

# Words Fail Me

Keith Chapple calls for a return to simple English....

I think it was the late Emperor Hirohito who laid the strongest claim to being the master of understatement. This apparently sensitive man was a world expert on marine biology and headed his country for decades. On the rare occasions that he communicated publicly with his people, his messages were delivered in a unique style that used to move carefully and obliquely to the point. In August, 1945 when the gamma rays were whistling around what was left of Hiroshima and Tokyo lay devastated, he softened the blow of impending surrender with the immortal words: ".....the war situation has developed not necessarily to Japan's advantage".

I was reminded of this recently while reading a Record of Interview between a man from the North Coast and the local police. At first sight the whole confession read quite well and was covered with the usual mass of scrawled signatures. There was a lot of to-ing and fro-ing for some hours and a chronic over use of the phrase "I have reason to believe...." Eventually it got to Question 109 which was the evergreen: "Have the answers which you have given etc. etc. been given of your own free will? " the response to which ran something like: "Yes - except for the fact that I've been handcuffed to the desk the whole time". With that comment the boy from the bush also deserved to grace the world's stage and blew the old marine biologist's claim right out of the water.

Statements to the police are in a class of their own and contain all sorts of amazing things. One began with a witness filling out the appropriate blanks at the top in this way: "Address: Her Majesties Prison, Maitland. Occupation: Inmate." A police officer's statement described a person as "...wearing a white "T" shirt with a motive (sic) of Jimmy Barnes." Another one which took me some time to get through had a sentence which began: "I proceeded to commence my daily routine work duties..."

Arrest seems to bring out the author in everyone. Another young man who's currently "breaking rocks in The Iron Hotel" had me reeling as I read the start of his handwritten statement, and it can't be said that I reel easily. He wrote that "on the day in question" he had been drinking "quite heavily" with a couple of his mates while engaged in what I had always thought was the healthy pursuit of watching Rugby League. He continued thus:

"While we were at the football we drank 4 or 5 bottles of Scotch, 3 flagons of wine and 2 casks of wine. After the game was finished we headed for the hotel to continue drinking so on the way to the Toxteth we got another bottle of Scotch and a cask of wine. And proceeded to get paraletic (sic)."

On a charge of sexual assault you may well have guessed that he was laying the groundwork for the classic defence of "scientific impossibility", a defence some people might say was developed not necessarily to his advantage.

Speaking of the Iron Hotel, in the United States the slang expression for prison is The Grey Bar Hotel. I noticed in the *Sydney Morning Herald* recently that the sheriff in Nebraska wanted to trap some fugitives with outstanding warrants and decided on one of those schemes that have become popular with law enforcement authorities and television viewers alike. Over 60 people were enticed by an offer mailed to them of a free pair of joggers to be collected from the bogus Grabar Athletic Footwear Store ("a new concept in shoe stores for people on the run"). The most poignant comment came from one hopeful as he was led away: "I knew this was too good to be true. I've

never won anything!"

The West Australian Police Force employs one or two laconic people. The man who believed in safety in numbers, John Friedrich, before he "assisted police with their enquiries" was picked up by detectives in Fremantle waiting for a cab he'd booked. One of them told the taxi base: "Don't worry about the fare, we've got it".

At least you could understand all these people when they said something. Not so the man who could be in two places at the one time, Colonel Oliver North. I remember spending hours of torture (before I finally gave up) trying to follow the steel-grey web he wove. North used phrases like "plausible deniability" for lies and "non-log" documents instead of destroyed. Richard Nixon had probably suggested to him to "...make one thing perfectly clear".

One group often accused of a lot of double-talk are lawyers and the ultimate verbal high-wire act would have to be a lawyer interpreting an Act of Parliament. When arguing about legislation, especially those pieces which don't quite seem to work, a barrister can be excused on occasion for engaging in the legal equivalent of "taking a dive". But make sure that the referee doesn't see it. A former Chief Justice of New South Wales spotted it a mile off in: *Ex Parte Ryan, Re Bellemore*: (1945) 46 State Reports (NSW) 152. The entire judgment of Jordan, CJ is worth reading to see what happens when you pass legislation that no-one has apparently ever read, including the person who wrote it. Suffice to say that the case involved consideration of the *National Security (Prices) Regulations* which fixed maximum wartime prices for, amongst other things, fruit. The particular fruit involved was bananas - ripe bananas. After what had obviously been a fair amount of slippery argument his Honour declared at page 156 that there had been a casualty on one side over this question of cost:

"At this point, counsel for the prosecution was firm. He said that it should be apportioned on a reasonable basis; but on being pressed for greater particularity - whether it should be, for example, according to relative weight, cubic content, or value - he declined respectfully but positively, and, I think, wisely, to commit himself to anything more definite."

The last word on Acts of Parliament and those who pass them belongs to Viscount Simon who said in *Hill v. William Hill (Park Lane Ltd)*: [1949] AC 530 at 546:

"...though a Parliamentary enactment (like parliamentary eloquence) is capable of saying the same thing twice over without adding anything to what has already been said once, this repetition in the case of an Act of Parliament is not to be assumed".

The Expert Witness may be expert at some things but not necessarily clear and concise communication. Once we set out to prove something that I had naively thought was pretty simple. Namely, when do you turn the lights on; when's the end of the day; when can vampires wake up. You know - what time's sunset. If in doubt, call the expert, who delivered a statement the relevant part of which read this way:

"*Sunset* is defined as the instant in the evening, under ideal meteorological conditions, with standard refraction of the sun's rays, when the upper edge of the sun is coincident with an ideal horizon that is at the same height above sea level as the observer."

After that, all I can say is that I'm almost lost for words ..er, in a manner of speaking. □