

Nervousness

“A degree of nervousness or performance anxiety is natural” - Professor George Hampel QC

The impact of nervousness or performance anxiety on an advocate is not a topic I have seen addressed in the textbooks on advocacy. That is surprising because it is a condition that affects the great majority of us at some stage of our careers and often at many stages of our careers. It may be suffered when you are starting out and you appear before the Registrar of the Small Claims Court for a mention for the first time. It may occur when you undertake your first serious trial in the Court of Summary Jurisdiction or when you conduct your first jury trial or when you appear for the first time before the Court of Appeal. In my experience, it attacks on every occasion that you appear before the High Court.

Some degree of nervousness, or at least heightened awareness, is probably a good sign when you are appearing in a matter of importance. If you are totally relaxed it may be that you do not have a full appreciation of the importance of the occasion.

A feeling of nervousness or apprehension may mean that you are more alive to all that is going on and that you are able to recognise and deal with problems that others may not see. However a concern arises where you are so affected by an attack of nerves that you do not properly present your case. For example if, through nervousness, you suffer a mental block or you are so anxious to resume your seat that you fail to deal with an issue. Nervousness may impact in many ways.

There is no magic cure for nervousness although there are ways in which you can address it to ensure that it does not have a negative impact upon your presentation of your client's case or the outcome for your client.

The more comfortable you are with your surroundings the less likely it is you will feel an overwhelming sense of nervousness. If you consider yourself prone to nervousness then you may wish to attend the venue at which you are to appear well in advance of the

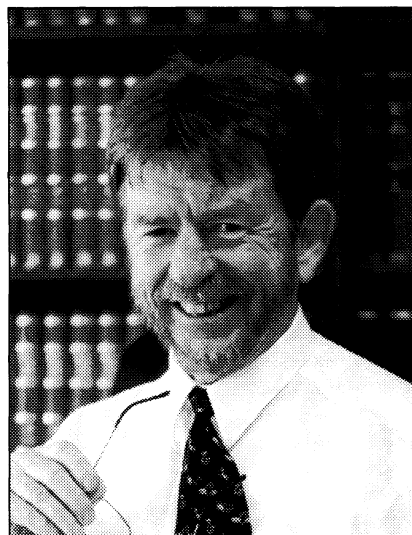
appearance in order to familiarise yourself with the layout. Whilst you are there you may be assisted by taking time to watch others prepare and present their cases to ensure that you are familiar with the way in which matters are handled in that court or tribunal. The greater the familiarity you have with your environment the less likely you are to be affected by nerves.

You may find it comforting to know that many, and probably the great majority, of your colleagues including those senior to you suffer and have suffered the same feelings as you are suffering. A recognition that this is not an uncommon experience but rather is closer to the norm will allow you to become accepting of how you feel.

Along with the need to be familiar with your surroundings is, at least for some, a need to ensure that you look the part. If you are self-conscious because of your failure to wear appropriate clothes or if you fail to ensure that your appearance is up to scratch then you will have one further matter occupying your mind. You should ensure that you are dressed appropriately for the occasion.

Of course the greatest comfort that you can achieve is to ensure that you are adequately prepared both in fact and in law for the appearance you are about to undertake. If you have conducted a thorough preparation of the case and you have the facts and the law at your fingertips then, after a very short time, you will find that your initial feelings of nervousness disappear as you concentrate on the presentation of the case. On the other hand, if you feel that your preparation has been lacking and that you may be confronted with problems to which you do not know the answer, then that will be playing upon your mind as you present your argument.

Part of your preparation should involve ensuring that when you attend court you have with you all of the materials upon which you intend to rely. Those materials should be organised in a



Hon Justice Riley

way that permits you to lay your hands on appropriate items at a moment's notice and with a minimum of fuss.

If you are prone to nervousness, as a part of your preparation you may want to keep notes of the facts, the law and the issues likely to arise and how you propose to address them. Those notes should be as detailed as your circumstances demand. Once prepared the notes should be put to one side and not used unless and until you suffer a mental blank or feel that you need a prompt of some kind. The notes can act as a kind of security blanket for you as you present your case. You may not need them, indeed you are unlikely to need them, but you know that they are there in the event that problems arise. If a problem does arise, you may refer to your notes to refresh your memory. You should resist the temptation to read at length from the notes.

In the event of nervousness occurring, it may help to concentrate on slowing down your presentation and following with care the case strategy that you have developed before entering the court. In this way you are less likely to be thrown off your stride by a question from the Bench or an unexpected development of any kind. Once you get into the argument you will find that your attention becomes focused and that thoughts of nervousness disappear as the whole of your attention is subsumed by the proceedings. ①