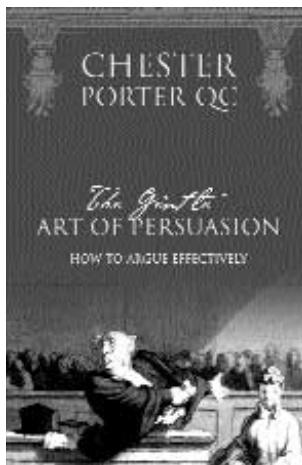


The Gentle Art of Persuasion: How to Argue Effectively

By Chester Porter QC, Random House, 2005



The only time I saw Chester Porter QC in action in court was during a special leave day in the High Court in Sydney. Porter's client had been found guilty of sexual assault. Porter began his argument by stating that the case was, 'one of the many of this type involving one person's word against another...but ...'. Having cleared the decks of that major impediment to his cause, Porter successfully, and in a few short and clear

sentences, obtained special leave on a day when getting to the full High Court seemed harder than finding ice in the Simpson Desert.

Porter's brief speech had obviously been carefully prepared, but was delivered with the mixture of humility, freshness and deadly aim many would be familiar with. Those qualities set him apart and, no doubt, justified his nickname 'The Smiling Funnel web', although rumour has it that a Perspex encased funnel web – a gift from a solicitor – sat on his chambers desk. What I saw that day was a fine example of what Porter calls the 'gentle' art of persuasion. The whole courtroom sat up and listened and Porter achieved his goal, it seemed, without any effort or bluster at all.

Advocates will find this a very useful book indeed. It is pitched at a more human and less technical level than many other advocacy texts. Some of the suggestions may seem obvious. For example: keeping language simple and clear. Yet it's always useful to be reminded to avoid calling a spade a 'handheld digging implement'. Many of the suggestions are very insightful and subtle:

- avoid the use of euphemisms, which are 'dangerous to use in serious efforts to persuade' and disliked by juries;

- play the trump card (if you have one) early in a speech or cross-examination lest it lose its force after negative material;
- after a victory ask yourself why you succeeded – don't reserve self-examination for failure alone;
- prepare the object and theme of a speech before writing it; and
- never talk down to a jury.

The book is not confined to advocacy. As the sub-title suggests, it considers the art of persuasion in the broader context of argument generally. Few could disagree with Porter's opening statements: 'Much of life is spent arguing ... Most arguments are futile, a waste of time ... Yet intelligent argument is often the only sensible way to advance our many causes, to spread knowledge and to achieve progress.' There are many tips that those who attend meetings or who are involved in business, politics and community organisations will find of value. The simple technique of allowing an opponent to talk herself out – 'to let the other party have his or her complete say' – obviously requires patience. But, as Porter points out this strategy is less likely to lead to confrontation and more likely to lead to persuasion because 'To persuade another, you must have regard to what he or she thinks.'

This being a book about argument, I cannot say that I agree with everything Porter writes. For example, his statement: 'One act of hatred leads to another, and this is especially so in many Green agitations for environmental causes. Confrontations, breaking the law and dangerous stunts usually only operate to swing public opinion against the cause advocated, and to strengthen the opposition.' The successful protests to save the Franklin River in the early nineteen-eighties and the more recent tree-sitting action in the Styx River Valley were not acts of hatred but involved aspects of civil disobedience that attracted wide public support and, ultimately, government support for the causes advocated. Still, it would be a dull book about argument if a reader agreed with everything in it.

Reviewed by Christopher O'Donnell