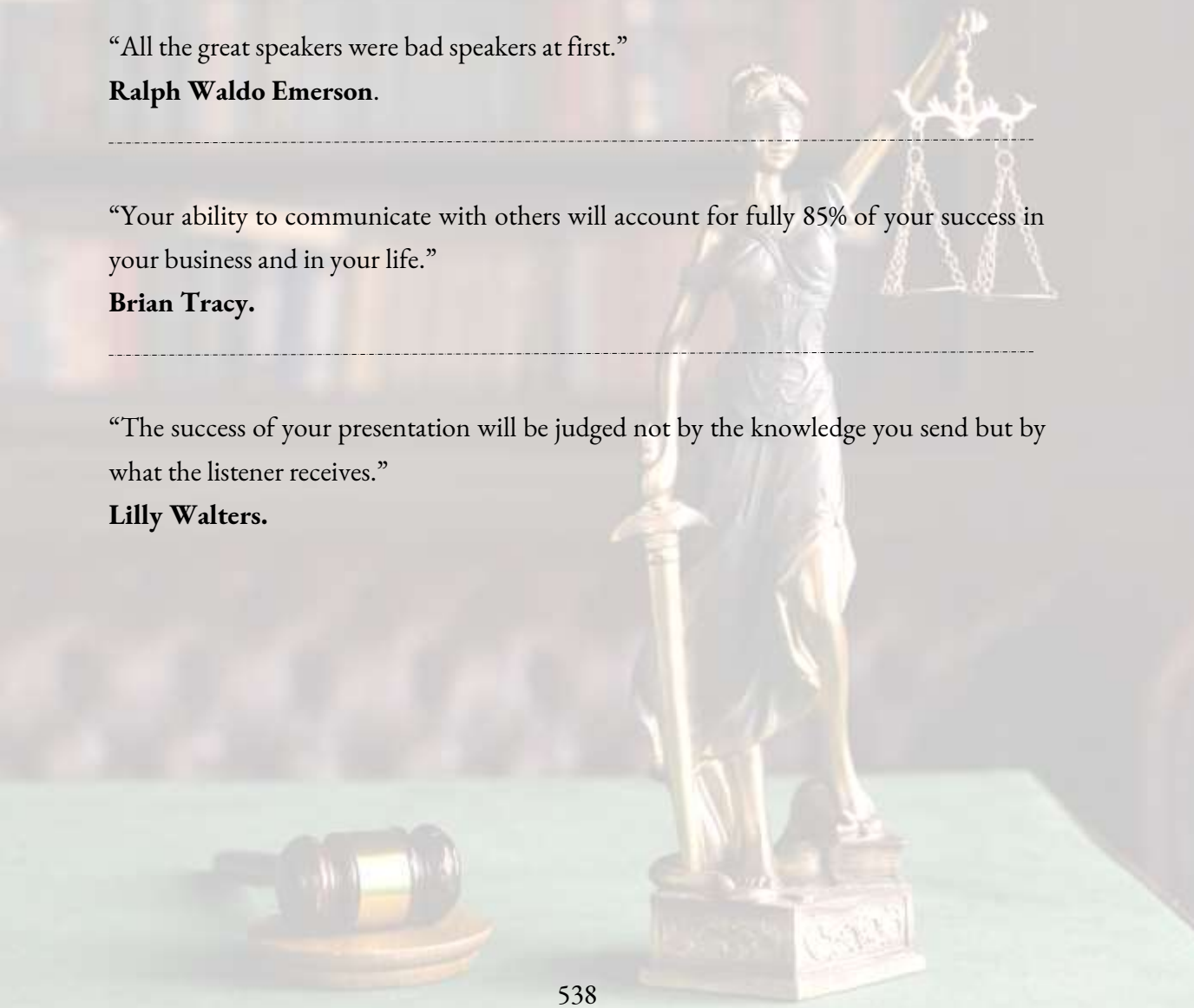
"To communicate, we must realize that we are all different in the way we perceive the world, and use this understanding as a guide to our communication with others."
Tony Robbins.

"Think like a wise man but communicate in the language of the people."
William Butler Yeats.

"All the great speakers were bad speakers at first."
Ralph Waldo Emerson.

"Your ability to communicate with others will account for fully 85% of your success in your business and in your life."
Brian Tracy.

"The success of your presentation will be judged not by the knowledge you send but by what the listener receives."
Lilly Walters.



Public Speaking Quotes on Clarity

"The problem with speeches isn't so much not knowing when to stop, as knowing when not to begin."
Frances Rodman.

"Many attempts to communicate are nullified by saying too much."
Robert Greenleaf.

"A talk is a voyage with purpose and it must be charted. The man who starts out going nowhere, generally gets there."
Dale Carnegie.

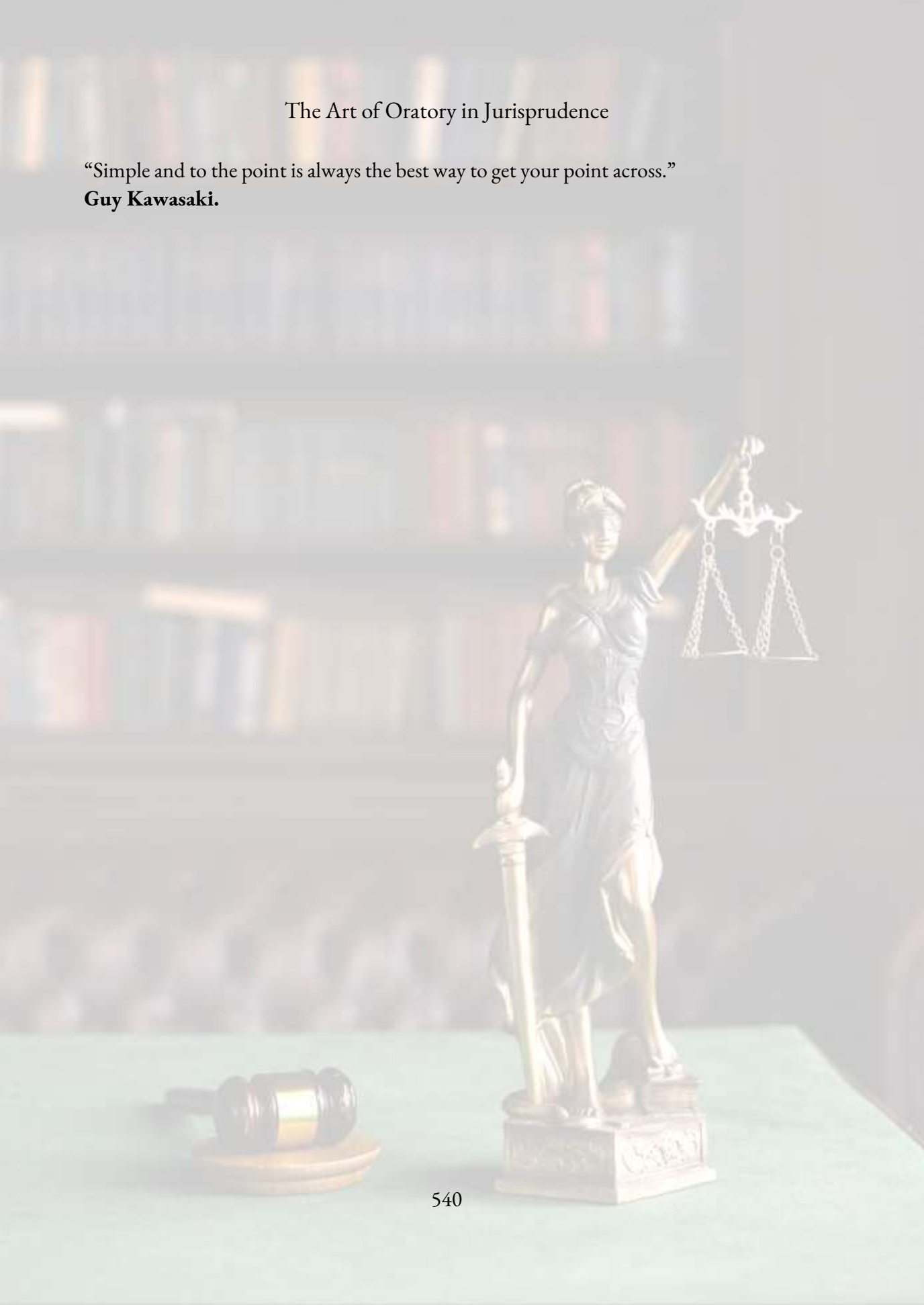
"If you can't explain it simply, you don't understand it well enough."
Albert Einstein.

"Speak clearly, if you speak at all. Carve every word before you let it fall."
Oliver Wendell Holmes.

"If you don't know what you want to achieve in your presentation your audience never will."
Harvey Diamond.

"When speaking in public, your message no matter how important will not be effective or memorable if you don't have a clear structure."
Patricia Fripp.

"Simple and to the point is always the best way to get your point across."
Guy Kawasaki.



Public Speaking Quotes on Planning

"It usually takes me more than three weeks to prepare a good impromptu speech."
Mark Twain.

"Only the prepared speaker deserves to be confident."
Dale Carnegie.

"90% of how well the talk will go is determined before the speaker steps on the platform."
Somers White.

"If you want me to speak for an hour, I am ready today. If you want me to speak for just a few minutes, it will take me a few weeks to prepare."
Mark Twain.

"There are always three speeches, for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave."
Dale Carnegie.

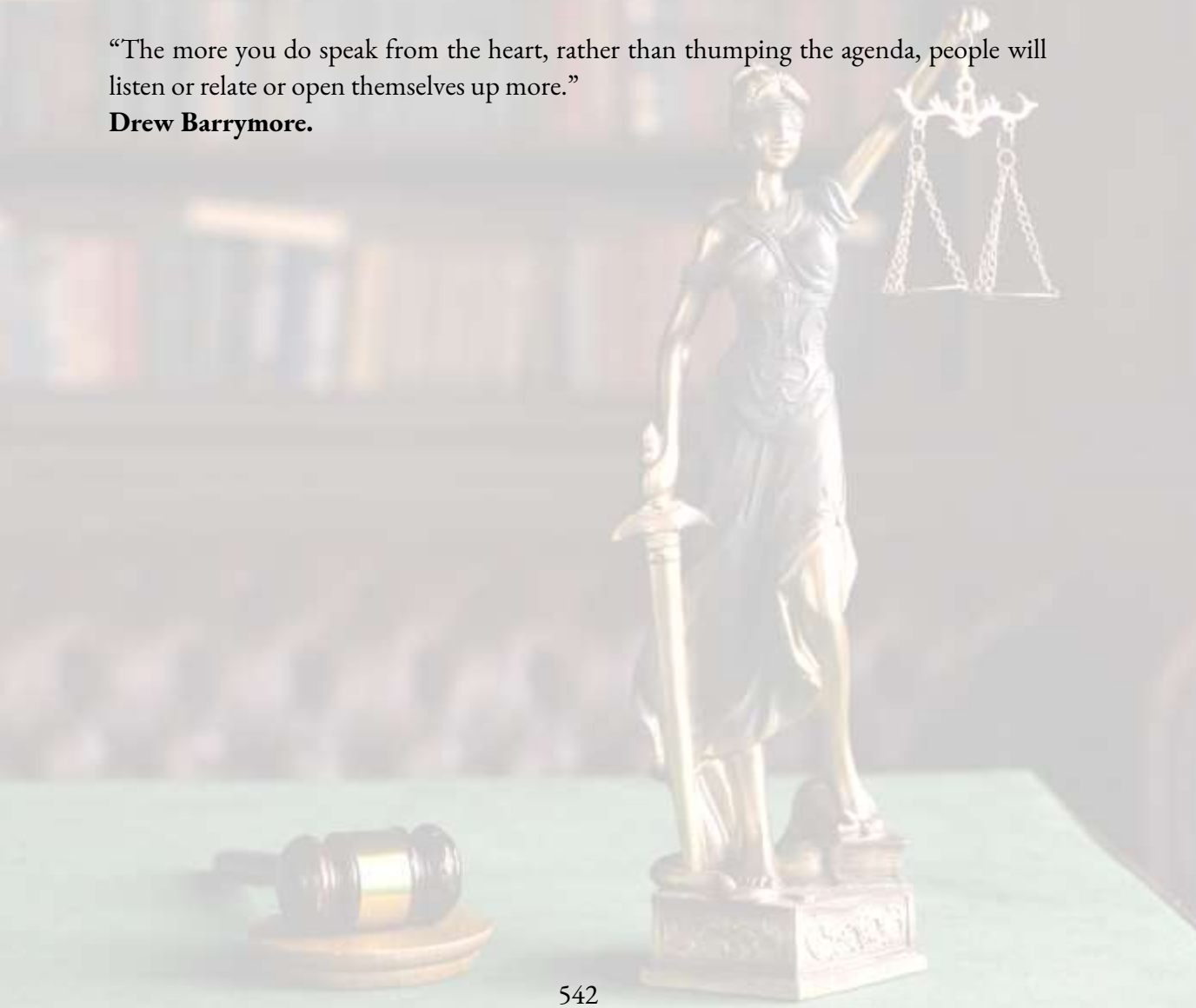
"Begin with the end in mind."
Dr Stephen R. Covey.

Public Speaking Quotes on Authenticity

"You can speak well if your tongue can deliver the message of your heart."
John Ford.

"The best speeches come from the heart and reflect your passion. Speak as if your life depended on it."
Rave Robinson.

"The more you do speak from the heart, rather than thumping the agenda, people will listen or relate or open themselves up more."
Drew Barrymore.



Public Speaking Quotes on Nervousness

"It's alright to have butterflies in your stomach. Just get them to fly in formation."
Rob Gilbert.

"Courage is what it takes to stand up and speak, and to sit down and listen."
Winston Churchill.

"The human brain starts working the moment you are born and never stops... until you stand up to speak in public."
George Jessel.

"You are not being judged, the value of what you are bringing to the audience is being judged."
Seth Godin.

"Picture yourself in a living room having a chat with your friends. You would be relaxed and comfortable talking to them, the same applies when public speaking."
Richard Branson.

"If you're not comfortable with public speaking and nobody starts out comfortable; you have to learn how to be comfortable practice. I cannot overstate the importance of practicing. Get some close friends or family members to help evaluate you, or somebody at work that you trust."
Hilary Clinton.

"Best way to conquer stage fright is to know what you're talking about."
Michael H. Mescon.

"If it scares you it may be a good thing to try."
Seth Godin.

"It usually takes me more than three weeks to prepare a good impromptu speech."
Mark Twain

"There are three things to aim at in public speaking: first, to get into your subject, then to get your subject into yourself, and lastly, to get your subject into the heart of your audience."
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Somers White

"The most precious things in speech are the pauses."
Sir Ralph Richardson

"Designing a presentation without an audience in mind is like writing a love letter and addressing it: To Whom It May Concern."
Ken Haemer

"You are not being judged, the value of what you are bringing to the audience is being judged."
Seth Godin

"Simple and to the point is always the best way to get your point across."
Guy Kawasaki

"The first time you say something, it's heard; the second time, it's recognized; the third time, it's learned."
John Maxwell

"Only the prepared speaker deserves to be confident."
Dale Carnegie

"My best advice is to not start in PowerPoint. Presentation tools force you to think through information linearly, and you really need to start by thinking of the whole instead of the individual lines."
Nancy Duarte

"Humans are completely incapable of reading and comprehending text on a screen and listening to a speaker at the same time. Therefore, lots of text (almost any text!), and long, complete sentences are bad, Bad, BAD."
Garr Reynolds

"You don't have to change who you are, you have to become more of who you are."
Sally Hogshead

"If you don't want to preach, put stories in your speech."
Andy Harrington

"Picture yourself in a living room having a chat with your friends. You would be relaxed and comfortable talking to them, the same applies when public speaking."
Richard Branson

"The goal of effective communication should be for listeners to say 'Me too!' versus 'So what?'"
Jim Rohn

"A presentation is a chance to share, not an oral exam."
M.F. Fensholt

"It's what you practice in private that you will be rewarded for in public."
Tony Robbins

"Best way to conquer stage fright is to know what you're talking about."
Michael H Mescon

"No one ever complains about a speech being too short!"
Ira Hayes

"If you can't write your message in a sentence, you can't say it in an hour."
Dianna Booher

"They may forget what you said, but they will never forget how you made them feel."
Carl W. Buechner

"There are good leaders who actively guide and bad leaders who actively misguide. Hence, leadership is about persuasion, presentation and people skills."
Shiv Kera

"Always give a speech that you would like to hear."
Andrii Sedniev

"Find out what's keeping them up nights and offer hope. Your theme must be an answer to their fears."
Gerald C Myers

"Courage is resistance to fear, mastery of fear — not absence of fear. Except a creature be part coward it is not a compliment to say it is brave."
Mark Twain

"Don't let the fear of striking out hold you back."
Babe Ruth

"Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home and think about it. Go out and get busy."
Dale Carnegie

"Avoiding danger is no safer in the long run than outright exposure. The fearful are caught as often as the bold."
Helen Keller

"He who is not everyday conquering some fear has not learned the secret of life."
Ralph Waldo Emerson

"Have no fear of perfectionyou'll never reach it."
Salvador Dali

"The brave man is not he who does not feel afraid, but he who conquers that fear."
Nelson Mandela

"I'm not afraid of storms, for I'm learning how to sail my ship."
Louisa May Alcott

"One of the greatest discoveries a man makes, one of his great surprises, is to find he can do what he was afraid he couldn't do."
Henry Ford

"We are afraid of the enormity of the possible."Fears are nothing more than a state of mind."
Emile M. Cioran

"Fears are nothing more than a state of mind. Fears are nothing more than a state of mind."
Napoleon Hill

"Fear is the mother of foresight."
Thomas Hardy

"One had to take some action against fear when once it laid hold of one."
Rainer Maria Rilke

"Fear is not real. It is a product of thoughts you create. Do not misunderstand me. Danger is very real. But fear is a choice."
Will Smith

"Everything you want is on the other side of fear."
Jack Canfield

"Our deepest fear is not that we are inadequate. Our deepest fear is that we are powerful beyond measure."
Marianne Williamson

"Fight your fears and you'll be in battle forever. Face your fears and you'll be free forever."
Lucas Jonkman

"Do the thing you fear, and continue to do so. This is the quickest and surest way of all victory over fear."
Dale Carnegie

"Do not fear mistakes. You will know failure. Continue to reach out."
Benjamin Franklin

"Fear makes strangers of people who would be friends."
Shirley MacLaine

"I fear not the man who has practiced 10,000 kicks once, but I fear the man who has practiced one kick 10,000 times."
Bruce Lee

"Care about what other people think and you will always be their prisoner."
Lao Tzu

"I have learned over the years that when one's mind is made up, this diminishes fear; knowing what must be done does away with fear."
Rosa Parks

"I learned that courage was not the absence of fear, but the triumph over it."
Nelson Mandela

"For the most part, fear is nothing but an illusion. When you share it with someone else, it tends to disappear."
Marilyn C Barrick

"Don't let your fear of failing triumph over the joy of participating."
Marilyn Monroe

"Do that which you fear to do and the fear will die."
Ralph Waldo Emerson

"Too many of us are not living our dreams because we are living our fears."
Les Brown

"To live a creative life, we must lose our fear of being wrong."
Joseph Chilton Pearce

Isaac Christopher Lubogo.

“

The 48 Laws of Power Quotes

“When you show yourself to the world and display your talents, you naturally stir all kinds of resentment, envy, and other manifestations of insecurity... you cannot spend your life worrying about the petty feelings of others”

When you are trying to impress people with words, the more you say, the more common you appear, and the less in control. Even if you are saying something banal, it will seem original if you make it vague, openended, and sphinxlike. Powerful people impress and intimidate by saying less. The more you say, the more likely you are to say something foolish.”

“If you are unsure of a course of action, do not attempt it. Your doubts and hesitations will infect your execution. Timidity is dangerous: Better to enter with boldness. Any mistakes you commit through audacity are easily corrected with more audacity. Everyone admires the bold; no one honors the timid.”

“Keep your friends for friendship, but work with the skilled and competent”

Appearing better than others is always dangerous, but most dangerous of all is to appear to have no faults or weaknesses. Envy creates silent enemies. It is smart to occasionally display defects, and admit to harmless vices, in order to deflect envy and appear more human and approachable. Only gods and the dead can seem perfect with impunity."

"Do not leave your reputation to chance or gossip; it is your life's artwork, and you must craft it, hone it, and display it with the care of an artist."

Do not accept the roles that society foists on you. Recreate yourself by forging a new identity, one that commands attention and never bores the audience. Be the master of your own image rather than letting others define if for you. Incorporate dramatic devices into your public gestures and actions your power will be enhanced and your character will seem larger than life."

"Never assume that the person you are dealing with is weaker or less important than you are. Some people are slow to take offense, which may make you misjudge the thickness of their skin, and fail to worry about insulting them. But should you offend their honor and their pride, they will overwhelm you with a violence that seems sudden and extreme given their slowness to anger. If you want to turn people down, it is best to do so politely and respectfully, even if you feel their request is impudent or their offer ridiculous."

"Many a serious thinker has been produced in prisons, where we have nothing to do but think."

"...But the human tongue is a beast that few can master. It strains constantly to break out of its cage, and if it is not tamed, it will tun wild and cause you grief."

If you make a show of going against the times, flaunting your unconventional ideas and unorthodox ways, people will think that you only want attention and that you look down upon them. They will find a way to punish you for making them feel inferior. It is far safer to blend in and nurture the common touch. Share your originality only with tolerant friends and those who are sure to appreciate your uniqueness."

“Never waste valuable time, or mental peace of mind, on the affairs of others—that is too high a price to pay.”

“Lord, protect me from my friends; I can take care of my enemies.”

“There is nothing more intoxicating than victory, and nothing more dangerous.”

“Strike the shepherd and the sheep will scatter”

“Be wary of friends they will betray you more quickly, for they are easily aroused to envy. They also become spoiled and tyrannical. But hire a former enemy and he will be more loyal than a friend, because he has more to prove. In fact, you have more to fear from friends than from enemies. If you have no enemies, find a way to make them.”

“person who cannot control his words shows that he cannot control himself, and is unworthy of respect.”

“For the future, the motto is, "No days unalert.”

“You choose to let things bother you. You can just as easily choose not to notice the irritating offender, to consider the matter trivial and unworthy of your interest. That is the powerful move. What you do not react to cannot drag you down in a futile engagement. Your pride is not involved. The best lesson you can teach an irritating gnat is to consign it to oblivion by ignoring it.”

“Few are born bold. Even Napoleon had to cultivate the habit on the battlefield, where he knew it was a matter of life and death. In social settings he was awkward and timid, but he overcame this and practice boldness in every part of his life because he saw its tremendous power, how it could literally enlarge a man(even one who, like Napoleon, was in fact conspicuously small).”

“Despise the Free Lunch”

“Be Royal in your Own Fashion: Act like a King to be treated”

"To succeed in the game of power, you have to master your emotions. But even if you succeed in gaining such selfcontrol, you can never control the temperamental dispositions of those around you. And this presents a great danger."

"Remember: The best deceivers do everything they can to cloak their roguish qualities. They cultivate an air of honesty in one area to disguise their dishonesty in others. Honesty is merely another decoy in their arsenal of weapons."

"A Prince asked the dying spanish statesman, "Does your Excellency forgive all your enemies?" "I do not have to forgive all my enemies," answered the stateman, "I have had them all shot."

"When you meet a swordsman, draw your sword: Do not recite poetry to one who is not a poet."

"An emotional response to a situation is the single greatest barrier to power, a mistake that will cost you a lot more than any temporary satisfaction you might gain by expressing your feelings."

"do I not destroy my enemies when I make them my friends?"

"A heckler once interrupted Nikita Khrushchev in the middle of a speech in which he was denouncing the crimes of Stalin. "You were a colleague of Stalin's," the heckler yelled, "why didn't you stop him then?" Khrushschev apparently could not see the heckler and barked out, "Who said that?" No hand went up. No one moved a muscle. After a few seconds of tense silence, Khrushchev finally said in a quiet voice, "Now you know why I didn't stop him." Instead of just arguing that anyone facing Stalin was afraid, knowing that the slightest sign of rebellion would mean certain death, he had made them feel what it was like to face Stalin—had made them feel the paranoia, the fear of speaking up, the terror of confronting the leader, in this case Khrushchev. The demonstration was visceral and no more argument was necessary."

"Never be distracted by people's glamorous portraits of themselves and their lives; search and dig for what really imprisons them."

Isaac Christopher Lubogo.

The Art of Public Speaking Quotes by Dale Carnegie

“Live an active life among people who are doing worthwhile things, keep eyes and ears and mind and heart open to absorb truth, and then tell of the things you know, as if you know them. The world will listen, for the world loves nothing so much as real life.”

“The first sign of greatness is when a man does not attempt to look and act great. Before you can call yourself a man at all, Kipling assures us, you must "not look too good nor talk too wise.”

“Destiny is not a matter of chance. It is a matter of choice.”

“Blacksmiths sometimes twist a rope tight around the nose of a horse, and by thus inflicting a little pain they distract his attention from the shoeing process. One way to get air out of a glass is to pour in water. Be Absorbed by Your Subject”

“Apply the blacksmith's homely principle when you are speaking. If you feel deeply about your subject you will be able to think of little else. Concentration is a process of distraction from less important matters. It is too late to think about the cut of your coat when once you are upon the platform, so centre your interest on what you are about to say—fill your mind with your speechmaterial and, like the infilling water in the glass, it will drive out your unsubstantial fears.”

“There is only one excuse for a speaker's asking the attention of his audience: he must have either truth or entertainment for them.”

“They that soar too high, often fall hard, making a low and level Dwelling preferable. The tallest Trees are most in the Power of the Winds, and Ambitious Men of the Blasts of Fortune. Buildings have need of a good Foundation, that lie so much exposed to the Weather.”

“Monotony reveals our limitations.”

“A blow that would kill a civilized man soon heals on a savage. The higher we go in the scale of life, the greater is the capacity for suffering.”

“It never hurts a fool to appear before an audience, for his capacity is not a capacity for feeling.”

“If you believe you will fail, there is no hope for you. You will.”

“audience?”

“Practise, practise, PRACTISE in speaking before an audience will tend to remove all fear of audiences, just as practise in swimming will lead to confidence and facility in the water. You must learn to speak by speaking.”

“conformity”

“All things are ready if the mind be so.”

“The world owes its progress to the men who have dared,”

“If you believe you will fail, there is no hope for you. You will.

Rid yourself of this Iamapoorworminthedust idea. You are a god, with infinite capabilities. "All things are ready if the mind be so." The eagle looks the cloudless sun in the face.”

“Cut out modifiers. Cut out connectives. Begin with words that demand attention. “End with words that deserve distinction,” says Prof. Barrett Wendell.”

Isaac Christopher Lubogo.

"Observe Nature, study her laws, and obey them in your speaking."

"It is often dangerous to rush into battle without pausing for preparation or waiting for recruits."

"TRUE WORTH is in BEING—NOT SEEMING—in doing each day that goes by SOME LITTLE GOOD, not in DREAMING of GREAT THINGS to do by and by. For whatever men say in their BLINDNESS, and in spite of the FOLLIES of YOUTH, there is nothing so KINGLY as KINDNESS, and nothing so ROYAL as TRUTH. — Anonymous."

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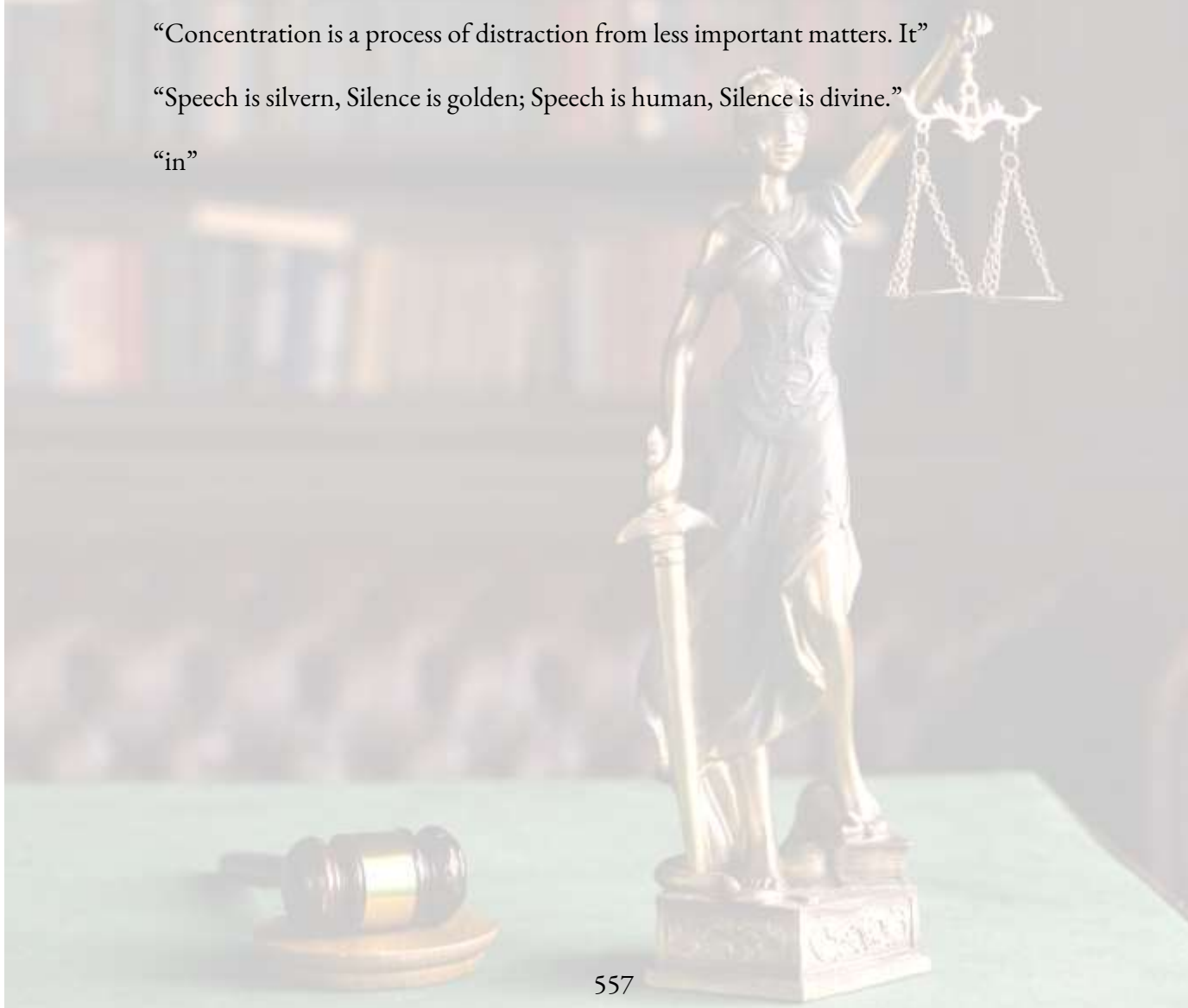

The Art of Public Speaking by J. Berg Esenwein

“A watch manufacturer in New York tried out two series of watch advertisements; one argued the superior construction, workmanship, durability, and guarantee offered with the watch; the other was headed, "A Watch to be Proud of," and dwelt upon the pleasure and pride of ownership. The latter series sold twice as many as the former. A salesman for a locomotive works informed the writer that in selling railroad engines emotional appeal was stronger than an argument based on mechanical excellence.”

“In omnibus negotiis prius quam aggrediare, adhibenda est præparatio diligens—In all matters before beginning a diligent preparation should be made.”

“Humility is not the personal discount that we must offer in the presence of others—against this old interpretation there has been a most healthy modern reaction. True humility any man who thoroughly knows himself must feel; but it is not a humility that assumes a wormlike meekness; it is rather a strong, vibrant prayer for greater power for service”

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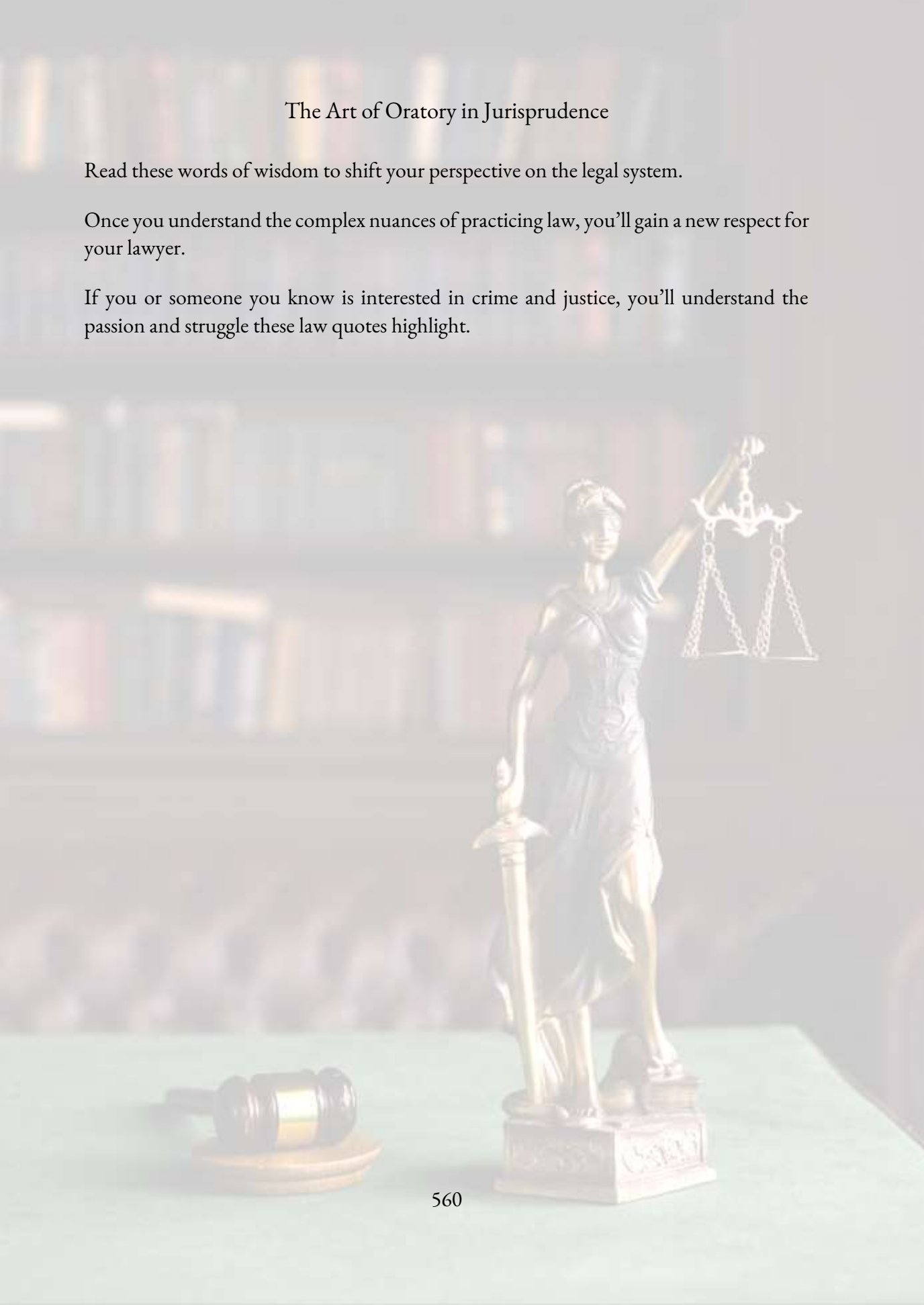

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Mahathir Mohamad

"If you can manipulate news, a judge can manipulate the law. A smart lawyer can keep a killer out of jail, a smart accountant can keep a thief from paying taxes, a smart reporter could ruin your reputation unfairly."
Mario Cuomo

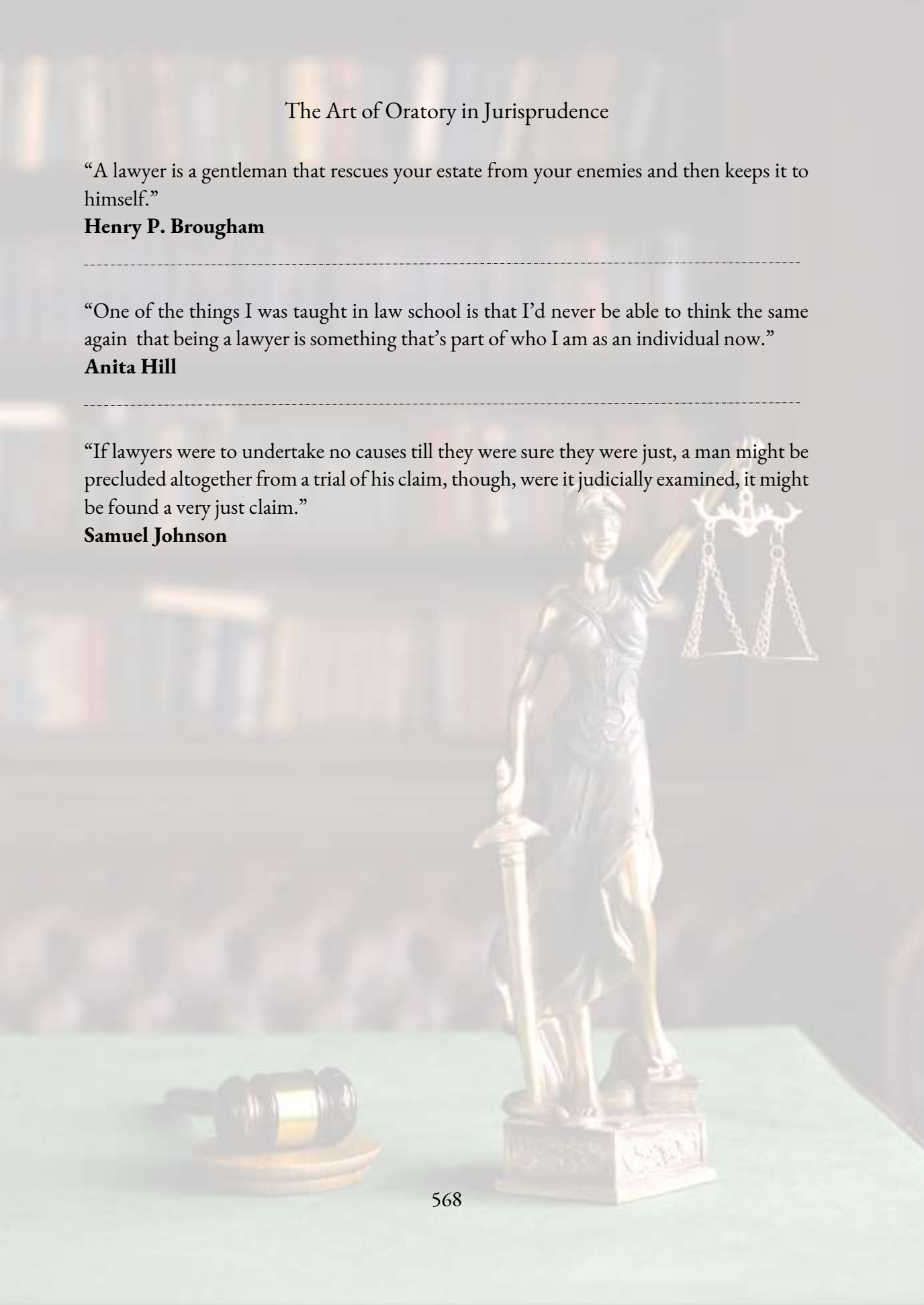
"Lawyers are operators of toll bridges which anyone in search of justice must pass."
Jane Bryant Quinn

"After years as a civil rights lawyer, I rarely find myself speechless."
Michelle Alexander

"A lawyer is a gentleman that rescues your estate from your enemies and then keeps it to himself."
Henry P. Brougham

"One of the things I was taught in law school is that I'd never be able to think the same again that being a lawyer is something that's part of who I am as an individual now."
Anita Hill

"If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim."
Samuel Johnson



Insightful Lawyer Quotes

"After 25plus years as a lawyer, prosecutor, and defense attorney, I have developed a deep appreciation for both the wisdom of the law and the role that jurists play in framing the rights and responsibilities that define our society."

Eliot Spitzer

"How many lawyer jokes are there? One, the rest are true stories." Thomas F. Shubnell

"I'm a lawyer. I go for due process; I go for fairness and equity these values mean a lot to me."

Mohamed ElBaradei

"Most people ask questions because they want to know the answer; lawyers are trained never to ask questions unless they already know the answer."

Lani Guinier

"A lawyer with his briefcase can steal more than a hundred men with guns."

Mario Puzo

"Lawyers have a way of seeing that sets them apart from the rest of us. In some way this special vision makes them invaluable, and in other ways, repulsive. Lawyers are much more focused on rational, logical, and objective criteria to the exclusion of the emotional, subjective, and sometimes irrational responses to the world. Moreover, lawyers like to show no emotion, and possess a particular disdain for the emotions that are found in others, which has the quality of making them seem inhuman."

Thane Rosenbaum

"Where there's a will, there's a lawyer."

Robert Elliott Gonzales

"Law is an imperfect profession in which success can rarely be achieved without some sacrifice of principle. Thus all practicing lawyers — and most others in the profession — will necessarily be imperfect, especially in the eyes of young idealists. There is no perfect justice, just as there is no absolute in ethics. But there is perfect injustice, and we know it when we see it."

Alan Dershowitz

"Lawyers are like professional wrestlers. They pretend to get mad and fight, but then they socialize after a trial is over."

Robert Whitlow

"In the courtroom, it's where a lawyer really becomes an actor. There's a very fine line between delivering a monologue in a play and delivering a monologue to a jury. I've always felt that way — I've been in a lot of courtrooms. The best lawyers are really theatrical."
Woody Harrelson

"Politicians were mostly people who'd had too little morals and ethics to stay lawyers."
George R.R. Martin

"We are all honorable men here, we do not have to give each other assurances as if we were lawyers."

Mario Puzo

"When cops are on the job they love lawyers like lions love hyenas, only minus the mutual respect."

Reed Farrel Coleman

"Novelists write fiction. Lawyers speak fiction."

Mike Hockney

"The lawyers know a dead man's thoughts too well."

Carl Sandburg

"When in court, the primary role of lawyers is not to prove or disprove innocence; unbeknown to almost all lawyers and their clients, it is to save the court time."

Mokokoma Mokhonoana

"A very clever lawyer can create a lot of damage, we can only hope that lawyers never figure out how to manipulate physical law."

R. A. Delmonico

"To be an effective criminal defense counsel, an attorney must be prepared to be demanding, outrageous, irreverent, blasphemous, a rogue, a renegade, and a hated, isolated, and lonely person few love a spokesman for the despised and the damned."

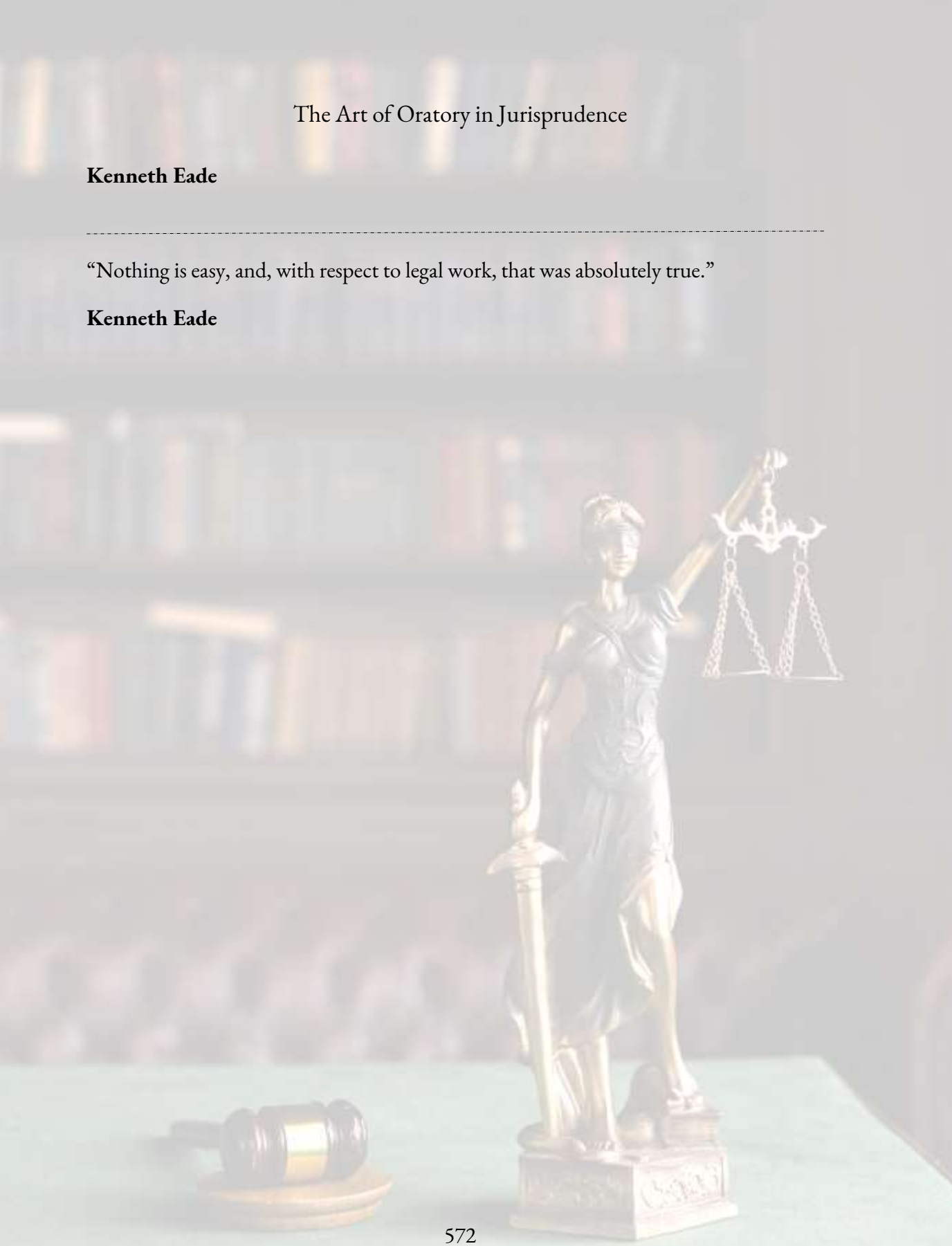
Clarence Darrow

"Some people don't like lawyers, that is, until they need them."

Kenneth Eade

"Nothing is easy, and, with respect to legal work, that was absolutely true."

Kenneth Eade



Isaac Christopher Lubogo.

Funny and Interesting Lawyer Quotes

"I'm a lawyer; I win arguments for a living." — Bob Goff

"A good lawyer is going to try to protect her client." — John Kennedy

"Discipline is part of my professional training as a lawyer." — Mohamed ElBaradei

"It's every lawyer's dream to help shape the law, not just react to it." — Alan Dershowitz

"Ask any lawyer—if a prosecutor thinks he can win a case, he'll prosecute it." — Robert B. Weide

"In the last analysis, our every right is only worth what our lawyer makes it worth." — Robert Kennedy

"I was a lawyer for about ten years. The law teaches one to see things from all different angles." — Alex Flinn

"Everyone wants to say they hate lawyers, and yet I've never met a parent who didn't want their kid to be a lawyer." — Jessi Klein

"The doctor sees all the weakness of mankind; the lawyer all the wickedness, the theologian all the stupidity." — Arthur Schopenhauer

"As a lawyer and a former prosecutor, I know the limits of the power and authority of the president. I know what is legal and what is not." — Rodrigo Duterte

Entertaining and practical lawyer quotes

"As a peacemaker the lawyer has superior opportunity of being a good man." Abraham Lincoln

"But one type of book that practically no one likes to read is a book about the law. Books about the law are notorious for being very long, very dull, and very difficult to read. This is one reason many lawyers make heaps of money." Lemony Snicket

"Being a lawyer is not merely a vocation. It is a public trust, and each of us has an obligation to give back to our communities." Janet Reno

"Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has superior opportunity of being a good man. There will still be business enough." Abraham Lincoln

"Your attitude will go a long way in determining your success, your recognition, your reputation and your enjoyment in being a lawyer." Joe Jamail

"The main business of a lawyer is to take the romance, the mystery, the irony, the ambiguity out of everything he touches." Antonin Scalia

"A good lawyer knows the law; a clever one takes the judge to lunch." Mark Twain

"Lawyers are men whom we hire to protect us from lawyers." Elbert Hubbard

"The minute you read something that you can't understand, you can almost be sure that it was drawn up by a lawyer." Will Rogers

"It is not what a lawyer tells me I may do; but what humanity, reason, and justice tell me I ought to do." Edmund Burke

Lawyer quotes on how they can be at odds with the law at times

"Necessity knows no law; I know some attorneys of the same." Benjamin Franklin

"Justice is doing for others what we would want done for us." Gary Haugen

"I do not say that all lawyers are bad, but I do maintain that the general tendency is bad: standing up in a court for whichever side has paid you, and doing everything you can to win the case, whatever your private opinion may be. The mercenary soldier is not a valued creature, but at least he risks his life, whereas these men merely risk their next fee." Patrick O'Brian

"Only Lawyers and mental defectives are automatically exempt for jury duty." George Bernard Shaw

"People are getting smarter nowadays; they are letting lawyers, instead of their conscience, be their guide." Will Rogers

"Lawyers have been known to wrest from reluctant juries triumphant verdicts of acquittal for their clients, even when those clients, as often happens, were clearly and unmistakably innocent." Oscar Wilde

"Well, I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell how to do what I want to do." J. P. Morgan

"A divorce lawyer is a chameleon with a law book." Marvin Mitchelson

"A lawyer is never entirely comfortable with a friendly divorce, anymore than a good mortician wants to finish his job and then have the patient sit up on the table." Jean Kerr

"Lawyer One skilled in the circumvention of the law." Ambrose Bierce

Classy Lawyer Quotes To Motivate Your Legal Case

"Arguing with a lawyer is not the hardest thing in the world; not arguing is." — Raheel Farooq

It is the business of a lawyer to find a hole to creep out of any law that is in his way; and if there is no hole, to make one." — W. Ouseley

"Like all lawyers, I was delighted by gratitude. It happened so rarely." —— C.J. Sansom

"Any lawyer worth his salt knew the first offer had to be rejected." —— John Grisham

"A prisoner's shackles would always be a lawyer's joy." —— Dennis E. Adonis

"Guilo, although a lawyer, never lied; at least not to his friends." —— Donna Leon

"Trials for lawyers are like bills. It seems that you finish paying for one, and feel that feeling of relief, then it's time to pay it again." —— Kenneth G. Eade

"Hate lawyers all you want. Unlike you, we'll never be replaced with robots. Case closed!" —— Natalya Vorobyova

"Lawyers forever overestimate their own intelligence and underestimate their clients'." —— Portia Porter

"What they say about lawyers being useless isn't entirely true." —— Jennifer Arnett

Which of these lawyer quotes motivates you the most?

Being a lawyer is difficult work, and requires years of schooling and studying.

If you have a passion for crime, law, and justice, all the effort will be worth it in the end.

Read these sayings and proverbs to inspire yourself when you need motivation.

This collection of quotes comes from the minds of legal experts, famous celebrities, and other legendary thinkers.

Listen to their advice and life experiences to elevate your perspective.

If you have the patience and dedication, you can succeed at being a lawyer.

The best lawyers have charisma, knowledge, and a strong work ethic.

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These words will remind you that practicing law is a noble, important profession.

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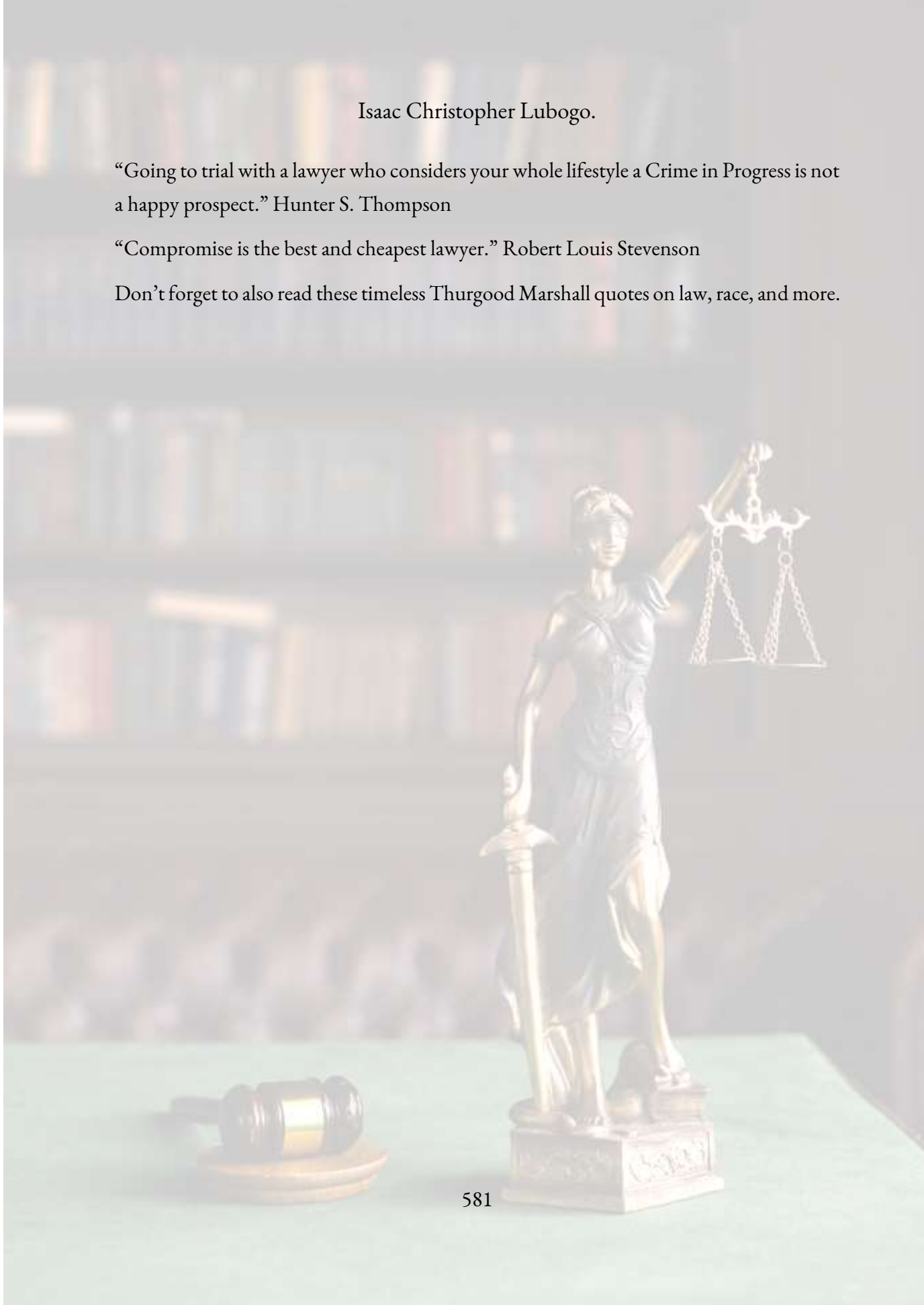

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"A lawyer wants to get his client off the hook. And even if he knows the client is guilty, he is going to find ways and means of getting him off the hook." Mahathir Mohamad

"If you can manipulate news, a judge can manipulate the law. A smart lawyer can keep a killer out of jail, a smart accountant can keep a thief from paying taxes, a smart reporter could ruin your reputation unfairly." Mario Cuomo

"Lawyers are operators of toll bridges which anyone in search of justice must pass." Jane Bryant Quinn

"After years as a civil rights lawyer, I rarely find myself speechless." Michelle Alexander

"A lawyer is a gentleman that rescues your estate from your enemies and then keeps it to himself." Henry P. Brougham

"One of the things I was taught in law school is that I'd never be able to think the same again that being a lawyer is something that's part of who I am as an individual now." Anita Hill

"If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim." Samuel Johnson

Insightful Lawyer Quotes

"After 25plus years as a lawyer, prosecutor, and defense attorney, I have developed a deep appreciation for both the wisdom of the law and the role that jurists play in framing the rights and responsibilities that define our society." Eliot Spitzer

"How many lawyer jokes are there? One, the rest are true stories." Thomas F. Shubnell

"I'm a lawyer. I go for due process; I go for fairness and equity these values mean a lot to me." Mohamed ElBaradei

"Most people ask questions because they want to know the answer; lawyers are trained never to ask questions unless they already know the answer." Lani Guinier

"A lawyer with his briefcase can steal more than a hundred men with guns." Mario Puzo

"Lawyers have a way of seeing that sets them apart from the rest of us. In some way this special vision makes them invaluable, and in other ways, repulsive. Lawyers are much more focused on rational, logical, and objective criteria to the exclusion of the emotional, subjective, and sometimes irrational responses to the world. Moreover, lawyers like to show no emotion, and possess a particular disdain for the emotions that are found in others, which has the quality of making them seem inhuman."Thane Rosenbaum

"Where there's a will, there's a lawyer." Robert Elliott Gonzales

"Law is an imperfect profession in which success can rarely be achieved without some sacrifice of principle. Thus all practicing lawyers — and most others in the profession — will necessarily be imperfect, especially in the eyes of young idealists. There is no perfect justice, just as there is no absolute in ethics. But there is perfect injustice, and we know it when we see it." Alan Dershowitz

"Lawyers are like professional wrestlers. They pretend to get mad and fight, but then they socialize after a trial is over." Robert Whitlow

"In the courtroom, it's where a lawyer really becomes an actor. There's a very fine line between delivering a monologue in a play and delivering a monologue to a jury. I've always

felt that way — I've been in a lot of courtrooms. The best lawyers are really theatrical."
Woody Harrelson

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African Proverbs

- The cockroach cannot be innocent in a court where the hen is judge.
- Talking is cheap until you hire a lawyer to do it for you.
- Judge not your beauty by the number of people who look at you, but rather by the number of people who smile at you.
- Good actions are nourishment for youths, much more than words.
- Those who waste time only hurt themselves.
- Your mind is like a parachute; it only works when it's open.
- You get what you deserve.
- You can't measure a snake until it's dead.
- You cannot handle fire with your hands
- .
- You can outrun what is running after you, but not what is running inside of you.
- Words are like bullets; if they escape, you can't catch them again.
- Whoever rides on the lion's back must surely end up in the lion's stomach.

- Where there is a hippopotamus, be careful when passing with a pirogue.
- When your neighbour is wrong you point a finger, but when you are wrong you hide.
- When vultures surround you, try not to die.
- When the bush is on fire the chameleon learns to run first.
- When an old man dies, a library burns down.
- When a man says yes, his personal god says yes also.
- When a blind man tells you he is going to throw a stone, know that his foot is on the stone.
- What the eye has seen, the heart never forgets.
- What comes from the lips reaches the ears, what comes from the heart reaches the heart.
- Until the old moon disappears completely, the new moon can not come.
- Your greatest hope is your greatest fear.
- You don't punish a fish by throwing it in water.
- You can't order a goat to eat the hyena.
- You cannot hear a baby cry in the mother's womb.
- You can out run that which is running after you but not that that's running inside of you.
- Words are like arrows throw them only when you know where they will fall.

- Who walks in the mud, at some point must clean his feet.
- Where there is a frog, the snake is not far away.
- When your leg is sinking your whole body should fill it.
- When two ageing good friends fight, it's because of an old grouch.
- When the buttocks foul the air it's the head that gets knocked.
- When an elephant eats and eats and still cries for more, it is the grass that will get embarrassed.
- When a man raises his voice at home, know that he started lowering if elsewhere.
- When a blind man is happy he gives money to his child to buy kerosene for his lamp.
- What the elders see while sitting the young ones standing on their toes won't see.
- Welltimed silence is the most commanding expression.
- Your food is supposed to be your medicine and your medicine is supposed to be your food.
- You don't have to tell the deaf that there is a stampede in the market.
- You can't inject new ideas in a man's head by cutting it off.
- You cannot expect me to carry you on my back and then you say my head smells.
- You can never sow rice and expect to harvest maize.
- Without impalas and hyenas, the lion cannot be the king of the jungle.

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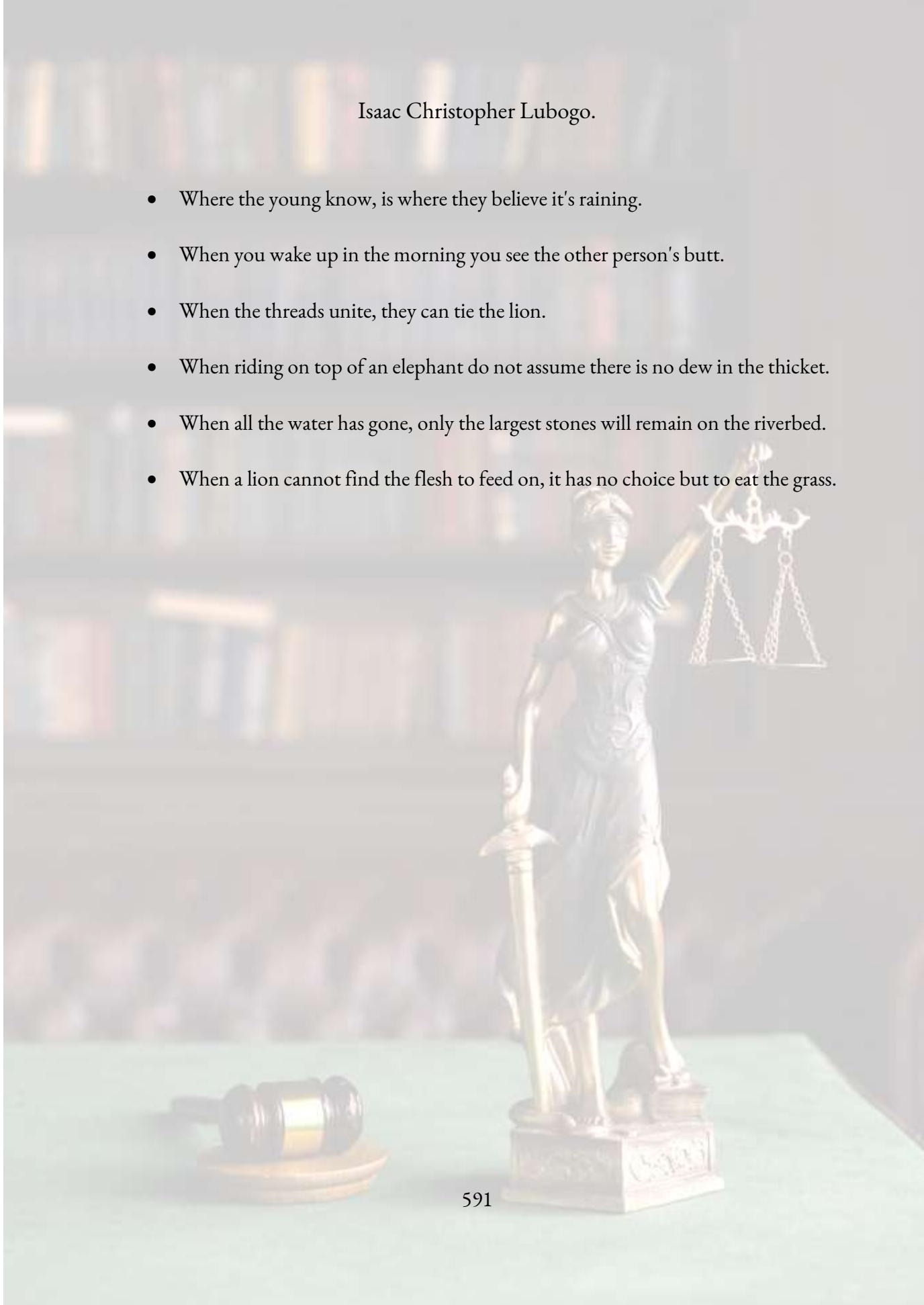
- Who takes a hut, also takes the rats and cockroaches.
- Where there is a crippled don't imitate is disability.
- When your house is on fire you don't choose who to help you put out the fire.
- When there is a misunderstanding between the left leg and right leg the entire body falls down.
- When the bells are in water they can't make any sound.
- When an elephant becomes as small as a monkey, it ceases to be an elephant.
- When a man curses his own child it is a terrible thing.
- When a bee stings a man, he doesn't set off to destroy all beehives.
- What reveals a man is his behavior in time of hunger.
- Wearing a mended dress is better than being naked.
- Your feet will take you away from home but your stomach will bring you back.
- You don't have to lie down at the spot where your enemy has thrown you.
- You can't hide the smoke when the house is burning.
- You cannot exchange peace for war.
- You can leave without a friend but never without a neighbour.
- Without effort no harvest will be abundant.

- Who owns too much, remains unhappy.
- Where there are no fools, there would be no wise men.
- When your friend gives your wife an expensive present, it's time to get suspicious.
- When there is a big tree, small ones climb on its back to reach the sun.
- When the big drum is sounded the small drums keep silence.
- When an abomination has become of age it becomes a tradition.
- When a man cheats on you once, shame on him, when he cheats on you twice, shame on you.
- What's all the fuss? said the crane after the eel had slipped away
- What our husband says is what we also say.
- We shall not give the hyena twice.
- Your brother's pocket cannot keep your wealth.
- You don't have to climb the palm wine tree to drink palm wine.
- You can't become a teacher before your taught.
- You cannot dance without music though you can sing instrumentally without dancing.
- You can learn a lot about someone by observing him when he is hungry.
- Without fingers, the hand would be a spoon.
- Who gets lost in the forest takes it out on who leads him back.

- Where the young know, is where they believe it's raining.
- When you wake up in the morning you see the other person's butt.
- When the threads unite, they can tie the lion.
- When riding on top of an elephant do not assume there is no dew in the thicket.
- When all the water has gone, only the largest stones will remain on the riverbed.
- When a lion cannot find the flesh to feed on, it has no choice but to eat the grass.



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Best African Proverbs About Life, Love and Family that are full of Poetic Wisdom

“A bird that flies off the Earth and lands on an anthill is still on the ground.”

“Only a fool tests the depth of a river with no feet.”

“Examine what is said, not who is speaking.”

“If you want to know the end, look at the beginning.”

“Knowledge is a garden. If it isn’t cultivated, you can’t harvest it.”

“A roaring lion kills no game.”

“Do not look where you feel. Look where you slipped.”

“Restless feet might walk you into a snake pit.”

“No shortcuts exist to the top of a palm tree.”

“When two elephants fight, it is the grass that gets hurt.”

“Tomorrow belongs to people who prepare for it today.”

“No medicine exists that can cure hatred.”

“All monkeys cannot hang from the same branch.”

“He who digs a grave for his enemy might as well be digging one for himself.”

“Even the lion protects himself against flies.”

“However long the night, the dawn will break.”

“If you heal the leg of a person, do not be surprised if they use it to run away.”

“The axe forgets but the tree remembers.”

“Once you carry your own water, you’ll remember every drop.”

“Don't set sail on someone else's star.”

“To try and to fail is not laziness.”

“Seeing is different than being told.”

“No matter how beautiful and well crafted a coffin might look, it will not make anyone wish for death.”

“Wood already touched by fire is not hard to set alight.”

“Confiding a secret to an unworthy person is like carrying grain in a bag with a hole.”

“A feeble effort will not fulfill the self.”

“Having a good discussion is like having riches.”

“Don’t think there are no crocodiles just because the water is calm.”

“He who refuses to obey cannot command.”

“Do not call a dog with a whip in your hand.”

“One falsehood spoils a thousand truths.”

“The earth is a beehive, we all enter by the same door.”

“Rain does not fall on one roof alone.”

“However far a stream flows, it doesn’t forget its origin.”

“If you think you’re too small to make a difference, try spending the night with a mosquito.”

“If there is no enemy within, the enemy outside can do no harm.”

“The eye never forgets what the heart has seen.”

“No person is born great. Great people become great when others are sleeping.”

“When an old man dies, a library is burned with him.”

“Truth should be in love and love in truth.”

“When you marry a monkey for his wealth, the money goes but the monkey remains.”

“Where there is love, there is no darkness.”

“It is better to be loved than to be feared.”

“When one is in love, a cliff becomes a meadow.”

“He who loves, loves you with your dirt.”

“If love is a sickness, patience is the remedy.”

“To love someone who doesn't love you is like shaking a tree to make the dew drops fall.”

“If the full moon loves you, why worry about the stars?”

“Don’t be so in love that you can’t tell when it’s raining.”

“Even as the archer loves the arrow that flies, so too he loves the bow that remains constant in his hands.”

“Love, like rain, does not choose the grass on which it falls.”

“Do not treat your loved one like a swinging door: you are fond of it but you push it back and forth.”

“Love doesn’t listen to rumors.”

“One who loves the vase, loves also what is inside.”

“One who marries for love alone will have bad days but good nights.”

“Love for something makes a man blind and deaf.”

“Let your love be like the misty rain, coming softly but flooding the river.”

“The quarrel of lovers is the renewal of love.”

“Don’t try to make someone hate the person he loves. For he will go on loving but he will hate you.”

“If a woman doesn’t love you, she calls you “brother.””

“Love is a despot who spares no one.”

“Love doesn’t rely on physical features.”

“If anyone makes you laugh, it is not always because they love you.”

“You know who you love but you can’t know who loves you.”

“Love is a painkiller.”

“A happy man marries the girl he loves; a happier man loves the girl he married.”

“One who plants grapes by the roadside, and one who marries a pretty woman, share the same problem.”

“If money were to be found up in the trees, most people would be married to monkeys.”

“Every kind of love is love, but selflove is supreme among them.”

"True love means what's mine is yours."

"It's better to fall from a tree and break your back than to fall in love and break your heart."

"He may say that he loves you, wait and see what he does for you."

"It is difficult for two longnosed lovers to kiss."

"A fish and bird may fall in love but the two cannot build a home together."

"Lovers do not hide their nakedness."

"When one is in love, a mountain top becomes a flat field."

"Wisdom is wealth."

"Wisdom is like a baobab tree; no one individual can embrace it."

"The fool speaks, the wise man listens."

"Wisdom does not come overnight."

"The heart of the wise man lies quiet like limpid water."

"Wisdom is like fire. People take it from others."

"Only a wise person can solve a difficult problem."

"Knowledge without wisdom is like water in the sand."

"In the moment of crisis, the wise build bridges, and the foolish build dams."

"If you are filled with pride, then you will have no room for wisdom."

"A wise person will always find a way."

"Nobody is born wise."

"A man who uses force is afraid of reasoning."

"Wisdom is not like money to be tied up and hidden."

"One who causes others misfortune also teaches them wisdom."

"A fool cannot untie the knot tied by a wise man."

"Knowledge without wisdom is like water in the sand."

"Wisdom does not come overnight."

"One day in the life of a wise man is worth a fool's entire life."

"To get lost is to learn the way."

"Other people's wisdom prevents the king from being called a fool."

"By the time the fool has learned the game, the players have dispersed."

"If you close your eyes to facts, you will learn through accidents."

"The wise create proverbs for fools to learn, not to repeat."

"Just because the lizard nods his head, doesn't mean he's in agreement."

"A wise man fills his head before emptying his mouth."

"If you think education is expensive, try ignorance."

"Your body is a temple of knowledge."

"A fool has to say something. A wise person has something to say."

"The wise man never takes a step too long for his leg."

"Give advice, if people don't listen let adversity teach them."

"A man's ruin lies in his tongue."

"No man can outwit their ancestors."

“It is better to live as a lion for one day rather than 100 years as a sheep.”

“When deed speaks, words are nothing.”

“He who does not know one thing knows another”

“A wise person doesn’t fall down the same hill twice.”

“A family is like a forest, when you are outside it is dense, when you are inside you see that each tree has its place.”

“A united family eats from the same plate.”

“A family tie is like a tree, it can bend but it cannot break.”

“If I am in harmony with my family, that’s success.”

“Where there are many, nothing goes wrong.”

“A child is what you put into him.”

“When you show the child the moon, it sees only your finger.”

“We desire to bequeath two things to our children; the first one is roots, the other one is wings.”

“A real family eats from the same cornmeal.”

“Even the maid has a family.”

“Don't meddle with a family feud.”

“In a family if you have somebody who is troublesome it's the family members who are more worried than the troublesome member.”

“If you educate a man, you educate one person. If you educate a woman, you educate a whole family.”

“A husband with a good wife will never be on the road without supplies.”

"A home without a woman is like a barn without cattle."

"Parents give birth to the body of their children, but not always to their characters."

"Every beetle is a gazelle in the eyes of its mother."

"A mother cannot give birth to something bigger than herself."

"It takes a village to raise a child."

"A small house will hold a hundred friends."

"A woman is a flower in a garden; her husband is the fence around it."

"The mother hen does not break its own eggs."

"If you want to go fast, go alone. If you want to go far, go together."

"Sticks in a bundle are unbreakable."

"Brothers love each other when they are equally rich."

"Dine with a stranger but save your love for your family."

"There is no fool who is disowned by his family."

"If relatives help each other, what evil can hurt them?"

"He who earns calamity, eats it with his family."

"The old woman looks after the child to grow its teeth and the young one in turn looks after the old woman when she loses her teeth."

"When brothers fight to the death, a stranger inherits their father's estate."

"Children are the reward of life."

"Home affairs are not talked about on the public square."

"A child does not laugh at the ugliness of his mother."

“Family must look out for family.”

“It is hard to cure madness that originates in the family.”

“When a bitter woman takes over the house, the family she rules is doomed.”

"Come and I'll tell you something," tickles the ear.

"What's all the fuss?" said the crane after the eel had slipped away. "I never liked fish anyway."

A baby on its mother's back doesn't know the journey is long.

A bachelor should always spend minimum time with a friend's wife.

A bachelor's wife doesn't have ears.

A bad cook also has his/her share of the bad food.

A bad habit is like fire you can't play with it and expect not to get burnt.

A bad wound deserves strong medicine.

A barber does not shave himself.

A barren woman is like a leaking pot.

A beautiful one hurts the heart.

A beggar won't mind being insulted.

A beggar's knees are supple.

A big fish is caught with big bait.

A bird doesn't alert his fellow bird that a stone is coming.

A bird doesn't forget one who killed off his feathers during the rainy season.

A bird may fly off the earth and land on an anthill, but it will still be on the ground.

Isaac Christopher Lubogo.

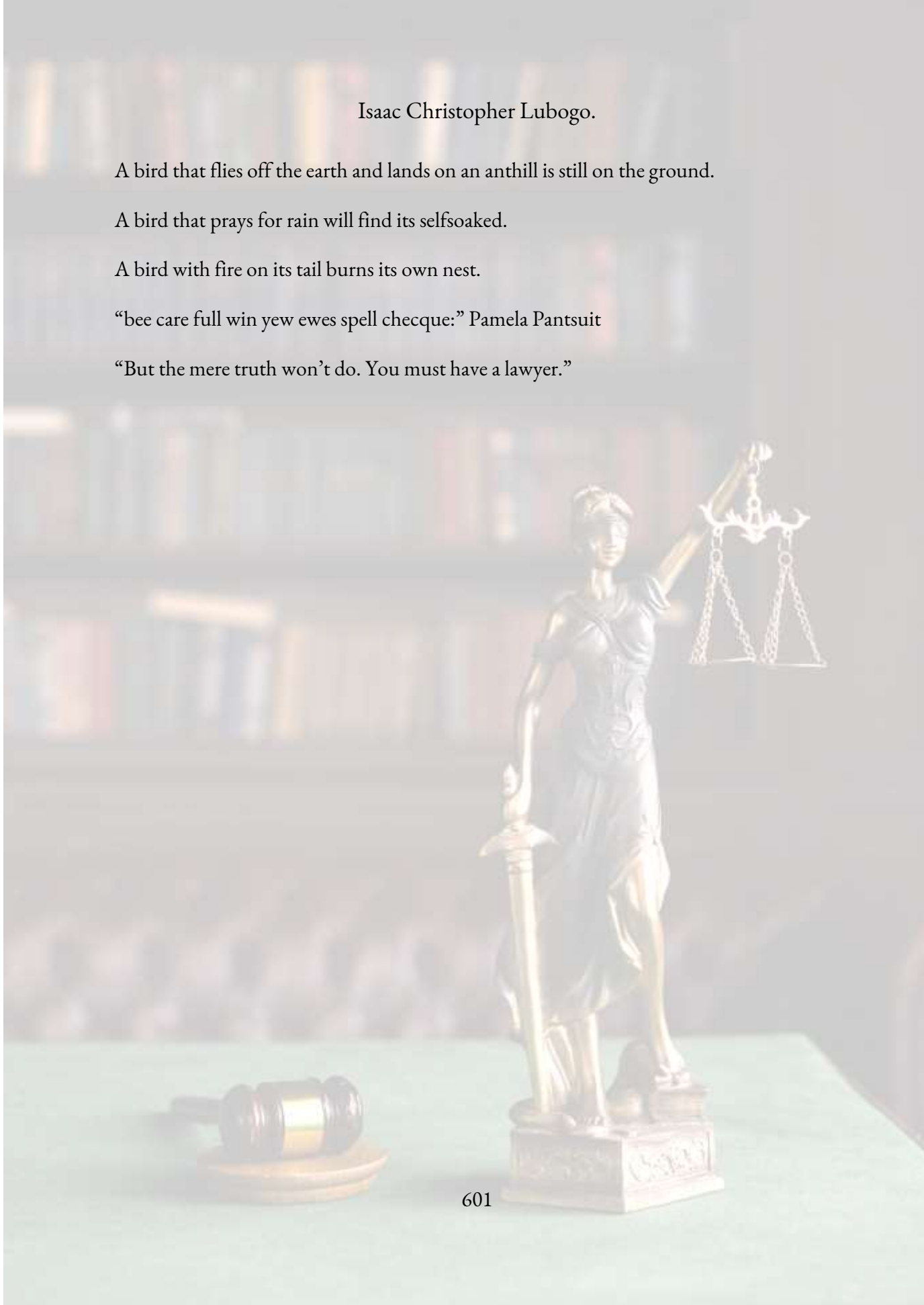
A bird that flies off the earth and lands on an anthill is still on the ground.

A bird that prays for rain will find its selfsoaked.

A bird with fire on its tail burns its own nest.

“bee care full win yew ewes spell checque:” Pamela Pantsuit

“But the mere truth won’t do. You must have a lawyer.”



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Theresa Tilton, Attorney at Law

Luke 10:2537 (King James Version)

King James Version (KJV)

And, behold, a certain lawyer stood up, and tempted him, saying, Master, what shall I do to inherit eternal life?

He said unto him, What is written in the law? how readest thou?

And he answering said, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind; and thy neighbour as thyself.

And he said unto him, Thou hast answered right: this do, and thou shalt live.

But he, willing to justify himself, said unto Jesus, And who is my neighbour?

And Jesus answering said, A certain man went down from Jerusalem to Jericho, and fell among thieves, which stripped him of his raiment, and wounded him, and departed, leaving him half dead.

And by chance there came down a certain priest that way: and when he saw him, he passed by on the other side.

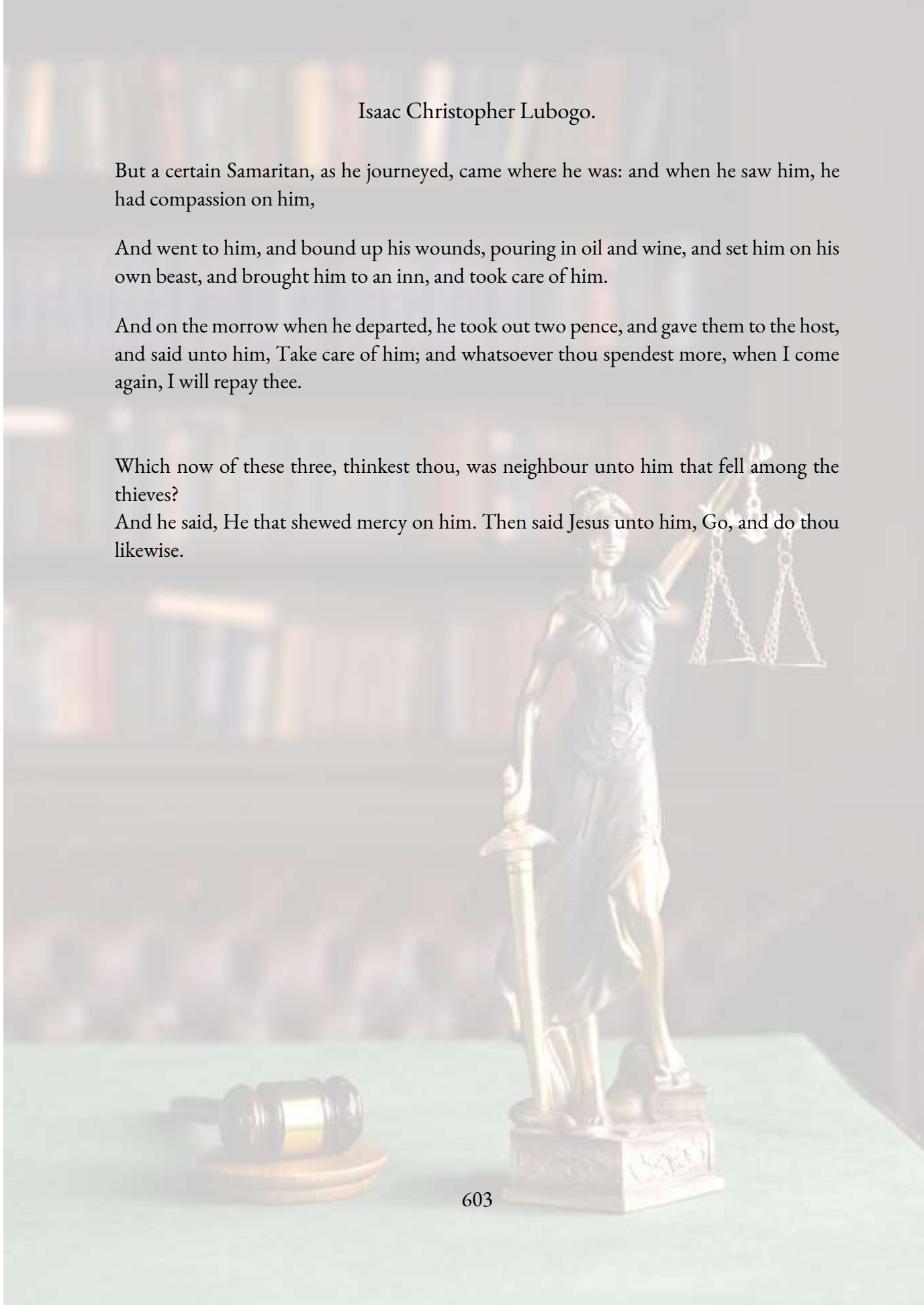
And likewise a Levite, when he was at the place, came and looked on him, and passed by on the other side.

But a certain Samaritan, as he journeyed, came where he was: and when he saw him, he had compassion on him,

And went to him, and bound up his wounds, pouring in oil and wine, and set him on his own beast, and brought him to an inn, and took care of him.

And on the morrow when he departed, he took out two pence, and gave them to the host, and said unto him, Take care of him; and whatsoever thou spendest more, when I come again, I will repay thee.

Which now of these three, thinkest thou, was neighbour unto him that fell among the thieves?
And he said, He that shewed mercy on him. Then said Jesus unto him, Go, and do thou likewise.



More Quotes

"Let me not be thought as intending anything derogatory to the profession of the law, or to the distinguished members of that illustrious order. Well, am I aware that we have in this ancient city innumerable worthy gentlemen, the knightserrant of modern days, who go about redressing wrongs and defending the defenseless, not for the love of filthy lucre, nor the selfish cravings of renown, but merely for the pleasure of doing good. Sooner, would I throw this trusty pen into the flames and cork up my ink bottle forever, than infringe even for a nail's breadth upon the dignity of these truly benevolent champions of the distressed. On the contrary, I allude merely to those caitiff scouts who, in these latter days of evil, infest the skirts of the profession, as did the recreant Cornish knights of yore the honorable order of chivalry, who under its auspices, commit flagrant wrongs, who thrive by quibbles, by quirks and chicanery, and like vermin increase the corruption in which they are engendered."
Washington Irving, The History of New York 26162 (1868) (1809)

"A French observer is surprised to hear how often an English or an American lawyer quotes the opinions of others, and how little he alludes to his own; ... This abnegation of his own opinion, and this implicit deference to the opinion of his forefathers, which are common to the English and American lawyer, this servitude of thought which he is obliged to profess, necessarily give him more timid habits and more conservative inclinations in England and America than in France."
Alexis de Tocqueville, Democracy in America 1:353 (Francis Bowen trans. 1862) (1835)

"The good judge is not he who does hairsplitting justice to every allegation, but who, aiming at substantial justice, rules something intelligible for the guidance of suitors. The good lawyer is not the man who has an eye to every side and angle of contingency, and qualifies all his qualifications, but who throws himself on your part so heartily that he can get you out of a scrape."
Ralph Waldo Emerson, "Power," The Conduct of Life, 1860, in Complete Works of Ralph Waldo Emerson 6:53, 76 (1904)

"Your law may be perfect, your knowledge of human affairs may be such as to enable you to apply it with wisdom and skill, and yet without individual acquaintance with men, their haunts and habits, the pursuit of the profession becomes difficult, slow, and expensive. A lawyer who does not know men is handicapped."

Louis D. Brandeis, Letter to William H. Dunbar, 2 Feb. 1893, in Letters of Louis D. Brandeis 1:108 (Melvin I. Urofsky and David W. Levy eds. 1971)

"Courage is the most important attribute of a lawyer. It is more important than competence or vision. It can never be an elective in any law school. It can never be delimited, dated or outworn, and it should pervade the heart, the halls of justice and the chambers of the mind."
Robert F. Kennedy, Speech at University of San Francisco Law School, San Francisco, 29 Sept. 1962, quoted in Sue G. Hall, The Quotable Robert F. Kennedy 111 (1967)

"One hires lawyers as on hires plumbers, because one wants to keep one's hands off the beastly drains."
Amanda Cross, The Question of Max 61 (1976)

"Send lawyers, guns and money, the shit has hit the fan."
Warren Zevon, "Lawyers, Guns and Money' (song) (1978)

"Some debts are not to be reckoned."
Thomas Cromwell, played by Mark Rylance, on PBS's Wolf Hall, Season 1 Episode 2 (2015)

"The lawyers' contribution to the civilizing of humanity is evidenced in the capacity of lawyers to argue furiously in the courtroom, then sit down as friends over a drink or dinner. This habit is often interpreted by the layman as a mark of their ultimate corruption. In my opinion, it is their greatest moral achievement: It is a characteristic of humane tolerance that is most desperately needed at the present time."
John R. Silber, quoted in Wall Street Journal, 16 Mar. 1972, at 14

"Anyone who believes a better day dawns when lawyers are eliminated bears the burden of explaining who will take their place. Who will protect the poor, the injured, the victims of negligence, the victims of racial violence?"
John J. Curtin, Jr., Remarks to American Bar Association, Atlanta, 13 Aug. 1991, quoted in Time, 26 Aug. 1991, at 54

"Lawyers, Preachers, and Tomtits Eggs, there are more of them hatch'd than come to perfection."
Benjamin Franklin, Poor Richard's Almanack, 1734, in Papers of Benjamin Franklin 1:354 (Leonard W. Labaree ed. 1959)

"I should apologize, perhaps, for the style of this bill. I dislike the verbose and intricate style of the English statutes, and in our revised code I endeavored to restore it to the simple one of the ancient statues, in such original bills as I drew in that work. I suppose the reformation has not been acceptable, as it has been little followed. You, however, can easily correct this bill to the taste of my brother lawyers, by making every other word a "said" or "aforesaid," and saying everything over two or three times, so that nobody but we of the craft can untwist the diction, and find out what it means; and that, too, not so plainly but that we may conscientiously divide one half on each side. Mend it, therefore, in form and substance to the orthodox taste, and make it what it should be; or, if you think it radically wrong, try something else, and let us make a beginning in some way. No matter how wrong, experience will amend it as we go along, and make it effectual in the end."
Thomas Jefferson, Letter to Joseph C. Cabell, 9 Sept. 1817, in Writings of Thomas Jefferson 17:41718 (Andrew A. Lipscomb ed. 1904)

"There are two things wrong with almost all legal writing. One is its style. The other is its content."
Fred Rodell, "Goodbye to Law Reviews," 23 Virginia Law Review 38, 38 (1936)

"Laws are sand, customs are rock. Laws can be evaded and punishment escaped, but an openly transgressed custom brings sure punishment."
Mark Twain, "The Gorky Incident," 1906, in Mark Twain: Letters from the Earth 155, 156 (Bernard De Voto ed. 1939)

"What we need to do is to stop passing laws. We have enough laws now to govern the world for the next 10,000 years. Every crank who has a foolish notion that he would like to impose upon everybody else hastens to some legislative body and demands that it be graven upon the statutes. Every fanatic who wants to control his neighbor's conduct is here or at some other legislative body demanding that a law be passed to regulate that neighbor's conduct."
James A. Reed, in 67 Congressional Record 10,708 (1926)

"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right."
Chief Justice John Marshall, Marbury v. Madison 5 U.S. (1 Cranch) 137, 163 (1803)
See also OBEDIENCE TO LAW 2, OBEDIENCE TO LAW 3

"In the United States, every one is personally interested in enforcing the obedience of the whole community to the law; for as the minority may shortly rally the majority to its principles, it is interested in professing that respect for the decrees of the legislator which it may soon have occasion to claim for its own. However irksome an enactment may be, the citizen of the United States complies with it, not only because it is the work of the majority, but because it is his own, and he regards it as a contract to which he is himself a party. "
Alexis de Tocqueville, Democracy in America 1:317 (Francis Bowen trans. 1862) (1835)

"As [a citizen] is a "lawmaker," he should not be a "lawbreaker," for he ought to be conscious that every departure from the established ordinances of society is an infraction of his rights. His power can only be maintained by the supremacy of the laws, as in monarchies, the authority of the king is asserted by obedience to his orders. The citizen in lending a cheerful assistance to the ministers of the law, on all occasions, is merely helping to maintain his own power. This feature in particular, distinguishes the citizen from the subject."
James Fenimore Cooper, The American Democrat 83 (1956) (1838)

"A very wise father once remarked, that in the government of his children, he forbade as few things as possible; a wise legislation would do the same. It is folly to make laws on subjects beyond human prerogative, knowing that in the very nature of things they must be set aside. To make laws that man can not and will not obey, serves to bring all law into contempt. It is very important in a republic, that the people should respect the laws, for if we throw them to the winds, what becomes of civil government?"
Elizabeth Cady Stanton, Address before 10th National Woman's rights Convention, New York, May 1860, in History of Woman Suffrage 1:716, 721 (Elizabeth Cady Stanton, Susan B. Anthony, and Matilda J. Gage eds. 1881)

"The words which are criticized as dirty
[in James Joyce's Ulysses]
are old Saxon words known to almost all men and, I venture, to many women, and are such words as would be naturally and habitually used, I believe, by the types of folk whose life, physical, and mental, Joyce is seeking to describe. In respect of the recurrent emergence of the theme of sex in the minds of his characters, it must always be remembered that his locale was Celtic and his season spring."
John M. Woolsey, United States v. One Book Called "Ulysses," 5 F. Supp. 182, 18384 (S.D.N.Y. 1933)

[Standard for obscenity:]" Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeal to prurient interest."
William J. Brennan, Jr. Roth v. United States, 354 U.S. 476, 489 (1957)

"I have reached the conclusion . . . that under the First and Fourteenth Amendments criminal laws in this area [obscenity] are constitutionally limited to hardcore pornography. I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But I know if when I see it; and the motion picture involved in this case is not that."
Potter Stewart, Jacobellis v. Ohio, 378 U.S. 184, 197 (1964) (concurring)

"The First Amendment guarantees liberty of human expression in order to preserve in our Nation what Mr. Justice Holmes called a "free trade in ideas." To that end, the Constitution protects more than just a man's freedom to say or write or publish what he wants. It secures as well the liberty of each man to decide for himself what he will read and to what he will listen. The Constitution guarantees, in short, a society of free choice."
Potter Stewart, Ginsberg v. New York, 390 U.S. 629, 649 (1968) (concurring)

"The term "f—g pigs" in the context in which it was used referred not to copulation of porcine animals but was rather a highly insulting epithet directed to the police officers.....Appellant's use of the vulgarism describing the filial partner in an oedipal relationship is fairly to be viewed as an epithet rather than as a phrase appealing to a shameful or morbid interest in intrafamily sex....There is, after all, a strong possibility that

an expert witness called in the matter before us might have testified to the occasional use of the offending profane adjective in bar association quarters or in trial judges' loungesalas, all too often in reference to a decision of the Court of Appeal."
Robert S. Thompson, People v. Price, 4 Cal. App. 3d 941, 94849, 84 Cal. Rptr. 585 (1970) (dissenting)

"I put sixteen years into that damn obscenity thing. I tried and I tried, and I waffled back and forth, and I finally gave up. If you can't define it, you can't prosecute people for it. And that's why, in the Paris Adult Theatre decision, I finally abandoned the whole effort. I reached the conclusion that every criminalobscenity statuteand most obscenity laws are criminalwas necessarily unconstitutional, because it was impossible, from the statute, to define obscenity. Accordingly, anybody charged with violating the statute would not have known that his conduct was a violation of the law. He wouldn't know whether the material was obscene until the court told him."
William J. Brennan, Jr., quoted in Nat Hentoff, "Profiles: The Constitutionalist," New Yorker, 12 Mar. 1990, at 45, 56

"The appellant has attempted to distinguish the factual situation in this case from that in Renfroe v. Higgins Rack Coating and Manufacturing Co., Inc. (1969), 17 Mich App 259. He didn't. We couldn't.
Affirmed. Costs to appellee."
All concurred.*
John H. Gillis, Denny v. Radar Industries, 28 Mich. App. 294, 294 (1970)
* This is the opinion in its entirety.

"Literary license allows an avid alliterationist authority to postulate parenthetically that the predominating principles presented here may be summarized thusly: Preventing public pollution permits promiscuous perusal of personality but persistent perspicacious patron persuasively provided pertinent perdurable preponderating presumption precedent preventing prison."
H. Sol Clark, Banks v. State, 132 Ga. App. 809, 810, 209 S.E. 2d 252 (1974)

"Our amended Constitution is the lodestar for our aspirations. Like every text worth reading, it is not crystalline. The phrasing is broad and the limitations of its provisions are not clearly marked. Its majestic generalities and ennobling pronouncements are both

luminous and obscure. This ambiguity of course calls forth interpretation, the interaction of reader and text. The encounter with the Constitutional text has been, in many senses, my life's work."
William J. Brennan, Jr., "The Constitution of the United States: Contemporary Ratification" (speech), Washington, D.C. 12 Oct. 1985, in Original Meaning Jurisprudence: A Sourcebook 151, 152 (1987)

"I, Andrew Johnson, ...hereby proclaim and declare unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof."
Proclamation 25 Dec., 1868, 15 Stat. 711, 712

"The patent system...added the fuel of interest to the fire of genius."
Abraham Lincoln, Second Lecture on Discoveries and Inventions, Jacksonville, Ill., 11 Feb.1859, in Collected Works of Abraham Lincoln, 3:363 (Roy P. Basler ed. 1953)

[To the Court requesting a precedent for his position during the Crafts trial:] "I will look, your Honor, and endeavor to find a precedent, if you require it; though it would seem to be a pity that the Court should lose the honor of being the first to establish so just a rule."
Rufus Choate, quoted in Works of Rufus Choate 1:292 (Samuel G. Brown ed. 1862)

"We recognize that stare decisis embodies an important social policy. It represents an element of continuity in law, and is rooted in the psychologic need to satisfy reasonable expectations. But stare decisis is a principle of policy and not a mechanical formula of adherence to the latest decision, however recent and questionable, when such adherence involves collision with a prior doctrine more embracing in its scope, intrinsically sounder, and verified by experience...This Court, unlike the House of Lords, has from the beginning rejected a doctrine of disability at selfcorrection."
Felix Frankfurter, Helvering v. Hallock, 309 U.S. 106, 119, 121 (1940)

"I would rather create a precedent than find one."
William O. Douglas, The Court Years: 19391975, at 179 (1980)

"The right to be let alone is indeed the beginning of all freedom."
William O. Douglas, Public Utilities Comm'n v. Pollak, 343 U.S. 451, 467 (1952) (dissenting)

"We are rapidly entering the age of no privacy, where everyone is open to surveillance at all times; where there are no secrets from government."
William O. Douglas, Osborn v. United States, 385 U.S. 323, 341 (1966) (dissenting)

"In no country in the world is the love of property more active and more anxious than in the United States; nowhere does the majority display less inclination for those principles which threaten to alter, in whatever manner, the laws of property."
Alexis de Tocqueville, Democracy in America 2:314 (Francis Bowen trans.1862) (1835)

"Any person who is the head of a family, or who has arrived at the age of twentyone years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first January, eighteen hundred and sixtythree, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a preemption claim, or which may, at the time the application is made, be subject to preemption at one dollar and twentyfive cents, or less, per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed."
Homestead Act of 1862, ch. 75, § 1, 12 Stat. 392, 392

"With the rise of property, considered as an institution, with the settlement of its rights, and, above all, with the established certainty of its transmission to lineal descendants, came the first possibility among mankind of the true family in its modern acceptation. . . It is impossible to separate property, considered in the concrete, from civilization, or for civilization to exist without its presence, protection, and regulated inheritance. Of property in this sense, all barbarous nations are necessarily ignorant."
Lewis Henry Morgan, Systems of Consanguinity and Affinity 492 (1870)

"The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done."
Canons of Professional Ethics Canon 5 (1908)

[William Jennings Bryan:] "Your Honor, I think I can shorten this testimony. The only purpose Mr. Darrow has is to slur at the Bible, but I will answer his question. I will answer it all at once, and I have no objection in the world, I want the world to know that this man, who does not believe in a God, is trying to use a court in Tennessee"
[Clarence S. Darrow:]" I object to that."
[Bryan:]" to slur at it, and while it will require time, I am willing to take it."
[Darrow:] "I object to your statement. I am exempting you on your fool ideas that no intelligent Christian on earth believes."
Clarence S. Darrow, Scopes Trial, Dayton, Tenn., 20 July 1925, in The World's Most Famous Court Trial 304 (1925)

"Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others."
William O. Douglas, United States v. Ballard, 322 U.S. 78, 86 (1944)

"Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism and others."
Hugo L. Black, Torcaso v. Watkins, 367 U.S. 488, 495 n.11 (1961)

"This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember, or overthrow it."
Abraham Lincoln, First Inaugural Address, 4 Mar. 1861, in Collected Works of Abraham Lincoln 4:269 (Roy P. Basler ed. 1953)

"The word "revolution" has of course acquired a subversive connotation in modern times. But it has roots that are eminently respectable in American history. This country is the product of revolution. Our very being emphasizes that when grievances pile high and there are no political remedies, the exercise of sovereign powers reverts to the people. Teaching

and espousing revolutionas distinguished from indulging in overt actsare therefore obviously within the range of the First Amendment. ”
William O. Douglas, W.E.B. Du Bois Clubs v. Clark, 389 U.S. 309, 31516 (1967)

“If we cannot secure all our rights, let us secure what we can.”
Thomas Jefferson, Letter to James Madison, 15 Mar. 1789, in Papers of Thomas Jefferson 14:660 (Julian P. Boyd ed. 1958)

“But the word “right” is one of the most deceptive of pitfalls; it is so easy to slip from a qualified meaning in the premise to an unqualified one in the conclusion. Most rights are qualified. ”
Oliver Wendell Holmes, Jr., American Bank and Trust Co. v. Federal Reserve Bank of Atlanta, 256 U.S. 350, 358 (1921)

“This freedom of movement is the very essence of our free society, setting us apart. Like the right of assembly and the right of association, it often makes all other rights meaningfulknowing, studying, arguing, exploring, conversing, observing and even thinking. Once the right to travel is curtailed, all other rights suffer, just as when curfew or home detention is placed on a person.”
William O. Douglas, Aptheker v. Secretary of State, 378 U.S. 500, 520 (1964) (concurring)

“America is of course sovereign; but her sovereignty is woven in an international web that makes her one of the family of nations. The ties with all the continents are closecommercially as well as culturally. Our concerns are planetary, beyond sunrises and sunsets. Citizenship implicates us in those problems and perplexities, as well as in domestic ones. We cannot exercise and enjoy citizenship in world perspective without the right to travel abroad; and I see no constitutional way to curb it unless, as I said, there is the power to detain.”
William O. Douglas, Aptheker v. Secretary of State, 378 U.S. 500, 52021 (1964) (concurring)

“Of course, I believe that every child has a right to decent education and shelter, food and medical care; of course, I believe that refugees from political oppression have a right to a haven in a free land; of course I believe that every person has a right to work in dignity and

for a decent wage. I do believe and affirm the social contract that grounds these rights. But more to the point I also believe that I am commandedthat we are obligatedto realize those rights."
Robert M. Cover, "Obligation: A Jewish Jurisprudence of the Social Order," 5 Journal of Law and Religion 65, 7374 (1988)

"And I take this opportunity to declare, that ...I will to my dying day oppose, with all the powers and faculties God has given me, all such instruments of slavery on the one hand, and villainy on the other, as this writ of assistance is. It appears to me...the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of the constitution, that ever was found in an English lawbook."
James Otis, Argument against the writs of assistance, Boston, Feb. 1761, quoted in John Adams, "Abstract of the Argument for and against the Writts of Assistance," 1761, in Legal Papers of John Adams 2:134, 13940 (L. Kinvin Wroth and Hiller B. Zobel eds. 1965)

"Your Honours will find in the old book, concerning the office of a justice of peace, precedents of general warrants to search suspected houses. But in more modern books you will find only special warrants to search such and such houses specially named, in which the complainant has before sworn he suspects his goods are concealed; and you will find it adjudged that special warrants only are legal. In the same manner I rely on it, that the writ prayed for in this petition being general is illegal. It is a power that places the liberty of every man in the hands of every petty officer."
James Otis, Argument against the writs of assistance, Boston, Feb. 1761, quoted in John Adams, "Abstract of the Argument for and against the Writts of Assistance," 1761, in Legal Papers of John Adams 2:134, 14142 (L. Kinvin Wroth and Hiller B. Zobel eds. 1965)

"Now one of the most essential branches of English liberty, is the freedom of one's house. A man's house is his castle;* and while he is quiet, he is as well guarded as a prince in his castle. This writ [of assistance], if it should be declared legal, would totally annihilate this privilege."
James Otis, Argument against the writs of assistance, Boston, Feb. 1761, quoted in John Adams, "Abstract of the Argument for and against the Writts of Assistance," 1761, in Legal Papers of John Adams 2:134; 142 (L. Kinvin Wroth and Hiller B. Zobel eds. 1965)

*Burton Stevenson, Home Book of Proverbs, Maxims and Familiar Phrases 1192 (1948), traces the proverb, "A man's house is his castle," back to 1567 and notes legal usages of it by Sir Edward Coke in the 17th century.

"That general warrants, whereby an officer of messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted."
Virginia Declaration of Rights of 1776, § 10, in Federal and State Constitutions 7:3812, 3814 (Francis N. Thorpe ed. 1909)

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails...
(A) To employ any device, scheme, or artifice to defraud,
(B) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
(C) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.
Rule 10b5,13 Fed. Reg. 818384 (1948) (codified at 17 C.F.R. § 240.10b5)

[Definition of insider trading:] "Stealing too fast."
Calvin Trillin, "The Inside on Insider Trading," in If You Can't Say Something Nice 141, 143 (1987)

"He must make instant decisions that would take months for a lawyer."
Paul Harvey, on policemen

"Racial discrimination in public education is unconstitutional.....All provisions of federal, state or local law requiring or permitting such discrimination must yield to this principle.
Earl Warren, Brown v. Board of Education, 349 U.S. 294, 298 (1955)

"The hardest case we ever heard of lived in Arkansas. He was only fourteen years old. One night he deliberately murdered his father and mother in cold blood, with a meataxe. He

was tried and found guilty. The Judge drew on his black cap, and in a voice choked with emotion asked the young prisoner if he had anything to say before the sentence of the Court was passed on him....”Why, no,” replied the prisoner, “I think I haven’t, though I hope yer Honor will show some consideration FOR THE FEELINGS OF A POOR ORPHAN!” ”
Artemus Ward, “A Hard Case,” in Artemus Ward in London 183, 18384 (1867)

“I’m often asked why there is such a great variation among sentences imposed by Texas judges. I can only quote the Texas judge who was asked why a killer sometimes doesn’t even get indicted and a cattle thief can get ten years. The judge answered: “A lot of fellows ought to be shot, but we don’t have any cows that need stealin’.”
Pearcy Foreman, quoted in Michael Dorman, King of the Courtroom 104 (1969)

“Oyez, oyez, oyez! All persons having business before the honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the court is now sitting. God save the United States and this honorable Court.”
Marshal’s cry at the opening of public sessions of the United States Supreme Court

“Equal Justice Under Law.”
Inscription on West Portico of Supreme Court Building, Washington, D.C.

“Justice the Guardian of Liberty.”
Inscription on East Portico of Supreme Court Building, Washington, D.C. Court

“[We’ll] never really know how many brothersinlaw were ‘accidentally kilt’ by their kin who were holding their shotgun and stepping over a fence at the same time.”
Robert Meriweather, Professor of Political Science, Education and History and Dean of Students at Hendrix College (19591993)

“Knowing Master Huckaback to be a man of his word, as well as one who would have others so, I was careful to be in good time the next morning . . . “
R.D. Blackmore, Lorna Doone

“Justice the Guardian of Liberty.”
Inscription on East Portico of Supreme Court Building, Washington, D.C.

"Anything less than full justice is cruelty."
William Penn

"Your brand is your promise to the consumer. It's your reputation. It's the encapsulation of your core values. . .When someone attempts to steal our brand it's personal, as though some part of my family has been assaulted."
Doug Shafer, A Vineyard In Napa

Here this extraordinary man [Charles Townsend], then Chancellor of the Exchequer, found himself in great straits. To please universally was the object of his life; but to tax and to please, no more than to love and to be wise, is not given to men. However, he attempted it.
Edmund Burke, Speech on American Taxation, 19 April 1774, in Writings and Speeches of Edmund Burke 2:409, 454 (Paul Langford ed. 1981)

"Our new Constitution is now established, and has an appearance that promises permanency; but in this world nothing can be said to be certain, except death and taxes.*"
Benjamin Franklin, Letter to Jean Baptiste Le Roy, 13 Nov. 1789, in Writings of Benjamin Franklin 10:69 (Albert H. Smyth ed. 1907)
*Not the man in the moon, not the groaningboard, not the speaking of friar Bacon's brazen head, not the inspiration of mother Shipton, or the miracles of Dr. Faustus, things as certain as death and taxes, can be more firmly believed. Daniel Defoe, The History of the Devil, 1726, in Defoe's Works 3:283, 481 (1912)

"I don't see why a man shouldn't pay an inheritance tax. If a Country is good enough to pay taxes to while you are living, it's good enough to pay in after you die. By the time you die you should be so used to paying taxes that it would just be almost second nature to you."
Will Rogers, "They've Got a New Dictionary at Ellis Island," 28 Feb. 1926, in Will Rogers' Weekly Articles 2:157, 158 (James M. Smallwood ed. 1980)

[Responding to a statement that "laws should be considerate of the poor":] Not more so than of the rich. The laws should be equal and just; and the poor are the last people who ought to wish them otherwise, since they are certain to be the losers when any other principle governs....No class suffers so much by a departure from the rule, as the rich have

a thousand other means of attaining their ends, when the way is left clear to them, by setting up any other master than the right."
James Fenimore Cooper, The Chainbearer, 1845, in Complete Works of J. Fenimore Cooper 27:9495 (1893)

"The true form of the Rule against Perpetuities is believed to be this: NO INTEREST SUBJECT TO A CONDITION PRECEDENT IS GOOD, UNLESS THE CONDITION MUST BE FULFILLED, IF AT ALL, WITHIN TWENTYONE YEARS AFTER SOME LIFE IN BEING AT THE CREATION OF THE INTEREST."
John Chipman Gray, The Rule Against Perpetuities 144 (1886)

"During my life, and now by my will and codicils, I have given considerable sums of money to promote public or humanitarian causes which have had my deliberate and sympathetic interest. If any of my children think excessive such gifts of mine outside of my family, I ask them to remember not only the merit of the causes and the corresponding usefulness of the gifts but also the dominating ideals of my life.
They should never forget the dangers which unfortunately attend the inheritance of large fortunes, even though the money come from the painstaking affections of a father. I beg of them to remember that such danger lies not only in the obvious temptation to enervating luxury, but in the inducement . . . to withdraw from the wholesome duty of vigorous, serious, useful work. In my opinion a life not largely dedicated to such work cannot be happy and honorable; And to such it is my earnest hopeand will be to my deaththat my children shall, so far as their strength permits, be steadfastly devoted."
Joseph Pulitzer, Will, in James Wyman Barrett, Joseph Pulitzer and His World 29596 (1941)

"And do as adversaries do in law Strive mightily, but eat and drink as friends."
William Shakespeare, The Taming of the Shrew, act I, scene ii

"Instead, I want to see a mighty flood of justice, a river of righteous living that will never run dry."
The Holy Bible Amos 5:24

Isaac Christopher Lubogo.

"In the heart of every lawyer, worthy of the name, there burns a deep ambition so to bear himself that the profession may be stronger by reason of his passage through its ranks, and that he may leave the law itself a better instrument of human justice than he found it."
John W. Davis

"I do solemnly swear or affirm:
I will support the Constitution of the United States and the Constitution of the State of Arkansas, and I will faithfully perform the duties of attorney at law.
I will maintain the respect and courtesy due to courts of justice, judicial officers, and those who assist them.
I will, to the best of my ability, abide by the Model Rules of Professional Conduct and any other standards of ethics proclaimed by the courts, and in doubtful cases I will attempt to abide by the spirit of those ethical rules and precepts of honor and fair play.
To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.
I will not reject, from any consideration personal to myself, the cause of the impoverished, the defenseless, or the oppressed.
I will endeavor always to advance the cause of justice and to defend and to keep inviolate the rights of all persons whose trust is conferred upon me as an attorney at law."
Oath administered to new attorneys in Arkansas

"We will either find a way, or make one."
Hannibal

"In the middle of difficulty lies opportunity."
Albert Einstein

"I have lived my life, and I have fought my battles, not against the weak and the poor anybody can do that but against power, against injustice, against oppression, and I have asked no odds from them, and I never shall."
Clarence S. Darrow, Defense against charge of jury bribing in McNamara Case, 1912, in Attorney for the Damned 491, 497 (Arthur Weinberg ed. 1957)

"We cannot not be here. People look to us."

Mari Wright, Executive Director of the Southwest Georgia Chapter of the American Red Cross.

"The law favors farmers."
an old folk saying

"...There nothing more expensive than a bad lawyer".
Mike Gowen
Whoever is careless with the truth in small matters cannot be trusted with important matters.
Albert Einstein

In matters of truth and justice, there is no difference between large and small problems, for issues concerning people are all the same.
Albert Einstein

"It's never about the opponent or who we're facing. . . . Coach likes to say they're faceless and they are. It's about us and about what we do and how we take everything on the field. It doesn't matter who we play. We're trying to play the way we're capable of playing."
Alabama senior quarterback AJ McCarron, quoting Coach Nick Saban

Men of few words are the best men.
William Shakespeare

This report, by its very length, defends itself against the risk of being read.
Sir Winston Churchhill

I have made this [letter] longer, because I have not had the time to make it shorter.
French writer and mathematician Blaise Pascal

"[W]hat many of those who oppose the use of juries in civil trials seem to ignore [is that t]he founders of our Nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign, or, it might be added, to that of the judiciary."

Chief Justice William Rehnquist in Parklane Hosiery Co. v. Shore, 439 U.S. 322, 343 (1979)

"Men are never so likely to settle a question rightly as when they discuss it freely."
Thomas Babington Macaulay

"There was not a member of the Constitutional Convention who had the least objection to what is contended for by the advocates for a Bill of Rights and trial by jury."
George Washington (1788)

"It is through trial by jury that the people share in government, a consideration which ought to make our legislators very cautious how they take away this mode of trial by new, trifling and vexatious enactments."
Lord John Russell, Prime Minister of England (1823)

"What individual can so well assess the amount of damages which a plaintiff ought to recover for an injury he has received than an intelligent jury?"
Henry Peter Brougham, Lord Chancellor of England (1828)

"The law of England has established trial by judge and jury in the conviction that it is the mode best calculated to ascertain the truth."
Jeremy Bentham, English Philosopher (1832)

"The civil jury is the most effective form of sovereignty of the people. It defies the aggressions of time and man. During the reigns of Henry VIII (15091547) and Elizabeth I (11581603), the civil jury did in reality save the liberties of England."
Alexis de Tocqueville, Democracy in America (1835)

"The jury system is the handmaid of freedom. It takes on the spirit of liberty, and grows with the progress of constitutional government. Rome, Sparta and Carthage fell because they did not know it, let not England and America fall because they threw it away."
Charles S. May, Address to the Michigan Law School (1875)

"In the Declaration of Independence, the King of Great Britain was arraigned before the world for depriving us of trial by jury. This language evinces the purpose of our

representatives to risk their lives and their fortunes to secure the ancient right of trial by jury."
Justice Alphonso C. Avery of North Carolina (1892)

"In the jury box, no less than in the polling booth, every day the American way of life is given its rebirth. American jurymen are the custodians and guarantors of the democratic ideal."
Justice Bernard Botein of New York (1946)

"The more I see of trial by judge, the more highly I think of trial by jury."
Australian King's Counsel B. R. Wise (1948)

"Through 500 years of human history the jury trial has been regarded as an unalienable right cherished in the thinking of freedomseeking peoples. It remains today a refuse against all those little tyrannies plotted behind hypocritical fronts in wellrespected places theoretically dedicated to the preservation of basic civil liberties."
Judge William J. Palmer of California (1958)

"In the minds of American colonists, trial by jury was the firmest barrier of English liberty; it survives today as the voice of the people."
Arthur Schlesinger, The Birth of the Nation (1968)

"The most persistent hate is that which doth degenerate from love."
Map, De Nugis Curialium, 245

"[N]o man's life, liberty or fortune is safe while the legislature is in session."
Benjamin Franklin

"The right of trial by jury in civil cases is fundamental to our history and jurisprudence. The founders of our nation considered it an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign."
U.S. Supreme Court Chief Justice William H. Rehnquist (1979)

"The concept of the jury system is as close as any society has ever come to true democracy."
Paula Di Perna, Faces of American Justice (1984)

Isaac Christopher Lubogo.

"Plaintiff respectfully demands trial by jury and tenders the required jury fee".
nonparenthetical requirement in every complaint alleging personal injury or wrongful death, Law Offices of Gary Green

"A jury consists of twelve persons chosen to decide who has the better lawyer."
Robert Frost

The Art of war Quotes by Sun Tzu

"Appear weak when you are strong, and strong when you are weak." "The supreme art of war is to subdue the enemy without fighting." "If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat.

"Rewards for good service should not be deferred a single day."

"Do not repeat the tactics which have gained you one victory, but let your methods be regulated by the infinite variety of circumstances."

"Treat your men as you would your own beloved sons. And they will follow you into the deepest valley."

"Be extremely subtle even to the point of formlessness. Be extremely mysterious even to the point of soundlessness. Thereby you can be the director of the opponent's fate."

"Thus, the expert in battle moves the enemy, and is not moved by him."

"The wise warrior avoids the battle."

"Begin by seizing something which your opponent holds dear; then he will be amenable to your will."

"If soldiers are punished before they have grown attached to you, they will not prove submissive; and, unless submissive, then will be practically useless. If, when the soldiers have become attached to you, punishments are not enforced, they will still be unless."

"Ponder and deliberate before you make a move."

"The whole secret lies in confusing the enemy, so that he cannot fathom our real intent."

"If he sends reinforcements everywhere, he will everywhere be weak."

"The supreme art of war is to subdue the enemy without fighting."

“Bravery without forethought, causes a man to fight blindly and desperately like a mad bull. Such an opponent, must not be encountered with brute force, but may be lured into an ambush and slain.”

“One may know how to conquer without being able to do it.”

“In the midst of chaos, there is also opportunity.”

“There is no instance of a nation benefitting from prolonged warfare.”

“When you surround an army, leave an outlet free. Do not press a desperate foe too hard.”

“The art of war is of vital importance to the State. It is a matter of life and death, a road either to safety or to ruin. Hence it is a subject of inquiry which can on no account be neglected.”

“Victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win.”

“Engage people with what they expect; it is what they are able to discern and confirms their projections. It settles them into predictable patterns of response, occupying their minds while you wait for the extraordinary moment — that which they cannot anticipate.”

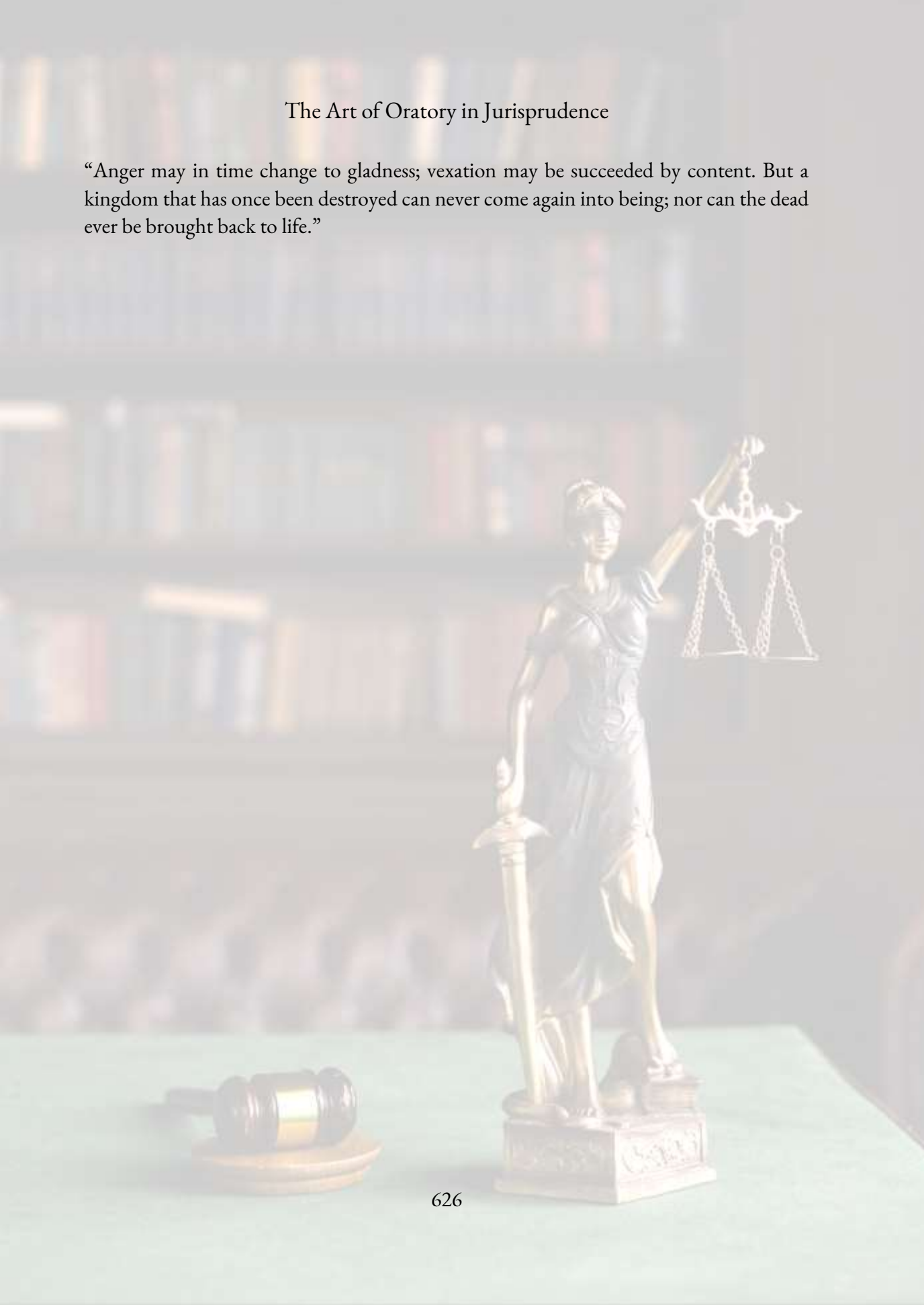
“So in war, the way is to avoid what is strong, and strike at what is weak.”

“Move swift as the Wind and closelyformed as the Wood. Attack like the Fire and be still as the Mountain.”

“It is easy to love your friend, but sometimes the hardest lesson to learn is to love your enemy.”

“There are roads which must not be followed, armies which must not be attacked, towns which must not be besieged, positions which must not be contested, commands of the sovereign which must not be obeyed.”

"Anger may in time change to gladness; vexation may be succeeded by content. But a kingdom that has once been destroyed can never come again into being; nor can the dead ever be brought back to life."



Isaac Christopher Lubogo.

Quotes from The Art of War to Teach You Strategy and Leadership

You don't need to be a fourstar general to appreciate these Sun Tzu quotes from his monumental work on warfare.

Written as a war treatise in the 5th century BC, The Art of War by Sun Tzu may not seem relevant to life in the 21st century at first glance. However, once you start to read Sun Tzu's words, you may realize that they have very real applications to modern life, especially if you are in a position of leadership or if you deal regularly with strategic questions.

These musings can be applied to practical problems you may be trying to solve, and they can also be good starting points for more theoretical reflection. Spanning topics from philosophy and wisdom to strategy and leadership, here are the most notable quotes from The Art of War.

Quotes on the Philosophy of War and Warriors

Before sharing Sun Tzu's more practical knowledge regarding leadership and strategy, it is useful to look at how warfare and fighting can be seen as metaphors for our lives today. Some of Sun Tzu's philosophical quotes can help us make such connections.

"The art of war is of vital importance to the State. It is a matter of life and death, a road either to safety or to ruin." Sun Tzu, The Art of War

"All warfare is based on deception." Sun Tzu, The Art of War

"It is only one who is thoroughly acquainted with the evils of war that can thoroughly understand the profitable way of carrying it on." Sun Tzu, The Art of War

"The skillful soldier does not raise a second levy, neither are his supplywagons loaded more than twice." Sun Tzu, The Art of War

"To fight and conquer in all your battles is not supreme excellence; supreme excellence consists in breaking the enemy's resistance without fighting." Sun Tzu, The Art of War

"He will win who knows when to fight and when not to fight." Sun Tzu, The Art of War

"If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer defeat. If you know neither the enemy nor yourself, you will succumb in every battle." Sun Tzu, The Art of War

"What the ancients called a clever fighter is one who not only wins, but excels in winning with ease." Sun Tzu, The Art of War

"Making no mistakes is what establishes the certainty of victory, for it means conquering an enemy that is already defeated." Sun Tzu, The Art of War

"Water shapes its course according to the nature of the ground over which it flows; the soldier works out his victory in relation to the foe whom he is facing." Sun Tzu, The Art of War

"Success in warfare is gained by carefully accommodating ourselves to the enemy's purpose." Sun Tzu, The Art of War

"Energy may be likened to the bending of a crossbow; decision, to the releasing of the trigger." Sun Tzu, The Art of War

"Anger may in time change to gladness; vexation may be succeeded by content. But a kingdom that has once been destroyed can never come again into being; nor can the dead ever be brought back to life." Sun Tzu, The Art of War

"If your opponent is of choleric temper, seek to irritate him. Pretend to be weak, that he may grow arrogant." Sun Tzu, The Art of War

"In war, practice dissimulation, and you will succeed." Sun Tzu, The Art of War

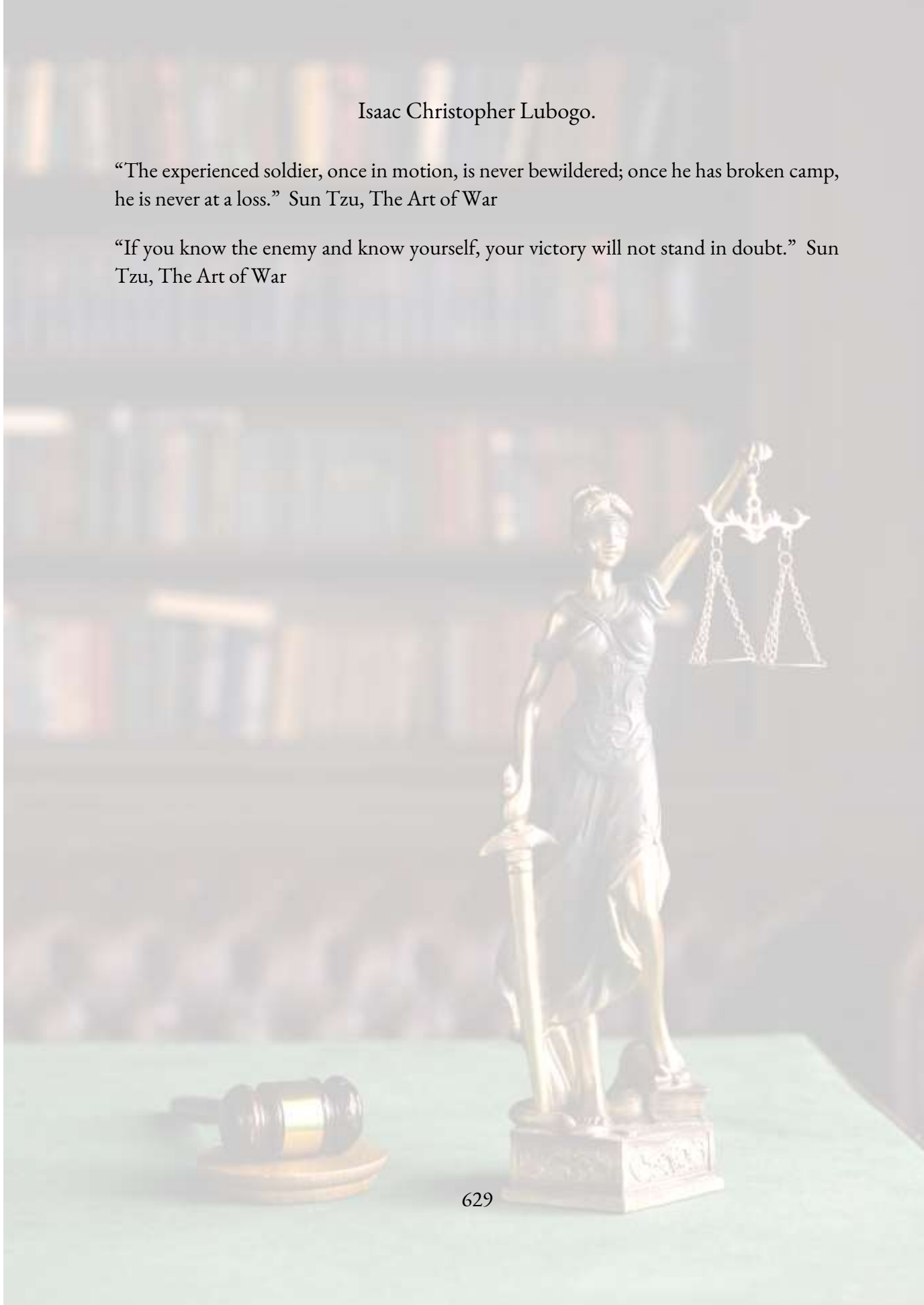
"If the enemy leaves a door open, you must rush in." Sun Tzu, The Art of War

"We cannot enter into alliances until we are acquainted with the designs of our neighbors." Sun Tzu, The Art of War

Isaac Christopher Lubogo.

"The experienced soldier, once in motion, is never bewildered; once he has broken camp, he is never at a loss." Sun Tzu, The Art of War

"If you know the enemy and know yourself, your victory will not stand in doubt." Sun Tzu, The Art of War



Quotes on war and leadership

It is clear throughout The Art of War that victory is explicitly related to the strength of an army's leader. Sun Tzu's advice for generals and commanders applies to many kinds of leaders.

"The general who wins a battle makes many calculations in his temple ere the battle is fought. The general who loses a battle makes but few calculations beforehand." Sun Tzu, The Art of War

"The general who is skilled in defense hides in the most secret recesses of the earth; he who is skilled in attack flashes forth from the topmost heights of heaven." Sun Tzu, The Art of War

"The consummate leader cultivates the moral law, and strictly adheres to method and discipline; thus it is in his power to control success." Sun Tzu, The Art of War

"Simulated disorder postulates perfect discipline; simulated fear postulates courage; simulated weakness postulates strength." Sun Tzu, The Art of War

"Whoever is first in the field and awaits the coming of the enemy, will be fresh for the fight; whoever is second in the field and has to hasten to battle will arrive exhausted." Sun Tzu, The Art of War

"The quality of decision is like the welltimed swoop of a falcon which enables it to strike and destroy its victim." Sun Tzu, The Art of War

"All men can see the tactics whereby I conquer, but what none can see is the strategy out of which victory is evolved." Sun Tzu, The Art of War

"Do not repeat the tactics which have gained you one victory, but let your methods be regulated by the infinite variety of circumstances." Sun Tzu, The Art of War

"He who can modify his tactics in relation to his opponent and thereby succeed in winning, may be called a heavenborn captain." Sun Tzu, The Art of War

"The difficulty of tactical maneuvering consists in turning the devious into the direct, and misfortune into gain." Sun Tzu, The Art of War

"Maneuvering with an army is advantageous; with an undisciplined multitude, most dangerous." Sun Tzu, The Art of War

"We are not fit to lead an army on the march unless we are familiar with the face of the country—its mountains and forests, its pitfalls and precipices, its marshes and swamps." Sun Tzu, The Art of War

"Move not unless you see an advantage; use not your troops unless there is something to be gained; fight not unless the position is critical." Sun Tzu, The Art of War

"No ruler should put troops into the field merely to gratify his own spleen; no general should fight a battle simply out of pique." Sun Tzu, The Art of War

"What enables the wise sovereign and the good general to strike and conquer, and achieve things beyond the reach of ordinary men, is foreknowledge." Sun Tzu, The Art of War

"When the general is weak and without authority; when his orders are not clear and distinct; when there are no fixed duties assigned to officers and men, and the ranks are formed in a slovenly haphazard manner, the result is utter disorganization." Sun Tzu, The Art of War

"If fighting is sure to result in victory, then you must fight, even though the ruler forbid it; if fighting will not result in victory, then you must not fight even at the ruler's bidding." Sun Tzu, The Art of War

"Regard your soldiers as your children, and they will follow you into the deepest valleys; look upon them as your own beloved sons, and they will stand by you even unto death." Sun Tzu, The Art of War

"The general who advances without coveting fame and retreats without fearing disgrace, whose only thought is to protect his country and do good service for his sovereign, is the jewel of the kingdom." Sun Tzu, The Art of War

"A leader leads by example not by force." Sun Tzu, The Art of War

Quotes on war and strategy

Just like Sun Tzu's ideas about leadership, his strategic counsel can still be used in the 21st century. Whether you are creating a business strategy or devising steps to pursue a personal goal, these quotes from The Art of War may offer some valuable insights and guidance.

"Hold out baits to entice the enemy. Feign disorder, and crush him." Sun Tzu, The Art of War

"If equally matched, we can offer battle; if slightly inferior in numbers, we can avoid the enemy; if quite unequal in every way, we can flee from him." Sun Tzu, The Art of War

"Thus it is that in war the victorious strategist only seeks battle after the victory has been won, whereas he who is destined to defeat first fights and afterwards looks for victory." Sun Tzu, The Art of War

"The control of a large force is the same principle as the control of a few men: it is merely a question of dividing up their numbers." Sun Tzu, The Art of War

"The clever combatant looks to the effect of combined energy, and does not require too much from individuals." Sun Tzu, The Art of War

"You can be sure of succeeding in your attacks if you only attack places which are undefended." Sun Tzu, The Art of War

"O divine art of subtlety and secrecy! Through you we learn to be invisible, through you inaudible; and hence we can hold the enemy's fate in our hands." Sun Tzu, The Art of War

"Numerical weakness comes from having to prepare against possible attacks; numerical strength, from compelling our adversary to make these preparations against us." Sun Tzu, The Art of War

"Knowing the place and the time of the coming battle, we may concentrate from the greatest distances in order to fight." Sun Tzu, The Art of War

"In making tactical dispositions, the highest pitch you can attain is to conceal them." Sun Tzu, The Art of War

"Carefully compare the opposing army with your own, so that you may know where strength is superabundant and where it is deficient." Sun Tzu, The Art of War

"To take a long and circuitous route, after enticing the enemy out of the way, and though starting after him, to contrive to reach the goal before him, shows knowledge of the artifice of deviation." Sun Tzu, The Art of War

"Let your rapidity be that of the wind, your compactness that of the forest." Sun Tzu, The Art of War

"In raiding and plundering be like fire, in immovability like a mountain." Sun Tzu, The Art of War

"Place your army in deadly peril, and it will survive; plunge it into desperate straits, and it will come off in safety." Sun Tzu, The Art of War

"Forestall your opponent by seizing what he holds dear, and subtly contrive to time his arrival on the ground." Sun Tzu, The Art of War

"Walk in the path defined by rule, and accommodate yourself to the enemy until you can fight a decisive battle." Sun Tzu, The Art of War

"At first, then, exhibit the coyness of a maiden, until the enemy gives you an opening; afterwards emulate the rapidity of a running hare, and it will be too late for the enemy to oppose you." Sun Tzu, The Art of War

"If it is to your advantage, make a forward move; if not, stay where you are." Sun Tzu, The Art of War

"If you know the enemy and know yourself, your victory will not stand in doubt; if you know Heaven and know Earth, you may make your victory complete." Sun Tzu, The Art of War

"Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt." Sun Tzu, The Art of War

How to use wisdom to 'know your enemy'—here are the 75 best sun tzu quotes

"He will win who knows when to fight and when not to fight."

"In the midst of chaos, there is also opportunity."

"Victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win."

"If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle."

"The greatest victory is that which requires no battle."

"Quickness is the essence of the war."

"Even the finest sword plunged into salt water will eventually rust."

"The art of war is of vital importance to the State. It is a matter of life and death, a road either to safety or to ruin. Hence it is a subject of inquiry which can on no account be neglected."

"There is no instance of a nation benefiting from prolonged warfare."

"There are not more than five musical notes, yet the combinations of these five give rise to more melodies than can ever be heard. There are not more than five primary colours, yet in combination they produce more hues than can ever been seen. There are not more than five cardinal tastes, yet combinations of them yield more flavours than can ever be tasted."

"Who wishes to fight must first count the cost."

"You have to believe in yourself."

"Build your opponent a golden bridge to retreat across."

"One may know how to conquer without being able to do it."

"What the ancients called a clever fighter is one who not only wins, but excels in winning with ease."

"The wise warrior avoids the battle."

"The whole secret lies in confusing the enemy, so that he cannot fathom our real intent."

"One mark of a great soldier is that he fight on his own terms or fights not at all."

"If the mind is willing, the flesh could go on and on without many things."

"He who is prudent and lies in wait for an enemy who is not, will be victorious."

"Anger may in time change to gladness; vexation may be succeeded by content. But a kingdom that has once been destroyed can never come again into being; nor can the dead ever be brought back to life."

"There are roads which must not be followed, armies which must not be attacked, towns which must not be besieged, positions which must not be contested, commands of the sovereign which must not be obeyed."

"Attack is the secret of defense; defense is the planning of an attack."

"Great results can be achieved with small forces."

"Opportunities multiply as they are seized."

"If quick, I survive. If not quick, I am lost. This is death."

"To secure ourselves against defeat lies in our own hands, but the opportunity of defeating the enemy is provided by the enemy himself."

"Bravery without forethought, causes a man to fight blindly and desperately like a mad bull. Such an opponent, must not be encountered with brute force, but may be lured into an ambush and slain."

"Wheels of justice grind slow but grind fine."

"Never venture, never win!"

"The skillful tactician may be likened to the shuaijan. Now the shuaijan is a snake that is found in the Ch'ang mountains. Strike at its head, and you will be attacked by its tail; strike at its tail, and you will be attacked by its head; strike at its middle, and you will be attacked by head and tail both."

"It is easy to love your friend, but sometimes the hardest lesson to learn is to love your enemy."

"Be where your enemy is not."

"Who does not know the evils of war cannot appreciate its benefits."

"In battle, there are not more than two methods of attackthe direct and the indirect; yet these two in combination give rise to an endless series of maneuvers."

(scroll to keep reading)

"Plan for what it is difficult while it is easy, do what is great while it is small."

"The opportunity of defeating the enemy is provided by the enemy himself."

"Foreknowledge cannot be gotten from ghosts and spirits, cannot be had by analogy, cannot be found out by calculation. It must be obtained from people, people who know the conditions of the enemy."

"If you fight with all your might, there is a chance of life; where as death is certain if you cling to your corner."

"Do not swallow bait offered by the enemy. Do not interfere with an army that is returning home."

Sun Tzu Leadership Quotes

"We cannot enter into alliances until we are acquainted with the designs of our neighbors."

"When the outlook is bright, bring it before their eyes; but tell them nothing when the situation is gloomy."

"The worst calamities that befall an army arise from hesitation."

"If there is disturbance in the camp, the general's authority is weak."

"Hence that general is skillful in attack whose opponent does not know what to defend; and he is skillful in defense whose opponent does not know what to attack."

"Those skilled at making the enemy move do so by creating a situation to which he must conform; they entice him with something he is certain to take, and with lures of ostensible profit they await him in strength."

"Energy may be likened to the bending of a crossbow; decision, to the releasing of a trigger."

"When your army has crossed the border, you should burn your boats and bridges, in order to make it clear to everybody that you have no hankering after home."

"There are five dangerous faults which may affect a general: (1) Recklessness, which leads to destruction; (2) cowardice, which leads to capture; (3) a hasty temper, which can be provoked by insults; (4) a delicacy of honor which is sensitive to shame; (5) oversolicitude for his men, which exposes him to worry and trouble."

"Ponder and deliberate before you make a move."

"Rewards for good service should not be deferred a single day."

Begin by seizing something which your opponent holds dear; then he will be amenable to your will."

"If words of command are not clear and distinct, if orders are not thoroughly understood, then the general is to blame. But, if orders are clear and the soldiers nevertheless disobey, then it is the fault of their officers."

"If his forces are united, separate them."

“Move not unless you see an advantage; use not your troops unless there is something to be gained; fight not unless the position is critical.”

"The general who advances without coveting fame and retreats without fearing disgrace, whose only thought is to protect his country and do good service for his sovereign, is the jewel of the kingdom.”

"It is only the enlightened ruler and the wise general who will use the highest intelligence of the army for the purposes of spying, and thereby they achieve great results.”

“If soldiers are punished before they have grown attached to you, they will not prove submissive;

and, unless submissive, then will be practically useless. If, when the soldiers have become attached

to you, punishments are not enforced, they will still be unless.”

"Convince your enemy that he will gain very little by attacking you; this will diminish his enthusiasm.”

"To fight and conquer in all our battles is not supreme excellence; supreme excellence consists in breaking the enemy's resistance without fighting."

"Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt.”

"All warfare is based on deception. Hence, when we are able to attack, we must seem unable; when using our forces, we must appear inactive; when we are near, we must make the enemy believe we are far away; when far away, we must make him believe we are near.”

"If your opponent is temperamental, seek to irritate him. Pretend to be weak, that he may grow arrogant. If he is taking his ease, give him no rest. If his forces are united, separate them. If sovereign and subject are in accord, put division between them. Attack him where he is unprepared, appear where you are not expected."

"To know your enemy, you must become your enemy.”

"Thus we may know that there are five essentials for victory: (1) He will win who knows when to fight and when not to fight; (2) he will win who knows how to handle both superior and inferior forces; (3) he will win whose army is animated by the same spirit throughout all its ranks; (4) he will win who, prepared himself, waits to take the enemy unprepared; (5) he will win who has military capacity and is not interfered with by the sovereign."

"Treat your men as you would your own beloved sons. And they will follow you into the deepest valley."

"When the enemy is relaxed, make them toil. When full, starve them. When settled, make them move."

"So in war, the way is to avoid what is strong, and strike at what is weak."

"To win one hundred victories in one hundred battles is not the acme of skill. To subdue the enemy without fighting is the acme of skill."

"Be extremely subtle even to the point of formlessness. Be extremely mysterious even to the point of soundlessness. Thereby you can be the director of the opponent's fate."

"Thus the expert in battle moves the enemy, and is not moved by him."

"Water shapes its course according to the nature of the ground over which it flows; the soldier works out his victory in relation to the foe whom he is facing."

"The supreme art of war is to subdue the enemy without fighting."

"Appear weak when you are strong, and strong when you are weak."

"When one treats people with benevolence, justice, and righteousness, and reposes confidence in them, the army will be united in mind and all will be happy to serve their leaders."

These The Art of War quotes show the brilliance of ancient military strategist Sun Tzu, which has not only informed thousands of years of warfare but also informs on success in life.

The Art of War is a 5thcentury BCE military treatise by Chinese strategist SunTzu. Considered to be one of the most influential writings in world history, it has been used by famed military strategists and leaders for thousands of years.

I picked it up at part of my Rory Gilmore reading challenge and because I kept hearing about it over and over. It's short, but absolutely jampacked full of information. Every sentence has meaning, and I could actually see this very short text being analyzed line by line over the course of an entire college course.

While there is so much open for debate and discussion about The Art of War, the main ideas I took from The Art of War were to be as prepared as possible for your enemy and to only attack after you are prepared on all fronts and know victory is certain. Preparedness involves everything from knowledge to resources to location to the ability to pivot. And for these reasons, The teachings of The Art of War can be applied to life as well.

I chose the following The Art of War quotes for their ability to highlight the most main points of the text as they apply to both warfare and to life. The Art of War quotes below are also shared in order of how they appear in the text, so as to serve as a summary or recap of sorts.

"The art of war is of vital importance to the State. It is a matter of life and death, a road either to safety or to ruin."

"The art of war, then, is governed by five constant factors, to be taken into account in one’s deliberations, when seeking to determine the conditions obtaining in the field. These are: (1) The Moral Law; (2) Heaven; (3) Earth; (4) The Commander; (5) Method and discipline."

"All warfare is based on deception."

"Hold out baits to entice the enemy. Feign disorder, and crush him."

"Attack him where he is unprepared, appear where you are not expected."

"Now the general who wins a battle makes many calculations in his temple ere the battle is fought. The general who loses a battle makes but few calculations beforehand."

"There is no instance of a country having benefited from prolonged warfare."

"The skillful soldier does not raise a second levy, neither are his supplywagons loaded more than twice."

"[A] wise general makes a point of foraging on the enemy. One cartload of the enemy's provisions is equivalent to twenty of one's own, and likewise a single picul of his provender is equivalent to twenty from one's own store."

"In war, then, let your great object be victory, not lengthy campaigns."

"In the practical art of war, the best thing of all is to take the enemy's country whole and intact; to shatter and destroy it is not so good."

"[T]o fight and conquer in all your battles is not supreme excellence; supreme excellence consists in breaking the enemy's resistance without fighting."

"There are three ways in which a ruler can bring misfortune upon his army: — (1) By commanding the army to advance or to retreat, being ignorant of the fact that it cannot obey. This is called hobbling the army. (2) By attempting to govern an army in the same way as he administers a kingdom, being ignorant of the conditions which obtain in an army. This causes restlessness in the soldier's minds. (3) By employing the officers of his army without discrimination, through ignorance of the military principle of adaptation to circumstances. This shakes the confidence of the soldiers."

"Thus, we may know that there are five essentials for victory: (1) He will win who knows when to fight and when not to fight. (2) He will win who knows how to handle both

superior and inferior forces. (3) He will win whose army is animated by the same spirit throughout all its ranks. (4) He will win who, prepared himself, waits to take

the enemy unprepared. (5) He will win who has military capacity and is not

interfered with by the sovereign."

"If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also

suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle."

"The good fighters of old first put themselves beyond the possibility of defeat, and then waited for an opportunity of defeating the enemy."

"[T]he skillful fighter puts himself into a position which makes defeat impossible, and does not miss the moment for defeating the enemy."

"Thus, it is that in war the victorious strategist only seeks battle after the victory has been won, whereas he who is destined to defeat first fights and afterwards looks for victory."

"In respect of military method, we have, firstly, Measurement; secondly, Estimation of quantity; thirdly, Calculation; fourthly, Balancing of chances; fifthly, Victory."

"In all fighting, the direct method may be used for joining battle, but indirect methods will be needed in order to secure victory."

"In battle, there are not more than two methods of attack—the direct and the indirect; yet these two in combination give rise to an endless series of maneuvers."

"Thus, the energy developed by good fighting men is as the momentum of a round stone rolled down a mountain thousands of feet in height."

"Whoever is first in the field and awaits the coming of the enemy, will be fresh for the fight; whoever is second in the field and has to hasten to battle will arrive exhausted."

"[T]hat general is skillful in attack whose opponent does not know what to defend; and he is skillful in defense whose opponent does not know what to attack."

"O divine art of subtlety and secrecy! Through you we learn to be invisible, through you inaudible; and hence we can hold the enemy's fate in our hands."

"You may advance and be absolutely irresistible, if you make for the enemy's weak points; you may retire and be safe from pursuit if your movements are more

rapid than those of the enemy."

"By discovering the enemy's dispositions and remaining invisible ourselves, we can keep our forces concentrated, while the enemy's must be divided."

"Numerical weakness comes from having to prepare against possible attacks; numerical strength, from compelling our adversary to make these preparations against us."

"In making tactical dispositions, the highest pitch you can attain is to conceal them; conceal your dispositions, and you will be safe from the prying of the subtlest spies, from the machinations of the wisest brains."

"Do not repeat the tactics which have gained you one victory, but let your methods be regulated by the infinite variety of circumstances."

"So, in war, the way is to avoid what is strong and to strike at what is weak."

"[J]ust as water retains no constant shape, so in warfare there are no constant conditions."

"Maneuvering with an army is advantageous; with an undisciplined multitude, most dangerous."

"We are not fit to lead an army on the march unless we are familiar with the face of the country—its mountains and forests, its pitfalls and precipices, its marshes and swamps."

"Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt."

"Ponder and deliberate before you make a move."

"He will conquer who has learnt the artifice of deviation. Such is the art of maneuvering."

"In nightfighting, then, make much use of signalfires and drums, and in fighting by day, of flags and banners, as a means of influencing the ears and eyes of your army."

"It is a military axiom not to advance uphill against the enemy, nor to oppose him when he comes downhill."

"[I]n the wise leader's plans, considerations of advantage and of disadvantage will be blended together."

"The art of war teaches us to rely not on the likelihood of the enemy's not coming, but on our own readiness to receive him; not on the chance of his not attacking, but rather on the fact that we have made our position unassailable."

"There are five dangerous faults which may affect a general: (1) Recklessness, which leads to destruction; (2) cowardice, which leads to capture; (3) a hasty temper, which can be provoked by insults; (4) a delicacy of honor which is sensitive to shame;

(5) oversolicitude for his men, which exposes him to worry and trouble."

"All armies prefer high ground to low and sunny places to dark."

"While we keep away from such places, we should get the enemy to approach them; while we face them, we should let the enemy have them on his rear."

"Peace proposals unaccompanied by a sworn covenant indicate a plot."

"He who exercises no forethought but makes light of his opponents is sure to be captured by them."

"Therefore, soldiers must be treated in the first instance with humanity, but kept under control by means of iron discipline. This is a certain road to victory."

"We may distinguish six kinds of terrain, to wit: (1) Accessible ground; (2) entangling ground; (3) temporizing ground; (4) narrow passes; (5) precipitous heights; (6) positions at a great distance from the enemy."

"Now an army is exposed to six several calamities, not arising from natural causes, but from faults for which the general is responsible. These are: (1) Flight; (2) insubordination; (3) collapse; (4) ruin; (5) disorganization; (6) rout."

"If fighting is sure to result in victory, then you must fight, even though the ruler forbid it; if fighting will not result in victory, then you must not fight even at the ruler's bidding."

"Regard your soldiers as your children, and they will follow you into the deepest valleys; look upon them as your own beloved sons, and they will stand by you

even unto death."

"If you know the enemy and know yourself, your victory will not stand in doubt; if

you know Heaven and know Earth, you may make your victory complete."

"The art of war recognizes nine varieties of ground: (1) Dispersive ground; (2) facile ground; (3) contentious ground; (4) open ground; (5) ground of intersecting highways;

(6) serious ground; (7) difficult ground; (8) hemmedin ground; (9) desperate ground."

"Rapidity is the essence of war: take advantage of the enemy's unreadiness, make your way by unexpected routes, and attack unguarded spots."

"The following are the principles to be observed by an invading force: The further you penetrate into a country, the greater will be the solidarity of your troops, and thus the defenders will not prevail against you."

"Throw your soldiers into positions whence there is no escape, and they will prefer death to flight. If they will face death, there is nothing they may not achieve."

"The principle on which to manage an army is to set up one standard of courage which all must reach."

"How to make the best of both strong and weak—that is a question involving the proper use of ground."

"By shifting his camp and taking circuitous routes, he prevents the enemy from anticipating his purpose."

"When invading hostile territory, the general principle is, that penetrating deeply brings cohesion; penetrating but a short way means dispersion."

"For it is precisely when a force has fallen into harm's way that is capable of striking a blow for victory."

"Success in warfare is gained by carefully accommodating ourselves to the enemy's purpose."

"There are five ways of attacking with fire. The first is to burn soldiers in their camp; the second is to burn stores; the third is to burn baggage trains; the fourth is to burn arsenals and magazines; the fifth is to hurl dropping fire amongst the enemy."

"In attacking with fire, one should be prepared to meet five possible developments: (1) When fire breaks out inside to enemy's camp, respond at once with an attack from without. (2) If there is an outbreak of fire, but the enemy's soldiers remain quiet, bide your time and do not attack. (3) When the force of the flames has reached its

height, follow it up with an attack, if that is practicable; if not, stay where you are. (4) If it is possible to make an assault with fire from without, do not wait for it to break out within, but deliver your attack at a favorable moment. (5) When you start a fire, be to windward of it. Do not attack from the leeward."

"By means of water, an enemy may be intercepted, but not robbed of all his belongings."

"Move not unless you see an advantage; use not your troops unless there is something to be gained; fight not unless the position is critical."

"[W]hat enables the wise sovereign and the good general to strike and conquer, and achieve things beyond the reach of ordinary men, is foreknowledge.

"Knowledge of the enemy's dispositions can only be obtained from other men. Hence the use of spies, of whom there are five classes: (1) Local spies; (2) inward spies; (3) converted spies; (4) doomed spies; (5) surviving spies."

"When these five kinds of spy are all at work, none can discover the secret system. This is called 'divine manipulation of the threads.' It is the sovereign's most

precious faculty."

"Be subtle! be subtle! and use your spies for every kind of business."

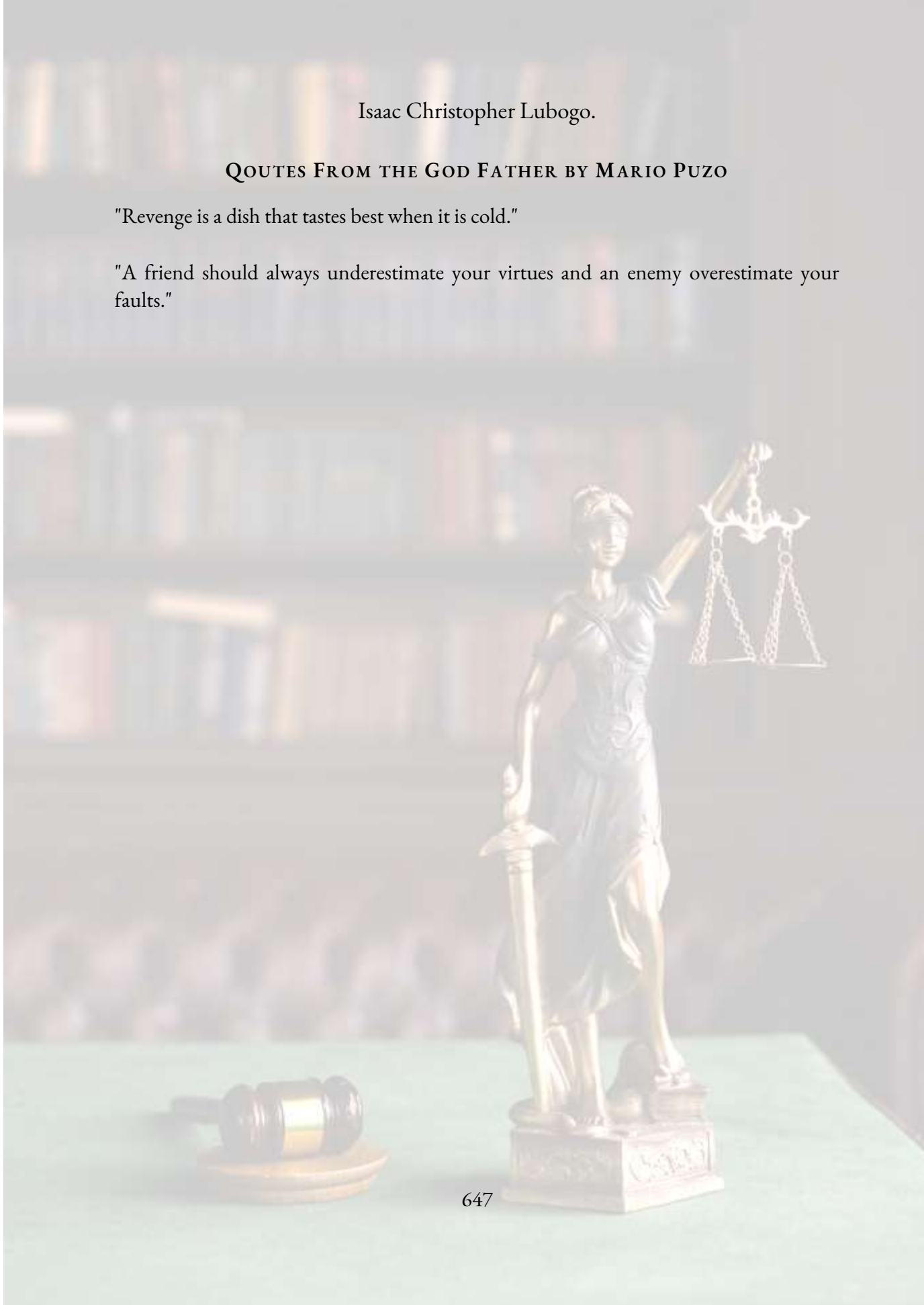
Released March 24, 1972, The Godfather turned 50 in 2022. It's long regarded the greatest film of all time. Sure, that's debatable, like just about anything. What really shouldn't be disputed is that the movie, based on Mario Puzo's beloved novel, gave us some of the most memorable lines ever delivered on the big screen

Isaac Christopher Lubogo.

Qoutes From the God Father by Mario Puzo

"Revenge is a dish that tastes best when it is cold."

"A friend should always underestimate your virtues and an enemy overestimate your faults."



The Fall of The Priests and The Rise of The Lawyers by Philip Wood

This fastpaced, inspiring and original work proposes that, if religions fade, then secular law provides a much more comprehensive moral regime to govern our lives. Backed by potent and haunting images, it argues that the rule of law is the one universal framework that everyone believes in and that the law is now the most important ideology we have for our survival.The author explores the decline of religions and the huge growth of law and makes predictions for the future of law and lawyers. The book maintains that even though societies may decide they can do without religions, they cannot do without law.The book helpfully summarises both the teachings of all the main religions and the central tenets of the law governing everything from human relationships to money, banks and corporations. It shows that, without these legal constructs, some of them arcane, our societies would grind to a halt. These innovative summaries make complex ideas seem simple and provide the keys to understanding both the law and religion globally. The book will appeal to both lawyers and the general reader.The book concludes with the author's personal code for a modern way of living to promote the survival of humankind into the future.Vividly written by one of the most important lawyers of our generation, this magisterial and exciting work offers a powerful vision of the role of law in centuries to come and its impact on how we stay alive.

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ISAAC CHRISTOPHER LUBOGO

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