

The Last Word

By Julian Burnside

Soothsayers

SOOTHSAYER. Beware the ides of March.

CAESAR. What man is that?

BRUTUS. A soothsayer you beware the ides of March.

CAESAR. Set him before me let me see his face.

(Shakespeare, *Julius Caesar*, Act I, sc. 1)

Brutus subsequently dismissed the man as 'a dreamer', but he had special knowledge and a motive for putting Caesar off the scent.

The original meaning of *soothsayer* is literally 'truth sayer'. *Sooth* as a noun is an old Anglo-Celtic word for truth. It has had many forms including *soth*, *south*, *suth*, *swth*, *suith* and *soyth*. From as early as 950 it is found in such works as *Beowulf*, the *Lindisfarne Gospel* and the *Old English Chronicles*. It was also used in phrases with modern equivalents which more or less follow the old pattern: *in very sooth* (in truth), *sooth to say* (to tell the truth), *to come to sooth* (to come true) and *by my sooth* (upon my honour).

Although the root of the word is *truth*, and many soothsayers made their fame and fortunes by purporting to tell the truth about the future, their predictions were often based more in optimism than reality. They provided the template for sorcerers and politicians. They were not the same as oracles, even if they seemed to be in the same caper: oracles were the agency through which the gods revealed their will. They provided the template for gossellers and priests.

Soothsayers are referred to often enough in classical literature, but not so much lately. You will find references to them in translations of Aristophanes, Herodotus, Sophocles and Thucydides, and in Homer, Plotinus, Plato and Plutarch. Chaucer mentions a soothsayer in *The Knight's Tale*; the OED2 gives quotations from a handful of other English writers up to the mid-18th century. Rudyard Kipling refers to a soothsayer in *Kim*, and Washington Irving mentions one in *Alambra*, and makes it clear that this brand of truth teller was not to be trusted: 'I would advise you, O prince, to seek that raven, for he is a soothsayer and a conjurer, and deals in the black art, for which all ravens, and especially those of Egypt, are renowned.'

The other use of *sooth* is the old but recognisable exclamation *forsooth*. Originally, it was a genuine declaration of the truth of a statement. Shakespeare

used it this way frequently:

Prince. How long hast thou to serve, Francis?
Fran. Forsooth, five years...! (*Henry IV*, Part I)

I more incline to Somerset than York:
Both are my kinsmen, and I love them both.
As well they may upbraid me with my crown,
Because, forsooth, the King of Scots is crown'd. (*Henry IV*, Part I)

SIMPLE. Ay, forsooth.

QUICKLY. Does he not wear a great round beard, like a glover's paring-knife?

SIMPLE. No, forsooth; he hath but a little whey face, with a little yellow beard, a Cain-colour'd beard.

QUICKLY. A softly-sprighted man, is he not?

SIMPLE. Ay, forsooth; but he is as tall a man of his hands as any is between this and his head; he hath fought with a warrener.

(*The Merry Wives of Windsor*)

For some curious reason, Shakespeare uses *forsooth* much more often in *Henry VI*, Part II (1590) and in *The Merry Wives of Windsor* (1598) than in any other of the 21 plays in which he uses it.

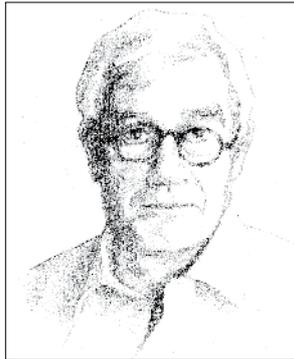
Since Shakespeare's time *forsooth* has become less common. Perhaps he wore it out. It was used by John Locke (A

Letter Concerning Toleration, 1689), by Tom Paine (*The American Crisis*, 1780), by Mark Twain (*The Prince and the Pauper*, 1881), several times by Rudyard Kipling (*The Jungle Book*, 1894; *The Second Jungle Book*, 1895; and in *Kim*, 1901). Jack London used it a few times in *White Fang*, 1906 and once in *White Heel*, 1907. And it still lives at the edge of memory as the stereotypical exclamation of low-level entertainments with pretension.

Edgar Allen Poe used it in 1832:

'I lie,' forsooth! and 'hold my tongue' to be sure!' (*Loss of Breath* 1832).

It was a neat oxymoron: a self-contradictory statement. *Oxymoron* is an odd word. The *moron* bit is easy to guess at, but the *oxy* bit only evokes echoes of *oxygen*. Improbable as it may seem, *oxymoron* and *oxygen* are directly linked. The Greek root *oxy-* means 'sharp, keen, acute, pungent, acid'. Oxygen is so called because it was originally thought to be the essential integer in the formation of acids, and on the same pattern *hydrogen*



is so called because of its role in creating water. Thus *oxymoron* (sharp + stupid) is a word which is an example of itself.

Oxymoron's opposite is *tautology*. A tautology is a word or (more commonly) a statement which repeats itself or which involves self-referring logic. In the TV quiz *Mastermind*, the following exchange occurred:

Q: What is a tautology?

A: Repeating the same thing twice.

This unwittingly impeccable answer is cited by Alex Buzo as the genesis of his entertaining book *Tautology* (Penguin Books, 1981). Buzo's note at the start of the book discloses that he had been on a campaign to eradicate tautologies from our public speech, but had failed. The book is wonderful collection of snippets gathered during his campaign. Until I looked at *Tautology* again recently, I had forgotten that it had been a subject of general discussion and interest in the 1980s.

The OED2 defines *tautology* as:

A repetition of the same statement. The repetition (esp. in the immediate context) of the same word or phrase, or of the same idea or statement in other words: usually as a fault of style.

(A purist might think that the first part of this is itself tautologous. A repetition of a statement is necessarily a repetition of the same statement. Repetition of a different statement would not be repetition at all. Perhaps within the depths of the OED staff someone is having a tiny joke).

There are two distinct forms of tautology. One is a statement which repeats itself in different words. Examples from Buzo's book include 'detached aloofness', 'pregnant mothers-to-be', 'wandering nomad' and 'Bargain Basement downstairs'. It is still common to hear people speak of 'new innovations'.

A tautology can also involve a much subtler kind of repetition, where the statement involves a logical circularity. In *Dietrich's case*, Gaudron J had to deal with the question whether the expression 'fair trial according to law' was a tautology. She said that it was not:

In most cases a trial is fair if conducted according to law, and unfair if not. If our legal processes were perfect that would be so in every case. But the law recognizes that

sometimes, despite the best efforts of all concerned, a trial may be unfair even though conducted strictly in accordance with law. (177 CLR at 362)

There is a substantial overlap between *tautology* and its less-known relative *pleonasm*. The OED2 defines *pleonasm* as:

The use of more words in a sentence than are necessary to express the meaning; redundancy of expression (either as a fault of style, or as a figure purposely used for special force or clearness...

This is the fault, so common in legal drafting, that the High Court had in mind in *Muir v The Open Brethren* (96 CLR 166). The court had to deal with a testamentary provision for:

relieving cases of need and distress and in assisting persons in indigent circumstances and in particular... in assisting and relieving persons who have been or shall be adversely affected by the effects of the War in which the British Commonwealth of Nations is now engaged...

They said:

There is a considerable amount of tautology in the provision. The same conception of poverty is referred to by the words 'need', 'distress' and 'indigent'. It is hard to distinguish between 'relief' in the case of 'need and distress' and 'assistance' in the case of indigency.

Pleonasm would have been more accurate, but would have sent the reading public in frenzied hordes to the dictionary. *Tautology* has taken the field for itself. *Pleonasm* rarely finds its way into the law reports. In *R v Johnson* (1991), Millhouse J referred to *pleonasm* as 'an elegant but not often heard word'. In *Anstee v Coltis Pty Ltd* (1995) Nielson J used pleonasm un-self-consciously and without explanation, but perhaps that reflects the elevated linguistic standards of the NSW Compensation Court. In *Southern Cross Interiors Pty Ltd v DCT* (2001), Palmer J referred to 'a surfeit of pleonasm', which might be either a pleonasm or a tautology, depending on your attitude. In the federal jurisdiction, pleonasm has only been used once in a judgment. Lindsay FM, with a very delicate eye to the distinction, said:

...the Tribunal's characterisation of the religious violence in Nigeria as 'random and sporadic' is, if not tautologous, then, at least, a pleonasm. (*SBWD v Minister for Immigration* (2007) FMCA 1156)

But the high point must surely be the decision of

the NSW AAT in *Re Adam Boyd Munro and Collector of Customs* (NSW) (1984)

(The draftsman) has used the three words ‘costs, charges and expenses’. As they are used in an Act of Parliament, we cannot assume that each is synonymous for the other. Taken together they appear to indicate that the area of money involved should be widened rather than narrowed and that a broad view should be taken of the diminution of the wealth of the importer if that is brought about with, or is in any way related to the transportation of the goods. Together the three words form a pleonasm put together for the sake of emphasis. Looked at another way, they could be regarded as a statutory hendiadys (sic).

The tribunal no doubt intended *hendiadys*: ‘A figure of speech in which a single complex idea is expressed by two words connected by a conjunction; e.g., by two substantives with and instead of an adjective and substantive.’ *Hendiadys* is obscure enough that it does not rate a mention in the first edition of *Fowler’s Modern English Usage* (1926), but it does appear in the second edition (1968) and the third (1996). It is a literary device, mostly poetic, in which several words are joined by ‘and’ instead of subordinating one to the other. Fowler gives as an example: *nice and cool* instead of *nicely cool*. By this device, a single

idea is being expressed in two words, one of which could sensibly have been used to qualify the other in order to convey the same idea. *Hendiadys* is not apt to describe expressions such as *might and main* or *whisky and soda*, where the parts are of equal value (well, linguistically at least. I would argue that *whisky* is the greater part of *whisky and soda*). Much less is it available to describe a repetitive concatenation of words, which is just a *pleonasm*.

The true meaning of *hendiadys* was recognised by Beaumont, Wilcox and Lindgren JJ in *Airservices Australia v Monarch Airlines* (1998):

... even if s 67 is treated as analogous to a ‘hendiadys’ (i.e., a single idea expressed in two sets of words with the conjunction ‘and’) ...

And it was even more accurately explained, and illustrated, by Heydon J in *Victims Compensation Fund Corporation v Brown* (2003):

...hendiadys – an expression in which a single idea is conveyed by two words connected by a conjunction, like ‘law and heraldry’ to mean ‘heraldic law’.

Forsooth.

Mason’s miscellany - continued from back page

reported of the consequences:⁷

Mr Darvall then struck Mr Windeyer forcibly with the brief which he held in his hand, on the neck or face. Mr Windeyer instantly started to the floor with his fists clenched and his arms squared at Mr Darvall; when – as he was striking, but before he struck, a blow – an officer in attendance placed himself between the parties.

Aghast at such behaviour, Stephen committed the two counsel to the custody of the sheriff and adjourned for two hours while he consulted his colleagues. When he returned, the two combatants did not dispute his account of what had happened in the face of the court, but they tendered apologies. Unmoved, Stephen sentenced Darvall to 14 days imprisonment, Windeyer to 20; and each was placed on a good behaviour bond for two years. The two lawyers spent Christmas behind bars.

Endnotes

1. The Hon J J Spigelman AC, ‘Bicentenary of the coup of 1808’ (2008) 30 Aust Bar Rev 129 at 138.
2. *R v Robert Atkins, Thomas Chambers and Henry Milton* (1828) *Dowling’s Select Cases*, 306.
3. Antony E Simpson, ‘Dandelions on the Field of Honor: Dueling, the Middle Classes, and the Law in Nineteenth-Century England’ (1988) *Criminal Justice History* 99 discusses how the rules of honour were observed more than those of law. Convictions were very rare and, when they happened, capital punishment was reserved for the foreigner or the man who broke the conventions of honour in some heinous way.
4. L Robson, *A History of Tasmania*, OUP, 1983, vol 1, pp 296–7, 468–9; McLaren, *Dewigged, Bothered and Bewildered*, p 161.
5. *Penton v Calwell* (1945) 70 CLR 219 at 248.
6. Darvall later took silk and served as attorney-general for New South Wales before resigning from politics and returning to England.
7. See Bennett, *Sir Alfred Stephen*, pp 157–8.