AN EXAMINATION OF STUPIDITY

By Dr. Edward Ryan and Mr. R. K. Todd

Delivered at a Meeting of the Medico-Legal Society held on 2nd October, 1976 at 8.30 pm at the Royal Australasian College of Surgeons, Spring Street, Melbourne. The Chairman of the Meeting was the President, the Hon. Mr. Justice Connor.

Dr. Edward Ryan: It is difficult to arrive at a precise and satisfactory definition of stupidity, although I think each of us knows very well how to recognize it. It certainly embraces dullness, slowness of comprehension, and a certain lack of sensitivity. But perhaps in its widest connotation it means a complete lack of appreciation of what is appropriate under certain circumstances. Thus the doctor tells the busy housewife with her varicose veins to rest up for a month, or the consumptive pensioner to take a protracted sea voyage to Honolulu, while the learned judge (conditions being what they are), is compelled to consign a wretched habitual pervert to years in a prison where there is really no hope of ultimate rehabilitation.

It would be of course rash to assail the united ranks of the law by imputing the possibility of stupidity, indeed sagacity and the laws are said by many to be synonymous. Nevertheless, I am sure at times judges in the privacy of their chambers must comment to their brothers that Counsel was unusually dull that day, and I know because I've heard it, that sharp-witted counsel not infrequently remarks over a convivial beer that on that afternoon His Honour was inordinately dense, asleep or deaf in both ears. In this context my favourite judge belongs to *Pickwick Papers*. You may recall, "he rolled in on his little turned legs and wrote something down with a pen without ink in it to impress the jury that he always thought most deeply with his eyes closed".

But enough of this frivolity, let me reflect upon medicine, that glorious ill-rewarded combination of science, culture, art and down right thick-headedness.

As stupidity implies dullness and insensitivity, I propose for a moment to discuss the doctors. It is indeed a most fruitful field. The first year is of course soon happily forgotten, although I will remember my father, then in his late seventies, being subject to recurrent nightmares that he had failed first year.

I suspect that the sordid struggle for honours and places in the middle years dulls one's senses to the stage of stupidity and water-logs

our adolescent brains. We soon become thick-headed and obtuse and may be seen daily in the wards thumping nervous old gentlemen in the chest or pinching with our icy fingers the flabbier and more vulnerable regions of old ladies' anatomies. Soon, I fear, overcramming with irrelevant facts proceeds to arrogance which blossoms into a sort of intellectual messianic pomposity. Thus, male patients become "pop" and females "mother" or if more appropriate "doll". Perhaps this is due largely to inexperience for there are few young professional men so sheltered as young doctors.

However, as time goes by and perhaps accelerated by shattering encounters with the stark tragedies of human suffering, many young men acquire humility and patience. For this we are grateful. But many of us just never learn and, despite distinctions of alphabetical complexity, we remain basically stupid. Thus the clinician as he towers over the derelict alcoholic muttering in his bed, "My man, do you play tennis, do you play a hard game?" This is of course designed to show the students how to inspire trust and confidence in the nervous patient. Yet, doubts as to his essential value never crease this type of consultant's brow. When asked if he should retire at 65, [we as a profession tend to become senile and hand in our chips somewhat earlier than our durable brothers at law] he is recorded as exclaiming, "Retire, what rubbish! Why there are three excellent reasons why I should continue. First, I am at the height of my physical dexterity. Second, my brain is clear and lucid more than ever. Third, well—er, good gracious it's just slipped my mind."

Senior clinicians are not always very bright, but if dullness and stupidity are to be equated they may not be stupid at all. I will recall one much loved honorary who, although he had long since forgotten doses, quantities and definitions, handed us such memorable advice as, "Men! Never get married till you've seen your intended wife's feet. If they're bad she'll plague you for the rest of your life". And again, "Never marry a girl with cold, wet hands, she's bound to be a hypochondriac". This "inappropriate" type of stupidity can of course be a source of lasting fun provided one's attitude is not patronizing. Thus, the prim spinster, "Doctor, the readers are satisfactory, but I cannot get any success with my street-walking glasses". "Doctor, your glasses ruined my honeymoon". "Doctor, I really am much better since taking your drops regularly in a little gin and water".

But I fear the present development of medicine is tending to produce remarkably stupid results.

With a sore throat we front up to the reception desk of a modern public hospital colossus. Instantly we are enmeshed in the medical assembly line, and after protracted notes are made of our ancestry,

relatives, clinical vicissitudes since birth and of course of our bank balance, we are examined for blood pressure, pulse, respiration, temperature, x-ray of the chest, skull, teeth, sinuses follow. Samples of all known body fluids are collected, often with considerable duress. Then, if the resident medical officer is having a slack time, a terrifying array of shining instruments is inserted into our most delicate cavities and other regions, the existence of which we had only suspected.

Finally, still robed in a vented sacrificial gown we are told, "Yes, my man, you have a sore throat". Penicillin injections are then given plus antitetanic serum and steroids, soporifics for sleep and a tranquillizer for anxiety and a pill to overcome the tranquillizer are then administered. What an exercise of stupidity! Mother would have put us to bed with an aspirin and a red flannel round the throat, and of course as always, mother knows best.

To move to the larger aspects of stupidity, I read tonight that cattle are being slaughtered in Gippsland, in Shepparton the fruit trees are being cut down and, in the cellars of South Australia red wine becomes an encumbrance. Yet children and old people here are under-nourished and not far from the shores of this "lucky country" starvation blights the lives of millions.

Do you recall Ralph Hodgson's lines?

"I saw in a vision,
The worm in the wheat,
And in the shops nothing,
For people to eat,
Nothing for sale in Stupidity Street."

This is the aspect of stupidity we must abolish. I suggest a sense of proportion plus some humour and sympathy will do wonders. Humour always deflates the obtuse and the pompous. "There's nothing worth the wear of winning, but laughter and the love of friends".

MR. R. K. TODD: I am left with an uncomfortable feeling that the secretaries, having settled upon the topic of stupidity, may have selected Dr. Ryan for its examination, and myself for its exemplification. In order to foil this devious plan, I propose to adopt one of the most hallowed traditions of speakers at meetings of the Society, that is immediately to distort if not abandon the title. I find the obvious *indicia* of stupidity quite uninteresting, if by that word there is intended to be conveyed lack of intelligence, mere dull wittedness. Such

stupidity is no more and no less than an example of every human being's failure to attain perfection. It is adequately described clinically by that great sage, Eeyore, the old grey donkey, addressing his friend Piglet:

> "and I said to myself: the others will be sorry if I'm getting myself all cold. They haven't got brains, any of them, only grey fluff that's blown into their heads by mistake, and they don't think, but if it goes on snowing for another six weeks or so, one of them will begin to say to himself: 'Eeyore can't be so very much too hot about three o'clock in the morning.' And then it will get about and they'll be sorry". (*The House at Pooh Corner,* by A. A. Milne, Methuen & Co. Ltd., London, 1928).

Or in *The Wizard of Id* when the dreary peasant with his plodding horse and hay cart is accosted by the Knight:

> "Pull over—we have speed limits here, you know". "I didn't know there was a speed limit on this road". "Ignorance of the law is no excuse!" "How about ignorance of everything?"

So much for the Grey Fluff Brigade. I am more concerned with "stupidity", or the adjective "stupid", in the sense in which it connotes "being in a state of stupor". With but a slight sense of struggle, then, stupor is my target. The state of stupor can be induced I suppose by illness, alcohol or some traumatic experience, but more often than not we can identify the self-induced stupor of those who ought to know better. Much ground, at a serious level, has of course been covered by Ronald Conway in his perceptive book *The Great Australian Stupor.* I would not wish to retrace his steps, but there are other ironies in the fire.

The really troublesome stupor is that of the closed mind, the mind that lives in a world of categories, labels and pigeonholes. Categorization and generalization are indeed panaceas for minds that would prefer to follow dogma or shibboleth rather than to make the effort involved in approaching each new situation on its merits. In *F.C. of T. v. James Flood Pty. Ltd.* (1953) 88 C.L.R. 492 at p. 504 the High Court said in a joint judgment:

> "However serviceable generalized conceptions may be in relieving overburdened assessors and tax accountants of the need of examining particular situations, all a court can decide is the case before it".

Let me turn then to some of the great stupors. Popular imagery would I suppose see the Public Service as one of the great repositories of stupor. The Public Service can perform terribly well and at times can move with speed and distinction, despite the fact that it seems to have a chronic inability to change gear. Speed is usually obtainable

only when a situation can be engineered in which the vehicle bearing a Public Service project is conceptually in motion, in top gear, when the operators board it. For my part, viewing it over the counter, the technical side of the creation of the administrative structure of Medibank was a case where the Public Service did so move with speed and distinction. No doubt there were hitches, most cheerfully identified by those who did not want it to work anyway, but it won friends amongst the public from beyond the political boundaries of its creators. Ms. Medibank should perhaps be judged by history in terms of the healthy bloom of her nubile youth, and not as she is seen now, cast out of her parents' house, undernourished and forlorn in the last difficult weeks of her pregnancy with that fatherless foetus, poor little Medibank Private. This purple passage was written a few weeks ago. The brat was born yesterday: A little sister for a whole stream of brawling brothers. No thanks to Dr. Scotton, Dr. Deeble, or anyone in the Labour Ward.

Still, much that is said of the Public Service must be true. The only entity of a Public Service type ever to have been truly accurately named must have been the British Forces' Canteen Organization, known by its initials as N.A.A.F.I. You may not know that those initials stand for "No Aim, Ambition or F---ing Interest". The Public Service does have a forbidding tendancy to involve itself in the stupid repetition of previously adopted formulae without regard for their appropriateness in new circumstances. Witness the condemnation of Menzies J. in *South Australian Railways Commissioners v. Egan* (1972-73), 130 C.L.R. 506 at p. 512:

> "This appeal is concerned with perhaps the most wordy, obscure and oppressive contract that I have come across. It is the standard form of contract which the South Australian Railways Commissioner requires those executing railway works for him to sign. It was probably compiled a long time ago mainly by putting together, with some incongruity, provisions from other contracts. In the compilation, I am sure that not one oppressive provision which could be found was omitted. The contract is so outrageous that it is surprising that any contractor would undertake work for the Railways Commissioner upon its terms. It is of course, a contract in which the doctrine of contra proferentem applies. The employment of such a contract tempts Judges to go outside their function and attempt to relieve against the harshness of, rather than give effect to, what has been agreed by the parties. Courts search for justice, but it is justice according to law; it is still true that hard cases tend to make bad law".

It would be fascinating to know whether the South Australian Railways Commissioner took any step whatsoever after 20 March

1973, the date of delivery of the judgment, to cure the evil so eloquently exposed in the passage which I have read. Judging by the fate of a number of *cris de coeur* uttered in decisions of Boards of Review, I would suspect not. Unless the Public Service Board creates a section, appropriately classified, to deal with grizzles about legislative reform from Judges and members of quasi-judicial tribunals, little will ever happen. Perhaps the Law Reform Commissions will help, of which more later, though it must be said that such commissions tend to deal with large topics slab by slab when very often injustice is rather caused by minutiae scattered here and there through legislation, particularly in a very large statute like the Income Tax Assessment Act.

Now to speak of religion. But do not equate me with the person in the film of *Tom Jones* who said, having mentioned religion: "I should say that when I speak of religion, by religion, I mean the Christian religion; by the Christian religion, the Protestant religion; and by the Protestant religion, the Church of England". In the case of religion, be it Christian or otherwise I feel bound to speak out strongly in favour of stupor. Whenever religion abandons stupor, trouble breaks out. Why, when the basic object of the exercise is happiness, make changes that lead to discord and unhappiness? Why seek unity when you invariably end up with not only the intended product of unity but also with the unhappy unintended fragments which rejected that product? The perpetually frightening prospect of the church militant should lead us to pray for stupor, whether the combat be Israel, Lebanon or Ireland. Who was it incidentally who said of Ireland: "If only the Irish would forget what the English have done to them, and if only the English would remember".

It seems that more agony is yet to come, all curable by stupor that is, the stupor that leads to no change at all. The Roman Catholic church insists upon one form of service when many of its adherents seem to want more, while the Anglican church, whose adherents would like one, insists on them fiddling about with forty. I recall that unforgettable French girl in Eliot Paul's *A Narrow Street* who said of the Church of England that "It was neither Catholic nor Protestant, but, like everything else English, on the fence".

The next topic is one in which I hardly know whether to condemn or applaud stupor. Over the field of politics and public affairs, a curious mixture of turbulence and of what I would call stupor has indeed thrown a heavy shadow. To start with stupor, I return to my theme of categorization and generalization. Prejudgments are made even in the highest quarters, and are followed by a ceaseless search for facts that will justify that categorization or generalization. Any miniscule amount of evidence, any untested fact, in context or not,

will do. No better example exists of this tendency than the Vietnam War. For some it was a contest in which freedom and democracy fought doggedly to preserve a free people from the onslaught of a vicious invading totalitarian enemy. For others, it was a civil war in which a brave uprising of patriots sought for an oppressed people freedom from internal suppression and external imperialism. Looking back on it now in all its Asiatic complexity, I think it open to suggest that the truth was that the War was indeed each and every one of all the things that everyone on each side said it was. Yet, at any given moment either side in our society would grasp at fragments of facts, tested or untested, perhaps observed or related in the fleeting moments of some televised news film, to prop up an attitude about the totality of the issue that had long been adopted for no other real reason than that the facts were wished to be so. Surely all of us, each side in our community, was guilty of this. These habits of mind are now projected into almost any issue that comes to mind. The current awful example is conservation, a great cause, but one which faces denigration and worse unless it re-learns the lost capacity to discriminate. I suppose all this commitment to black and white in relation to public issues is what is called "Polarization". I call it stupid.

As in religion, though, there may in public affairs be a time for quiet. I am not sure that we have got tough enough nerves to stand parties going in and out of office with the rapidity that seems now to be part of our political scene. Lord Acton would have enjoyed the remark made by J. K. Galbraith (and you can attribute it to whichever side you like in the Australian scene), at the time when the men of Harvard and Yale were being winkled out of Washington after the death of President Kennedy: "Power corrupts, but loss of power corrupts absolutely". Perhaps we will get used to turbulence, though is it not odd that not long ago the decline of public meetings as a social activity was bemoaned? Now there are many who wish they would stop. I was thinking recently of poor King Charles the First, "Charles King and Martyr" or "Charles Stuart that Man of Blood", take your pick. I suppose that you could say that in a kind of a way he was dismissed. But apart from noting that of which he is said to have done nothing upon that memorable scene, it may also be observed, basing oneself on very long standing authority, that after it happened to him, those remaining had the immeasurable satisfaction that he walked and talked for the space of but half an hour. But where would we be if our politicians, stupefied, really did stop their own peculiarly compulsive if not obsessive kind of talking? In John Pringle's book, *Australian Accent* in which historians of the future may discover the very first tentative identifications of the Ocker Syndrome, he wrote

with awe of Australia as a country which produced a Parliament (on, he might have added, "The Westminster Model") in which the following occurred: A member from one side droned interminably on, and on, and on. Came eventually from the opposing backbench an anguished cry: "Pull out, Dig, the dogs as pissing on yer swag".

Turbulent assertions of power by persons who do not hold public office in Government, as parliamentarians, or as holders of public office were referred to by Stanley Baldwin, speaking in 1931 of the Barons of the Press. "What the Proprietorship of these papers is aiming at is power, but power without responsibility, the prerogative of the harlot throughout the ages". Those words were supposed to have been given to Baldwin by his cousin, Rudyard Kipling.

When we come to law and social regulation, it is easy enough to make an attack on the many facets of legal conservatism, but it has been done too well and too often for me to attempt anything new. Look for instance at Swift in *Gulliver's Travels,* when he described the Houyhnhnms:

> "It is a maxim among these lawyers, that whatever hath been done before, may legally be done again: And therefore they take special care to record all the decisions formerly made against common justice and the general reason of mankind. These, under the name of precedents, they produce as authorities to justify the most iniquitous opinions, and the judges never fail of directing accordingly.

What, however, I am more concerned with is the chance of change occurring in our legal and social institutions even when the need for such change is widely acknowledged on a consensual basis. I am not you see speaking of radical political change sought to be imposed by one side of politics on another, but of changes the need for which ought to be capable of being made the subject of consensus.

When this happens we still have the problem of those whose help is needed but who prefer to go on explaining the undoubted virtues of the past as if it proved something about the possibilities of the present. It is just no good going on saying, for instance, that the old-fashioned system of articles is the best way of teaching trainee solicitors, any more than it is any good going on saying that old-fashioned general medical practice is the best way of caring for the health of a family. Both statements would no doubt be true if they had any relevance or chance of general application in the overall sitation. How many general practices are there in suburban Melbourne west of a line formed by the Yarra, Elizabeth Street, Royal Parade and the Hume Highway? How many solicitors can offer articles truly in the old-fashioned model? Yet both these things have been said in relatively

recent years. It is hardly useful to go on, like some old priest at a pagan altar, mumbling obsolescent rituals to a diminishing congregation. It's like sighing for the old days: the old days, when sex was dirty and air was clean. Which reminds me of another rear window sticker I saw on an old car driven by a hippie, which after a little rearranging of a well known sticker read: "Squash vital people". We do however now have Law Reform Commissions which offer some hope. But unless the profession as a whole puts its weight behind the need to implement proposed reforms, supports them positively, stamps its feet a bit, will there be the necessary action. The need for re-thinking our court structure is I think great. The motto of the Supreme Court Library is *Nolumus Mutare Leges Angliae*, which I think is a piece of irredentist radicalism emanating from the barons at Runnymede. As a jumping-off point for an open-minded approach to law reform it is as promising as it is relevant.

In the *Law Institute Journal* for June 1976 is an article entitled "Civil Jurisdiction in Victoria" by Mr. Emeritus Justice Norris, a longtime member whom this society is proud to own, now not least because of his penetrating review of the fundamental concepts underlying the organization of our Court system in Victoria. The article makes a case which I personally find unanswerable for at least an examination of the desirability of the amalgamation of the Supreme and County Courts and for other simplifications. I cannot go over all of it here, and the arguments advanced may be capable of being demonstrated to be wrong, but what I fear is that they could fail to be seriously considered not because they are wrong, but simply because they are difficult and because they would represent change. Contrary to Australians' beliefs about their rugged individualism and their freedom from hidebound conventions, etc. etc. my belief is that Australia has been in many ways a cathedral of conformity, and Melbourne its high priestess, insofar as resistance to the forces of the "It's always been done this way" army are concerned. The supposedly conservative English are much more ready to try a reform and give it a fair chance to succeed than we are. And you do not have to go as far away as that to find a different attitude. In the last five years I have spent a total of about half a year in each of South Australia and Western Australia. In each place the capacity and desire to try some simple imaginative schemes to improve co-operative community life are as obvious by their presence as they are here noteworthy by their absence. The simplest proposal is in Melbourne, lost in a muddle of proliferated Government authorities and conservative half-heartedness. You will say I know that there are exceptions to this. Bold strokes of innovation there are, like deciding after all to admit women

to the Councillors' refreshment room at the Town Hall. What do they do in there?

When we do try something new it is rushed in and often mismanaged. Senior Ministers travel overseas and what do we get? Metcon, a stupid half-baked parody of other traffic control schemes. If they had simply gone to Perth and seen how a properly integrated scheme of priority roads works, we would have been a lot better off. What I fear is that we are so distrustful of change that, even when we are emboldened to try, we impose some sort of death wish on it so as to ensure that it will be strangled at birth. This is why I plead that the legal profession as a whole throw its professional weight behind those who propose constructive legal change, and continually emphasise its moral commitment to back them up by trying to understand at least the thrust and, if possible, the details of suggested proposals and by explaining and supporting them at every opportunity, public and private when the independent openminded judgment of the person concerned concludes that they do, in fact, respond to the felt needs of the time. I gather that there is indeed room for hope that further attention is being given to the range of proposals which were made by the Victorian Law Reform Commissioner, Mr. Emeritus Justice Smith.

There is much that I would like to say about the style and the substance of the processes of all of the Courts, but this is not really the place. Suffice it to say for now that while the public greatly respect the integrity of our Courts and Judges, I am inclined with the greatest respect to doubt whether they always feel, as they should, that the courts are normal social institutions in which they have a place and in which they feel, as they are entitled to, at home.

In those cases before the Taxation Board of Review that lawyers rarely see, that is those in which the taxpayer appears on his own behalf, it is not too difficult, once he has been settled in and the general procedures explained, for him to be able to present his case in a relaxed and confident manner. It is often done with marked skill and objectivity. I am also often amazed at the willingness and indeed positive desire of ordinary people to speak with great frankness about matters that are really quite personal. I must say that the big release seems to lie in the absence, statutorily assured, of Press or public. My overall suggestion is that the dispensing of justice, while it must remain orderly and dignified, could with profit be somewhat detuned, and where both parties request, not be open to Press or public. This would of course only apply to civil cases.

What I am trying to say about the Courts is that they are suitable for ritual setpiece battles between financially viable or financially sup-

ported combatants, but there are large areas of life where not only the courts but the substantive laws which they are expected to enforce are quite unsuited to the problem in hand. There are many areas of social conflict in the local scene the only remedy for which is a prosecution in a Magistrate's Court, and in which the accused has all the rights of a man upon trial for his life. The result is that we are stuck in a system in which the local authority fears to do anything about it and no process of social amelioration takes place at all. I can give chapter and verse for all this, and will take it up in discussion if anybody should wish, but suffice it for now to suggest that we need, particularly in times when stresses are more and more appearing in suburban life, to think of going back to the more localised justice of a community in which anti-social acts are not treated as punishable common law crimes but as matters requiring discussion and persuasion. I realise that there are dangers in all this but I am concerned that too often the legal profession is cheerfully satisfied that it has done its duty when somebody has been "got off" a charge of some kind and overlooks the fact that very often when this happens some other individual, or a section of the community, has lost some part of his or its human rights. Quite primitive societies seem to me to understand these things much better. I know that you cannot simply transfer a custom from one society to another, but one may note in Indonesian society the tradition of talking out a dispute together, in an organized setting, until the dispute disappears. Should we not move to provide at least the opportunity for people to talk out differences in the presence of a trusted local arbitrator.

In distinct areas there have been achievements, as in the case of the Small Claims Tribunal, but the problem is a large one and the way of the reformer will be hard and he will need help. He will need not only to know what has to be done, but also to have a burning feeling that he can do it. Witness the efforts made in relation to the Family Law Act. The massive response to this legislation, placing great physical burdens, cheerfully borne, upon the court and its officers has shown how deep was the need.

I cannot leave you without passing on the best of one attempt at reforming zeal which I found particularly charming; an attempt to be found in an article entitled, ominously enough in view of the author's argument, "Judicial Grandiloquence in India: Would Fewer Words And Shorter Oral Arguments Make For Better Judgments?" (*Journal of Law-Asia,* Volume 4 p. 192). Any attempt to restrain judicial grandiloquence must be viewed with awe, but this one has a peculiarly piquant quality which will I think appear from selected passages without much further comment. The author says:

> "Succinct conclusions of law, with adequate citation of authority usually reveal the rationale of a decision as distinctly as would a laboured opinion. Nevertheless, there appears to be a passion on the part of some appellate Judges to take note of every issue of both fact and law which is presented, no matter how remote it may be. Ordinarily, there are comparatively few cases which involve an extensive multiplicity of issues, all of which must be considered in disposing of an appeal. Not infrequently, a single issue, either of fact or law, is sufficient to resolve a particular case. Nevertheless, time after time, some Judges engage in the pursuit of labyrinthine ramifications of factual circumstances, in a meticulous and detailed consideration of extraneous and irrelevant principles of law, overcome with the exhilaration of the chase, and finally running to ground a vast number of factual circumstances and legal principles which add nothing except surplusage to their ultimate conclusions. Flights into irrelevance are pretty sure to be solo excursions. I am reminded of an opinion in which the Judge, happening to mention the Pacific Ocean, paused to remark that its discovery had been erroneously attributed to Cortez in the poem, *On First Looking Into Chapman's Homer,* by John Keats".

There is more. A footnote recounts:

> "The Indian Supreme Court's tendency to make dicta rather precipitously has been perceptively criticized in Popkin, *Prematurity of Obiter Dictum in Indian Judicial Thought*, 4 J. Ind. L. Inst. 231 (1962)".

He goes on to tell us:

> "Argument before the Supreme Court of India is almost entirely oral, and there are no prescribed time limits, as apply in the Supreme Court of the United States. Counsel sometimes hand in typed summaries of argument, but are under no obligation to do so and usually do not. There is nothing like the system of 'Briefs' in the American sense . . . the Court will cut short counsel who are tedious or repetitious, but the latitude allowed is very generous".

The final sally has a particular appeal. The author has an ingenious idea aimed at helping judges to speed up their writing of decisions:

> "No doubt, the lawyers themselves, as officers of Court, should be glad to help the Judges write concise opinions. The lawyers have more time (than the Judges) to familiarize themselves with the cases. The Judges accept the lawyers' aid in the marshalling of the facts and in finding and applying the law. Why not go one step further and adopt a rule requiring counsel on each side to append to his Paperbook—on a strictly limited number of pages (preferably not more than eight or ten—a suggested opinion announcing a

> decision in favour of his client? Counsel's knowledge of his case should enable him, at least after a little practice, to write an acceptable opinion. And, his interest in his case would prompt him to do his best. The Judges might be able to adopt many of the suggested opinions in toto, or at least in substantial part. If they could, it would save the Judges substantial work and give them more time for 'maturity of collective thought'. And even if the submitted opinion could not be of any cathartic use, it would do no harm".

What the writer meant by "cathartic" in the context is not altogether clear. In one sense the word refers to purification of the emotions by vicarious experience, principally through the drama. If the author however, used it in its medical sense, I can only think that he was either referring to the kind of paper upon which the opinions should be written, or to the fact that the judges could hardly be expected to make an open-ended commitment to make use of them, which all proves that when society goes to the lavatory for its humour, the writing is usually on the wall.

These idiosyncratic ramblings must now cease. Sir Robert Menzies once said in Parliament, referring to a speech that had just concluded: "Unfortunately the conducted tour of the Honourable Member's mind took place in the gathering gloom". You may have some questions, but you would be well advised not to ask them. Back in about 1942 or so, some ardent young men, at least two of them later members of this Society, went down to Flinders, to take part in an R.A.N. Officer-Training School. An old and much beloved Chief Petty Officer was one day assigned to teach these characters a complicated manoeuvre known as "Marrying the Falls", which I gather involves some tortuous procedures for lining up the ropes necessary for raising or lowering a sea-boat. The instructions were complex, but they had been more or less mastered. The old man called "Any questions"? and one of the group said: "I understand what we're doing, but why don't we just do it in some more simple way?". The C.P.O. looked at him and barked: "No bloody stupid questions! Nelson done it and you can do it".

Only one wholly satisfactory formula has to my knowledge ever been devised for the conclusion of a speech, and it is happily applicable to any speech upon any topic. I therefore propose to use it, and for followers of "My Word", may I say that I invite the Chairman, to get the discussion going, to award one mark to anyone in the audience who can tell us who actually said it, and two marks for imaginative explanation telling us how it might have happened. Mr. Chairman, Ladies and Gentlemen: *Delenda Est Carthago.*