

# How to Teach Courtroom Examination Techniques

WHAT IS THE value of a good war story? Experienced lawyers love to tell them, after work hours, with a glass of beer. Young lawyers love to listen to them. Or do they?

In the English system of legal training, barristers had to attend dinners at their Inn of Court to qualify for the bar. This medieval tradition arose in the seventeenth century or earlier and was scrapped only recently. In effect, this practice institutionalized the tradition of war stories. Is that all there is to learning the tricks of the litigation trade? The fact is that two components are essential to succeed in any trade: technique and practice, and neither of these components can be taught by war stories. That wonderful question counsel used to elicit just the right answer at just the right moment? That will never recur. If it does, the young litigator will recognize the opportunity only after having missed it.

This is the seventh handbook in the Young Advocates Series. It deals with the rough and tumble of examinations that occur during civil trials, both direct and cross. This handbook, indeed the entire Young Advocates Series, provides practical techniques for the novice litigator.

For those counsel with more experience, it may offer alternatives to practices developed over years. Generally speaking, litigators can use the techniques in cases involving both trial court and administrative tribunal disputes. Granted, the practices of a particular courtroom or administrative tribunal may differ from one to the next. Nevertheless, the techniques discussed in this handbook are universal in their application. They arise from a commonsense approach to how people present and absorb information.

Junior litigators need several skills to work effectively, one of which is the ability to examine witnesses. This skill does not exist in a vacuum, in isolation — quite the contrary. Before they open their mouths, litigators should know what they want to say and why they want to say it. This involves case analysis. The reader is referred to *Case Analysis* in this series.

With the emergence of alternative dispute resolution (ADR) and with the increase in the cost of trials, junior litigators rarely get the chance to practise the skills they acquire (or should acquire) in law school. How do they acquire the real-time skills necessary for their trade except from experience? Often, from bitter experience. This handbook provides some of the answers to questions that junior litigators should ask. If readers can learn a tip or two from each chapter, then this will be a huge advance in their professional development.