

# SHOWTIME

Courtroom or Theatre; “It’s the *Performance*, Stupid”

*By Dermot P. Nolan*

If you have ever worshipped at Canada’s great Cathedral of *Theatre*, you will recognize the moment.

Listen . . . There . . . The thud of a distant cannon . . . There . . . the knell of a muffled bell. The shuffling of programs abates. The chatter fades. Hearts quicken. And the audience seems to inhale all at once. For one breathless moment there is only silence . . . Mystery . . . Anticipation. It’s *Showtime*.

This is how the Stratford Shakespearean Festival Theatre experience begins.

And, if you have ever worshipped at Canada’s great Cathedral of *Justice*, you will recognize a similar moment.

There is no distant cannon. But there is a muffled bell. The shuffling of papers abates. The chatter fades. Hearts quicken and the audience inhales. For this breathless moment too, there is only silence . . . Mystery . . . Anticipation. It’s *Showtime*.

This is how the Supreme Court of Canada experience begins.

At Stratford the lights come up on the actors. They are wearing costumes. The pageant unfolds and, in Shakespeare's words, they "*hold the mirror up to nature*".

In Ottawa, the great doors open on the actors. They too are wearing costumes. And their pageant also unfolds. The script is different . . . but here too, they hold the mirror up to nature.

The Supreme Theatre. The Supreme Court. Can there be any doubt that these two are blood relatives?

And, in lesser theatres and lower courts across the land, it's the same story. The pageant unfolds and the mirror is held up to nature.

It seems almost trite to acknowledge the relationship between the courtroom and the stage. Many of the similarities are obvious and the differences self-evident.

But, as in most relationships, there is more there than meets the eye. There are layers upon layers of subtlety and nuance which, upon closer examination, reveal a profound and complex nexus, a better awareness and understanding of which can *dramatically*, (if you'll pardon the expression), improve the quality and reputation of our courts and our justice system. Critical to that awareness is the understanding that, to paraphrase James Cargill, "it's the *performance*, stupid!"

Almost 40 years ago I faced a career decision - I expect that many others have confronted the same choice - the courtroom or the stage. I chose the courtroom; but my heart remained with the stage. A love triangle. Not a happy way to start the marriage.

But as it turned out, this is a love story where it is possible to have your cake and eat it - a marriage that allows *both* a wife and a mistress. That's because the courtroom *is* in fact a stage. And because of an invention which became known in the industry as "*The Lawyers' Show*". More about the latter later.

I must confess that, in my early years, the notion that the courtroom was a stage was not readily apparent. I was amused when people would comment on how my theatre background would undoubtedly help me in the courtroom. From what I saw, exactly the opposite seemed to be true.

It seemed to me that *robotics* always trumped *dramatics*. The courtroom culture seemed to celebrate the droning monotone - passion and *dramatics* were frowned upon; the more comatose the performance, the more credibility it was given.

What was worse was that no-one seemed to understand the importance of *performing* at all. Some of those courtrooms seemed to be more like *barnyards* than theatres. And the patrons left the building despairing of justice and disrespecting the process. For them the show had been a very bad circus, not a pageant of justice.

Looking back on it, I suspect that my naive perception in those early years may have been somewhat unfair. I also suspect that the culture of the courtroom has changed for the better in the intervening years. To the extent that that is true, it is in large measure because we have come to better understand and value the importance of *performance* on the courtroom stage.

It is also the result of what I call the *Gretzky Rule*: *the best always make it look easy*. In theatre, the best actors don't appear to be acting at all.

The same rule applies in the courtroom. The best performers use all the techniques of good theatre. They do it with such subtlety and skill it is almost invisible. They understand cadence and timing and rhythm. They use body language and presence and projection. They know how to read their audience and pick up their cues. They are always in character. They understand that *the play's the thing* and there are no small parts; only small actors.

Imagine two seasoned veterans: one of the stage, the other of the courtroom, sitting their respective protégées down for a lesson in their crafts. Wouldn't Hamlet's advice to the players be on the mark for both of them?

*“Speak the speech I pray you as I pronounced it to you, trippingly on the tongue: but if you mouth it as many of our players do, I had as lief the town crier spoke my lines. Nor do not saw the air too much with your hands thus, but use all gently. For in the very torrent, tempest, and as I may say, whirlwind of your passion, you must acquire and beget a temperance that may give it smoothness . .*

*Be not too tame neither, but let your own discretion be your tutor. Suit the action to the word, the word to the action, with this special observance, that you o'erstep not the modesty of nature. For anything so o'erdone is from the purpose of playing, whose end both at the first, and last, was, and is, to hold as 'twere the mirror up to nature; to show virtue her own feature, scorn her own image and the very age and body of the time his form and pressure. Now this overdone, or come tardy off, though it makes the unskillful laugh, cannot but make the judicious grieve; the censure of the which one must in your allowance o'erweigh a whole theatre of others."*

Have you ever thought about why, when we introduce ourselves in court we announce that we “act” on behalf of one party or another . . . or why the court sometimes asks us whom we *act* for? There are some counsel who think that’s because they consider themselves *action heroes*. However, I suspect that the real aetiology of the term has more to do with lawyers as *actors* rather than heroes.

The best actors - in a theatre or a courtroom - understand that it’s about the show and that the twin pillars of a successful show are *preparation* and *performance*.

And, if they don’t pay attention to both, they’ll hear about it from the critics; For actors in the theatre, it’s the reviewers; For actors in the courtroom, it’s the judge or jury - or if *their*

performance bombs - the appeal courts.

And when the show is over in either venue, how the people feel when they leave the building constitutes the ultimate review. In both cases, on one level it's about content; on another level it's about the performance.

In theatre, the first level is determined by the script; the second level is the quality of the show. In the courtroom the first level depends on the outcome - and, as in the theatre, the second level is the quality of the show.

If the actors in the courtroom - the judges, the lawyers - even the court staff - have remembered the importance of the *performance*, those leaving the courtroom - *regardless of how they feel about the outcome* - will feel good about the show.

The name of that show is *Justice*.

In that show, bad actors are not welcome. You know their names; Rudeness. Arrogance. Insensitivity. Loquacity. Disrespect. Impatience.

You also know the stars of the show: Courtesy. Humanity. Clarity. Sensitivity. Brevity. Creativity. Respect.

It is no accident that one of the most venerable notions in our system is that "justice must

not only be done; it must be *seen* to be done”.

For all the best shows, it begins backstage. The secret to success on either stage can be summarized in three words. *Preparation. Preparation. Preparation.*

And it helps to know what to leave backstage and what to take on stage. I remember, as a young actor at Stratford, being amazed at how some of the greatest actors in the world could one minute be chattering in the backstage darkness about the previous night’s hockey game and in the next instant they would step into the light and *become* . . . Falstaff - or King Richard III!

I have seen the same backstage - on stage contrast in the trip from the robing room to the courtroom; bantering friends one minute - fierce adversaries the next. Shakespeare captured that dynamic when he has Tranio, (in *Taming of the Shrew*), suggest to his friends that they “. . . *do as adversaries do at law, strive mightily but eat and drink as friends*”.

Our judges can be the most crucial actors in the production of a good show in the courtroom. After all, they direct the show, set the tone and, for the most part, occupy centre stage. If they don’t understand the importance of performance, the show will surely fail. When the costumes are on and the big doors open, the best of them understand that “it’s Showtime” . . . and judgitis doesn’t play well at all.

If it’s done right. Showtime in the courtroom - whatever the outcome - will send the audience home with respect for the process, confidence in its quality, belief in its integrity and

the knowledge that the mirror was fully and fairly held up by the actors there - and that it reflected reality and truth.

But for some lawyers, the courtroom stage is not enough. The theatre still beckons. Almost 25 years ago, two Hamilton lawyers, Randy Mazza and Jeff Manishen, (one now Superior Court Justice and the other one of Ontario's leading criminal lawyers), were reminiscing over a couple of beers about their good times in theatre before they embarked on their careers in law. They were talking about the things we're talking about today. They figured there must be other lawyers with the same hankering they had - to act in the theatre.

They sketched out their plan on a serviette. They would get the Hamilton Lawyers' Club to mount a production of the American jury classic, *12 Angry Men*. They knew the lawyers in town who would fit the personalities in that play. They cast the show then and there, corralled one of their colleagues, (now Superior Court Justice), Ray Harris, to direct the show, and the "*Lawyers' Show*" was born.

What resulted was, as far as we know, the first Lawyers' Show anywhere. It played to sold out houses at Hamilton Place and the proceeds made a hefty gift to a children's charity. Folks loved it. Something about seeing their lawyers on a real stage.

The idea caught on. The same play - or variations of it - was mounted by the local bars in Toronto, Ottawa, Winnipeg, New York City, London, Windsor and many other communities. Other shows followed and the Lawyers' Show became a significant fundraising vehicle for theatres and other causes across the country. The concept has become so popular that some



standard union contracts for stage hands and others now have special provisions written in for Lawyers' Shows.

The Hamilton Law Association has collaborated with Hamilton's Regional Professional Theatre, Theatre Aquarius, to produce other shows using Hamilton lawyers; *A Few Good Men* in 2001 and *To Kill a Mockingbird* in 2004. These were fully professional shows - only the actors were amateurs - all sellouts.

Hamilton's lawyer-actors are now in rehearsal for their next show, also directed by Justice Harris - *Inherit the Wind* - based on the famous Scopes monkey trial - (that evolution debate just won't go away). It opens April 27<sup>th</sup> at Theatre Aquarius in Hamilton. Tickets are available through the box office at 905-522-7529. You won't want to miss it.

So now you know. This *performance* has really been a *commercial*. Now back to our regular program . . .

March 10, 2006