


Balfour, who cared not at all for the abusive manner of Churchill's father, Lord Randolph, at the despatch box, described him as having 'the manners of a pirate and the courage of a governor'.

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In an informal age of facile chumminess (Howzit, comrade!) and bogus bonhomie ('Have a good day') it is heartening to recall that even when hanging over an abyss brave men could be relied upon to observe the formalities. When the distinguished Everest mountaineer, Eric

Shipton, after years of expeditionary climbing with his great partner H W Tilman, asked whether, given everything, they might call each other Bill and Eric instead of Mr Shipton and Mr Tilman, Tilman said that he was willing, except that it sounded 'so damn silly'. 

First world conference on advocacy

Report by E Bertelsmann SC on the conference which was held at the Inns of Court School of Law from 29 June to 3 July 1998.

Civil procedure: changes

The conference was opened by the Lord Chancellor, Lord Bingham who elaborated upon some very controversial changes he is about to make to the rules relating to civil procedure in the High Court of England and Wales. These include:

- The introduction of a fast-track system for all claims under £15 000,00 in terms of which the trial will have to be concluded in one day unless the judge allows an extended hearing. Such approval must be given *a priori* and will be granted only in exceptional cases.
- Expert witnesses will only in exceptional circumstances be allowed to give oral evidence and be cross-examined. In future, experts' evidence will, as a rule, be presented in writing, even in those cases in which the experts do not agree.
- The right of audience will be extended to solicitors in all courts in which this does not yet exist.
- Consideration is being given to allow advocates who have not been able to find residence in established chambers, to practise independently and to appear in all courts.
- The right to represent litigants may, in at least some courts, be extended to unqualified laymen.
- The Lord Chancellor emphasised the need for a speedy conclusion of civil

litigation and will introduce pre-trial procedures very reminiscent of the South African rule 37 process.

Practice of advocacy

A wide variety of subjects which impact upon the practice of advocacy was discussed. Some aspects which deserve to be specifically mentioned include:

- Effective consultation and communication with the client, particularly across cultural, language and class barriers. Professor Cunningham of the United States of America presented a fascinating video demonstration of consultations actually conducted with an awaiting-trial prisoner by his counsel, which highlighted the misunderstandings which may arise.
- Techniques of persuasion, particularly in relation to cross-cultural contacts in trial situations. A Japanese participant illustrated how aggressive attempts to persuade the tribunal or the opponent may be counterproductive in some societies, particularly the Japanese, and he illuminated alternatives to the accusatory approach.
- Challenges to ethical rules. Among these, the role of the public prosecutor and the cab-rank rule were critically examined. It would appear that the cab-rank rule is being eroded in the United Kingdom to such an extent that it may well be abandoned.
- This in turn will lead to further pressure to fuse the professions. The question of the continued existence of the independent Bar was touched upon in this context.
- Considerable time was devoted to the examining of transnational and transborder practice which is becoming

an ever-increasing phenomenon. The languages of communication, information technology and multinational firms were discussed. An interesting contribution sketched the present debates and negotiations conducted with the purpose of introducing an European Union Court of Criminal Justice.

- A full day was devoted to international commercial arbitration. Again, issues of language, interpretation, translation and cross-cultural sensitivities came to the fore, together with matters such as choice of law, composition of the tribunal, choice of arbitration rules and the need to understand the nuances of practice in various jurisdictions.
- Time was devoted to the communication between tribunal and advocate, the various modes of transmitting the 'message' and the advantages or otherwise of previous acquaintance of the presiding judge.
- Effective training of young barristers and continued legal education, legal writing and, in particular, effective written argument was dealt with against the above backdrop.

During the concluding plenary session the participants were agreed that the shrinking globe required of the effective advocate an ever-increasing need to master more than one language. Translation during trials and the quality and reliability of interpreters and their services upon whom tribunal and practitioner are often completely dependent, will have to be given much more intensive attention in future. This subject will be central to the next conference, which may be held in South Africa. 