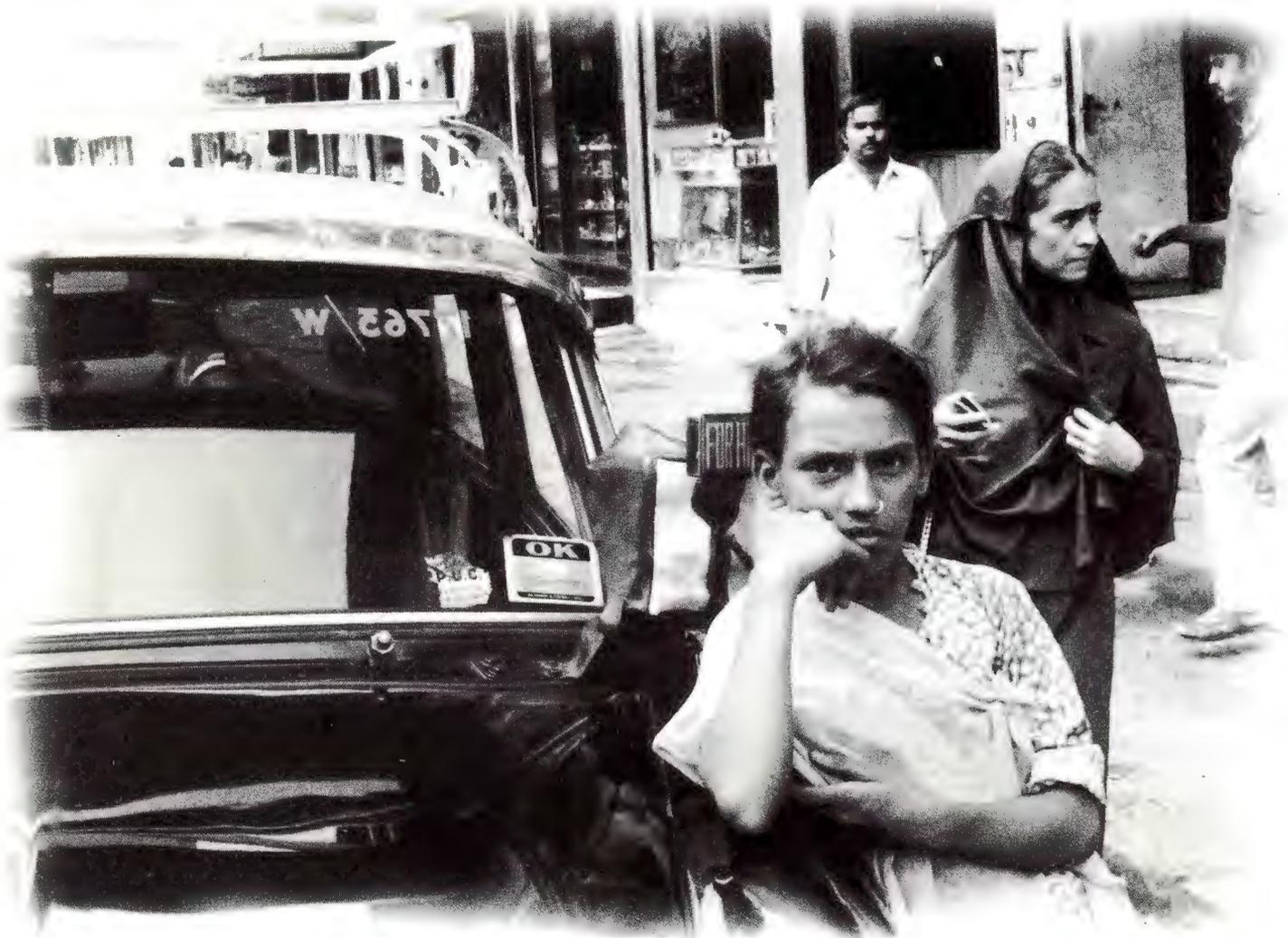


# 6P EUREKA STREET

Vol. 3 No. 4 May 1993

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**India on its own terms:** Don Miller on Hindu nationalism

## Doing good business

Alan Fels and David Cousins talk to Margaret Simons about regulating business, and Bob Baxt speaks for himself



Tony Coady, Robert Solomon, Charles Sampford and David Wood tackle the ethics business

## Time to take the medicine

Jack Waterford on giving orders to doctors  
Mark Skulley on what some doctors have ordered

**SBS  
TV Guide**

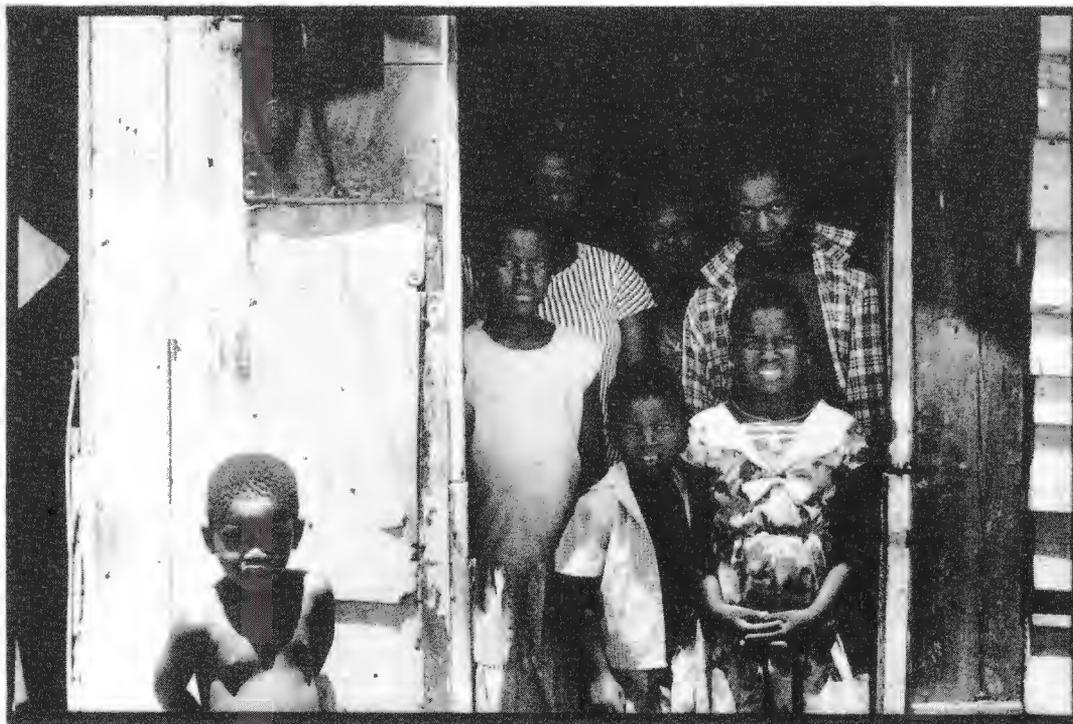


**White homes, black homes:**  
*the legal framework of apartheid may be crumbling, but the economic reality that underpinned it remains.*

*LEFT: a white South African woman in Cape Town with her servants, two black and two coloured.*

*BELOW: Only 25 kilometres away, in the black township of Khayelita, 600,000 blacks live as this family does, in makeshift houses built from scrap timber and corrugated iron.*

*Photographer ANDREW STARK visited South Africa in January and February this year.*





# EUREKA STREET

Volume 3 Number 4  
May 1993

*A magazine of public affairs, the arts and theology*

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# The Weakland affair

**A**RCHBISHOP REMBERT WEAKLAND has come and gone from Melbourne, arriving to controversy and leaving his hearers appreciative of his personality and gifts. Archbishop Weakland was an obvious choice to speak at a conference on liturgical music. His life as a Benedictine has fed his taste for liturgy, and he is a musician of concert standard.

His invitation, however, was strongly opposed by a small group of Catholics on the grounds that his pastoral strategies, his position on abortion and homosexuality and, particularly, his open attitude to women's ordination, have been consistently opposed to official church teaching and pastoral practice. These charges found prominent expression in *AD2000* and in *Fidelity*, the journal of the John XXIII Society.

Late in 1992 it was learned that someone had sent Weakland a forged letter, purporting to be from the Archbishop of Melbourne, Frank Little, in which Weakland's invitation was revoked. In an article in *Kairos*, the magazine of the Melbourne archdiocese, Archbishop Little denounced the action, which was also condemned in an editorial in *AD2000*. Clergy and other groups expressed strong support for Archbishop Weakland's invitation.

In March Michael Barnard, in his column in *The Age*, questioned Archbishop Little's judgment in issuing the invitation to Weakland. Barnard's article attacked the latter's stance on abortion and on the ordination of women, and implied that Weakland had been ambivalent about the evil of sexual abuse by clergy. The article implied that, by inviting such a man, Archbishop Little had shown that his loyalty to Rome was less than total. A week later the archbishop wrote a reply to Barnard, published by *The Age* and subsequently reprinted in *Kairos*, in which he defended Weakland's and his own communion with Rome, and attacked the lack of respect for the truth, for persons and for the church shown by his opponents. In this article Archbishop Little referred to *AD2000* and *Fidelity*.

Because of this debate Weakland has become a symbol in Australia, as he has long been in the United States, and his own concerns have been overlooked. He has been preoccupied with the changing relationship between the Catholic Church and American culture, claiming that Catholics have now become insiders within American society, so that faith and its implications must be commended on positive grounds by pastors who can listen to the many voices of American culture. Certainly, after *Humanae Vitae*, any simple appeal to author-

ity has been counter-productive in forming Catholic identity.

Weakland's critics attack him on various grounds. Some, including the Archbishop of New York, Cardinal O'Connor, in a controversy that was a model of public courtesy, claim that Weakland's attitude to American culture is too optimistic. O'Connor argues that Weakland is too prepared to compromise with American values that are opposed to the gospel, and so to create confusion among Catholics. Others argue that both Weakland's theology and his methods of teaching are liberal, that he has no care for the truth, and that his teaching is guided by what is acceptable to public opinion.

None of these charges is convincing. Although on feminist issues Weakland is in sympathy with the dominant strands in US culture, on other issues, like war, he has stood against the values

of mainstream American culture. Nor is it just to describe as liberal his theology, which has at its core the incarnation of the Son of God in Jesus Christ. And, although he has sought to build bridges with alienated Catholics by celebrating the liturgy with groups of homosexual Catholics and listening to feminist groups, the charge that he is in favour of abortion or homosexuality misrepresents his stated positions.

It is true that on social issues Weakland has more in common with the Democrat than with the Republican agenda, but his liberalism seems to consist in a willingness to listen to different groups, to leave questions open, to think aloud and to teach modestly. This style of leadership is not favoured widely in the universal church at present, but it is hardly an index of a liberal theology. In the last analysis, it is Weakland's diagnosis of the state of the American church, and his pastoral strategy and style of leadership that are at issue. His critics have no time for a use of authority that is inclusive, open and tolerant of diversity.

The dossier used against Weakland in Australia has been imported from the United States. But the local debate has generated its own distinctive characteristics. In it Weakland's critics have manifested a patent sense of exile within the church. They have constantly complained that visitors like Weakland have been imposed on the local church by the clerical and managerial class,

*Weakland's liberalism seems to consist in a willingness to listen to different groups, to leave questions open, to think aloud and to teach modestly. This style of leadership is not favoured widely in the universal church at present, but it is hardly an index of a liberal theology. In the last analysis, it is Weakland's diagnosis of the state of the American church, and his pastoral strategy and style of leadership that are at issue. His critics have no time for a use of authority that is inclusive, open and tolerant of diversity.*

and especially by educational and pastoral bureaucracies. They themselves feel excluded from influence in what is their home. Their pain at this exile is the greater in that they see themselves to be allied both in the content of their belief and the style of their church life with the Pope, and to be marginalised for their loyalty to the centre. For many, too, this is a second exile, since they have inherited exile from their erstwhile political home in the Labor Party. One does not have to believe that these feelings are reasonable in order to feel their pathos.

The second distinctive note struck in this controversy has been about appropriate methods of debate within the church. Although no one has defended the forging of letters, the propriety of a style of discourse in which people are attacked by insinuation, in which visiting Catholics are

routinely accused of unorthodoxy and church leaders challenged to prove their bona fides, has been made the centre of attention.

**F**OR WEAKLAND, this is against the rules of Catholic discourse—like, one is tempted to say, the king-hit that removed John Somerville from the VFL preliminary final in 1962. But this criticism is not accepted by those who believe that, when the church has been corrupted by liberalism, the call for tolerance of difference is itself a device to protect liberal hegemony. For such people, in such matters, stridency in defence of the truth is a virtue.

The difficulty inherent in this position is that any traditional theology of the church describes it as a communion of life, faith and of love, through which the people are gathered around the local bishop and are united with other bishops of the church through the Bishop of Rome. Although this communion is consistent with sharp differences, it is difficult to see how the methods appropriate to war can be used against one's own or other bishops who are in union with the Pope. Such a style of dispute would seem to have been ruled out by the nature of the church long before it was frowned on by liberal ideology. ■

**Andrew Hamilton SJ** teaches in the United Faculty of Theology, Parkville, Victoria.

## New Year wish

*From Ho Sao Wo*

On behalf of all the Cambodian boat people, I would like to thank you very much for your concern about us. I have read your article 'Three Years Hard' (*Eureka Street* February 1993), which I received from my friend in Darwin. And I thank you very much for publishing about our real lives in your country.

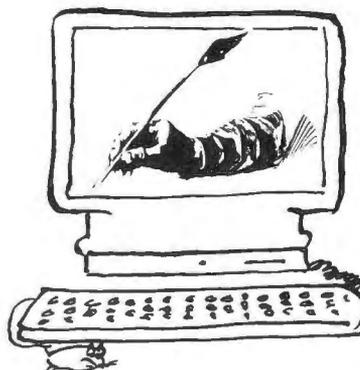
Talking about lives, I am very sad and very worried because all my life I have never known happiness or peace but only sadness, persecution and losing family members. I and my family have been kept in detention in Australia for 34 months since I arrived on 2 June 1990, and as you already know our applications for refugee status were rejected by the Immigration Department.

I told the department that if I had to return to Cambodia I would be killed by the Khmer factions because of my family's involvement with the Vietnamese. In 1970 Marshal Lon Nol started to arrest all the Vietnamese, and to persecute and kill those, like my family, who had been involved with them. Lon Nol knew that my two brothers had joined the Vietnamese Communists, one in 1962 and one in 1968, so his government persecuted my family. My mother was arrested and taken to jail for a month, my father was arrested and killed in jail, and my two sisters were sent to Au Chrove in Battambang province, a detention centre for the Vietnamese and their associates.

I decided to work on a freighter, going back and forth overseas, to avoid arrest. During 1983-1989 I saw my brothers several times. My wife also has an uncle who had joined the Vietnamese Communists in the forest, and he is a good friend of Chea Soth, a minister in the Hun Sen government. My wife's uncle came to visit our family once in 1989.

I thought that to be safe I must leave the country, otherwise I would be killed because of the grudge between the Khmer and the Vietnam-

*Eureka Street* welcomes letters from its readers. Short letters are more likely to be published, and all letters may be edited. Letters must be signed, and should include a contact phone number and the writer's name and address.



ese. But the Immigration Department did not listen to me. They said it was a long time ago and it would not happen again, but right now a lot of Vietnamese are being killed and I am sure I would be killed too.

Before I left the country I was the group leader of more than 90 families, and I refused to go to clear the forest. Later I was captain of the 'Collie' boat that brought 79 people to Australia. That means I am a betrayer of the country, so I really cannot go back to Cambodia. Furthermore, I hate racism because we are Cambodian Chinese, and we have never had any rights. So I would really appreciate if you could publish my family's problem.

The Cambodian New Year will be soon, so I would like to take this opportunity to sincerely wish you health and happiness.

**Ho Sao Wo**  
Port Hedland, WA

## Just be just

*From Fr Andrew Hamilton SJ*

Paul Ormonde is correct to say that Australia needs to develop an adequate practical philosophy on refugees (*Eureka Street*, April 1993). But I would argue that my contention, which he disputes, that the obligation Australia incurred through signing the United Nations convention to protect

refugees, must be part of that philosophy.

For refugees as defined by the convention are those who seek asylum directly in Australia out of fear of persecution. That is to say, people who have good reason to fear that if returned to their own lands they will face death, imprisonment, or other forms of persecution. I believe that any Australian government is morally obliged to resist popular pressure to repatriate people in this predicament.

Not all asylum seekers are refugees in that strict sense. But some who do not meet the definition, however, have a good claim for protection and residence on humanitarian grounds. Onshore asylum seekers should certainly not be excluded from consideration on humanitarian grounds, and so forced to seek refugee status.

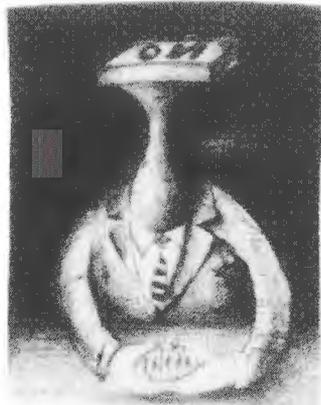
Nevertheless, any practical philosophy must include fair and efficient means of adjudicating the claims of asylum seekers for refugee status. The Cambodian case has shown that the Australian procedures are neither fair nor efficient, and that if they are to become such the adjudication of refugee status must be taken out of the hands of the Immigration Department. Furthermore, decisions must be open to administrative and judicial review.

I would continue to argue that Australia's present policy of detaining all onshore asylum seekers is unjust, because it is unnecessary, is destructive to the refugees, and is costly in financial and moral terms to the Australian community.

Therefore, asylum seekers should be detained only on application to the courts, and the reasons for the decision be subject to regular judicial review. Ordinarily, asylum seekers should be required to report regularly to the appropriate authorities.

Although these outlines of a policy—some of which are incorporated in part in new procedures to be introduced this year—do not amount to a practical philosophy, they do perhaps make allowance for the dignity of the asylum seekers to be respected, the legitimate interests of the Australian community to be given weight, and a proper set of checks and balances to be incorporated.

**Andrew Hamilton SJ**  
Parkville, VIC



## Solidarity blues

From Paul Rodan, president of the Australian Colleges and Universities Staff Association.

Terry Monagle (*Eureka Street*, April 1993) raises several questions about the union movement and its future. Although I am the president of a union that has fought Monagle's, in the courts and elsewhere, I found little in his article with which I did not concur.

Undeniably, unions do spend too much time, and too much members' money, fighting each other in courts and tribunals. The amalgamation of unions has the potential to reduce such battles, and one hopes that is what will happen.

The decline in union membership, to about 40 per cent of the workforce, is alarming in the extreme, since the ACTU can no longer purport to speak for the majority of wage and salary earners. In general, the more workers who are unionised the more difficult it is for reactionary (and other) governments to attack them. When unionisation was higher, conservative governments needed the votes of union members to get elected; they now need far fewer, and this is surely reflected in their greater willingness to incorporate anti-worker policies in their platforms.

Previous conservative governments, mindful that more than half of the workforce was unionised, trod more warily. Fortunately for the union movement, union-bashing by the federal coalition has recently been accompanied by such grand-scale political ineptitude that it cost the coalition government. But this cannot last forever and it is feasible that a Kennett approach—say nothing till after the election—will be embraced by the coalition at future elections.

If the membership decline continues, its worst outcome would be a marginalisation of unions along American lines. In the US, unions have power in some regions and in some industries, but are bit players elsewhere. Witness the US union movement's inability to influence national values: a candidate for the post of Attorney-General—from the more progressive party—can pay child-care givers below prescribed wages, and

her worst crime is to get caught.

It is hard to take issue with Monagle's depiction of the union movement as a large, impersonal bureaucracy. Disillusionment with the detachment of the ACTU leadership is widespread, and it would be interesting to take a poll among union members on the accord and enterprise bargaining. I doubt whether the former would be approved and I am certain that the latter would not. On the occasions when related issues are put to members, the tone is usually one of resignation—the deals have been done, and there is no alternative but to go along. This is hardly democracy.

A chief threat to the traditional notion of solidarity—the decline in which sentiment Monagle laments—comes from enterprise bargaining. If solidarity is experienced through collective struggle, how can this happen when the 'collective', previously defined as the workers under a common award, may now extend no further than the gates of the enterprise? Is this not the path to feeble 'company' unions? You don't need to be Karl Marx to recognise the ideological implications of this divide-and-rule strategy, yet amazingly, the ACTU has been its strongest advocate.

Enterprise bargaining is no bargain for most workers, unless they have some industrial muscle and are strategically placed in the economy. As Jan Armstrong of the Health Services Union, asked last year: 'You tell me how four child-care workers in a child-care centre are going to get an enterprise agreement out of their employer, or how a woman working in a woman's refuge is going to get a significant wage increase out of her employer.' From the ACTU, a deafening silence.

The award as 'safety net' is no argument, since it condemns the child-care worker to pittance-level increases in the flat rate, while a few well-placed unions secure decent percentage rises. By and large, the dice are loaded in favour of big unions whose members mostly produce things, and against those whose members mostly deliver services.

I suspect that workers are tired of an ACTU rhetoric that raises more questions than it answers. Specifically, when Ferguson and Kelty echo the

government line that workers in Australian industries need to be more competitive, workers are entitled to ask 'with whom?' If the answer is the sweated labour of our Asian neighbours, then the game is up and the ACTU should go home.

If the truth is that, in many cases, increased profits depend on new technology and fewer jobs, and if the facts of the global economy make defending Australian workers' rights practically impossible, aren't workers entitled to be told? And if the ACTU's leaders believe that present economic policies are working, would they recognise policies that are *not* working?

In this context, Monagle's point on the globalisation of labour is crucial, and the myth of national economies needs to be dispensed with. Having said that, however, I am not sure what, if anything, can be done to organise labour on a regional basis. There are precious few democracies in our region, where most regimes are authoritarian and anti-union.

At the very least, Australian unions need to foster relations with unions in the region and to support democratic movements, for it is only in democracies that unions will survive. Unfortunately, I fear that the Keating government would succumb to even the slightest pressure from Asian governments anxious to eliminate any 'foreign' intrusion by Australian unions.

Time is running out for the union movement, and it must be doubted whether unions, tied too closely to the Labor government as they have been, would survive the election of an overtly hostile federal government. A prudent spirit of independence might be in order.

Last year, I attended a Trade Union



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Training Authority course at Wodonga. Near the end of a forlorn examination of the industrial terrain, a young enthusiast suggested that unions form their own political party. I had to remind him that they did, a century ago: it was called the ALP!

**Paul Rodan**  
Clayton, VIC

## God and gender

*From Fr John George*

In 'Dethroning the Goddess' (*Eureka Street*, April 1993) Dorothy Lee concludes that in 'feminist spirituality' the risen Christ does not reveal the maleness of God but, rather, a 'divine Father/Mother'.

Some comment is needed:

1. In resurrection appearances, Jesus' disciples never encounter an androgynous Christ. Rather he was 'God-become-man', and thus reveals maleness.

2. Interestingly, in the Middle Ages, 'Mother Jesus' spiritualities appeared in the English, German and French convents. Julian of Norwich (15th century) described feminine values in Jesus' life. These spiritualities never distort Jesus' primary maleness.

3. In contrast, the 2nd century CE gnostic gospels of Thomas, and of the Egyptian, upheld the androgyne ideal, due to 'emancipated' gnostic distaste for sexual differentiation.

4. The New Testament Risen Christ, however, used male metaphors in reference to his heavenly Father. He never describes an androgynous (Father-Mother) God with genders *pari cum pari*.

5. Dorothy Lee's 'centre piece' is *Galatians 3:28* ('no longer male or female ... in Christ Jesus'). US feminist exegete Carolyn Osiek demonstrates that 'there are at least five possible interpretations of this difficult passage' (see *The Women's Bible Commentary*, 1992, p335). So *Gal. 3:28* does not *per se* support Dorothy Lee's Mother-Father doctrine.

6. Dorothy Lee's 'God beyond imaging' resembles traditional theodicy's genderless 'Self-Subsisting Being', or *Actus Purus* etc. Christ's metaphors surely 'enflesh' these skeletal abstractions of the God of the metaphysicians.

**John George**  
Lidcombe, NSW

## It's in the air

*From Professor Neil Buchanan*

Knowing that you occasionally publish verse (not poetry in my case) I enclose a ditty for your consideration, perhaps in the correspondence column.

### Morning laughter

*Shrieks of laughter,  
piercing and shrill,  
break the dawn.  
The sun rising over  
the city,*

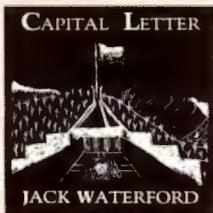
*Walking up the hill  
to Hornsby town;  
a morning constitutional.  
The laughter louder,  
shriller.  
Four different laughs  
now above my head;  
four kookaburras watching.*

*Between bursts of hilarity  
they look  
and seem to chatter,  
wondering who is this  
strange creature  
walking in the half light  
up a hill.  
Unconcerned they look and  
laugh, whilst I stop  
admiring their beauty.*

*Coming down the hill,  
laughter again  
louder and louder.  
This time  
paying me no heed,  
even when I stop  
to listen to their chatter.  
They seemed to say  
'John Hewson'  
'John Hewson'  
between bursts of laughter.*

*Listen to the birds  
not the pollsters.*

**Neil Buchanan**  
Hornsby, NSW



## PM prescribes a dose of Richo

**B**RIAN HOWE'S REPLACEMENT as Health Minister by an ambitious political operator may achieve two things for the Keating government: it can turn a popular policy to political advantage, and attack some of the institutional difficulties that are pushing up the cost of health care.

Graham Richardson may be somewhat shop-soiled, but no one has ever doubted his capacity to forge coalitions, to identify issues, to reward and to punish, and to make money work for the government. And, after his inglorious departure last year as a result of the Marshall Islands affair, Richardson also has something to prove.

Howe has paid for his performance in the election campaign. Half of his portfolio has been stripped from him, and he no longer has a place in the higher councils of Commonwealth-state relations. In a signal gesture to the left, Paul Keating has not only removed Howe's title as Minister assisting the Prime Minister but has abolished the social justice secretariat in the Prime Minister's department. This agency was established in the mid-1980s to ward off attempts by the left to force a wealth inquiry. That demand has abated, and the left no longer has to be appeased.

But Keating does not want another election like the last one, when a strong issue for Labor, such as Medicare, was not adequately exploited. His capacity to exploit it now is helped not only by the presence of Richardson, but by two other facts. First, the power that specialist medical practitioners have exercised through the Australian Medical Association is under challenge. The interests of specialists now differ markedly from general practitioners, many of whom willingly bulk-bill as good business and few of whom have major ideological difficulties with public health insurance. Second, the leader of the AMA, Bruce Shepherd, campaigned directly for the Liberals in March, making the idea of direct political retribution more certain now it is clear that he miscalculated. The government is in a mood to punish with discretion.

But other events are working in Keating's favour as well. In the months leading up to the election, Howe was negotiating with the states about concluding five-year Medicare hospital agreements. Some states, particularly Victoria and NSW, hung out till the end in the hope of extracting better deals, but all signed ultimately, knowing full well that they would get a better deal from Labor than from the Liberals. These agreements committed the states to working on cutting hospital costs through the achievement of efficiencies that could not but undermine the position of doctors.

In some respects NSW was the state in most trouble. There the political power of the specialists had been strongest. In the mid-1980s, specialists had withdrawn their labour from the public-hospital system in an effort to improve their financial rewards. Ultimately, there was arbitration of their claims by Justice Macken, which was focused as much on getting the doctors back into

the system as on determining fair rates. Over seven years, the Macken decision increased the cost of medical services in NSW hospitals by 400 per cent; it saw some doctors taking more than \$500,000 a year from the public purse.

It has been a jolly good wicket. But, seven years down the track, the NSW doctors thought it was time for an increase. They took their rates back to arbitration. To their surprise and astonishment, the adjudication saw an actual cut in their rates.

The Commonwealth, as the ultimate payer of such sums, holds the whip hand. It has, however, now pushed the states to a point at which they too have as great an interest in cutting costs. There are two directions of pressure. First, a system of best practice is being set up. Suppose that the average length of a stay in hospital for, say, an appendix operation is four days. Instead of paying for bed days, the Commonwealth proposes to pay for procedures, and to base averages on that. Efficient hospitals that achieve less than the average will be rewarded, and those that cannot achieve the averages will be punished. The Commonwealth, moreover, can change the goalposts, constantly pushing hospitals to meet new targets.

Of course, hospitals can appear to be efficient by ejecting people from hospital beds and sending them home even though they ought still to be in a bed. To date, the system has to some extent encouraged this because the Commonwealth has had to bear the cost of home and community care while the states have had to pick up the hospital bills. Slowly and relentlessly, however, the Commonwealth is creating a nexus between the two, so that savings liberated from the hospital system can be fed into community care.

The next major problem area is with private hospitals. In the public hospital system, hospitals bear the cost of both the hospital bed (nursing, food, drugs, etc) and the medical services provided (doctors' fees). Private hospitals, on the other hand, charge separately for medical services on top of hospital fees. There may be pressure on private hospitals to be efficient in organising their non-medical costs, but there are few incentives for them to work on doctors' fees.

What once were thought to be constitutional inhibitions against Commonwealth action on this front may not any longer be major problems: it is far from impossible for the Commonwealth to manoeuvre private hospitals to the point at which they operate on much the same financial footing as public hospitals. Indeed, it is not beyond the bounds that the two sectors may eventually compete for patients not so much on the basis of insurance, but the basis of who offers cheaper rates for the job. ■

Jack Waterford is deputy editor of *The Canberra Times*.

# In the *New* mood

Last August **Julian Disney** predicted in Eureka Street that the ALP would retain government. He was one of very few social commentators to read the Australian electorate correctly. At that time he described the effort to persuade governments that they should attend to social policy as an uphill battle; now, in the first of two interviews, he gauges a new national and international will.

**Morag Fraser:** *There are moves in the UN to integrate economic and social policy. Do you see that as a world-wide trend?*

**Julian Disney:** Yes. I think Reaganism and Thatcherism have peaked, as have those movements by other names in other countries.

*Did that suggest to you that Hewson was never in fact going to be elected? Yes, though I was as much influenced by his personality as by his policies. Probably more so. And it did always*

*seem to me that he was caught as the tide was going out. He timed Fightback! badly. The key decisions were made two years before the election and when the policy was finalised the recession was biting more acutely. Take the clearest example: he was going to cut people off the dole at nine months. Three months after he had announced that, he would hardly have found even a Liberal or National Party supporter for the proposal.*

*How much of that perception was abroad in the community? Do you think people voted against Hewson because they felt as you did that Thatcherism and Reaganism had run their course and were the wrong policies anyway? Or were there, as the Liberals urge, other*

*pressing reasons?*

The general mass of Australians never did have much enthusiasm for

Reaganism and Thatcherism, or 'economic rationalism', which I will use even though it is an inappropriate term.

*It is, and a slight on rationality. You have a better?*

People have called it fundamentalism. I usually call it economic extremism because that is its most striking and regrettable characteristic. I don't object to some of the general directions they were pushing. It was their unrealistic extremism that I objected to.

I think it is hard to know why the electorate voted as they did. What is fairly clear is that they didn't end up deciding very much on unemployment. What they did conclude was that on unemployment the parties were more or less equally committed in the past to the policies that caused the problem, and neither of them was likely to produce a great difference in the future.

After that I think the reasons for voting were all over the place. There was some concern about the GST, some about Medicare, some about the harshness of a divided Australia. Some people—Keating and others—have said people voted against a divided Australia and that means they voted out of great compassion for the unemployed and disadvantaged.

I am not convinced that is the case. I think that what they were mainly concerned about was division at their own level; for example, strikes, and fights between hospitals and the doctors. That kind of concern about division is not necessarily related to concern about division between the haves and the have nots. I think, though, that if they had seen one party as clearly going to be better for unemployment then they would have voted for it. But I should add that many

people don't seem yet to have recognised that we will now have high levels of unemployment for many years to come. They still think their kids will inevitably get a job, perhaps after a little wait.

It is long-term unemployment that is the major social problem. Unemployment is bad—but not often cataclysmic. Long term unemployment is highly likely to be cataclysmic. And it is going to get worse.

Bruce Chapman and his team [Economics Program, Research School of Social Sciences, ANU] predict that, even under the most optimistic estimates of growth, long-term unemployment must continue at very high levels for quite some time. In recent years their estimates have been criticised as too pessimistic, but have turned out to be very accurate—erring, if at all, on the optimistic side. I think there is no prospect of the level of long-term unemployment substantially reducing over the next five years.

*So how much credence do you place in Keating's election night promise to bring the unemployed along with us? It is very hard to tell. One of the things about Keating is that he has an ability to change, and with a straight face. He has done it on a number of issues in the last eighteen months. And though some of us might find these belated conversions bitter sweet, you've got to say it is better than sticking to the old stuff.*

*That flexibility is a political virtue isn't it?*

I think I will put it the other way round and say that *not* to be willing to change could be a major political weakness. Of course that willingness could mean that you go whichever way the wind blows, which is often not desirable. But I have always found it a bit

*I recall a very senior Keating numbers man saying to me that the best way of getting away from Keating's policies was for Keating to become Prime Minister. And that's right. He was the guy who had the guts to turn around. By contrast, Hawke seemed to think he mustn't look weak by changing course.*

ironic when people say about some leaders—often meaning Hawke—that they just go the way the electorate wants. But, of course, responsiveness is an important part of democracy.

*So Keating is a gifted changer of his mind. But what policies is he going to change?*

Well there is not an enormous amount you can do to reduce unemployment, whether long-term or short-term, over the next three or four years. What I took his election night promise to be was a focus on the palliative side. That is very important but frankly I don't know that he will do very much at all. There are really only two classes of things you can do. One is more cash—increasing the level of benefits for unemployed people. The other is improving the training and voluntary job opportunities.

A lot of these programs dismissed as a 'make work' in the early eighties are not 'make work' anyway. But even if they were, they would still be training programs which increase the prospect of those people finding work. Also they break the unemployment cycle. Let's say you are building a path in a national park, which is what a lot of the old Commonwealth Employment Program jobs were. Most people who do it learn a lot beyond path building. They develop self esteem and confidence, or recover it. Without that you can't do any job.

The economists are slowing coming around to this realisation. They used to object to 'shuffling the queue', arguing that these kinds of jobs don't create any more 'real jobs: all they do is shuffle the queue of unemployed. The macroeconomists view things in terms of the bottom line number. If it doesn't change, ergo, in their view, nothing has been achieved.

But that is quite wrong, even from the point of view of economic and fiscal policy, because the prospects of someone remaining a permanent burden on the state, if I can use their sort of terminology, are greatly reduced if they have had workforce experience moderately recently. They don't fall into total permanent unemployability. So maybe the Government will put a bit more into these types of programs. And their attitude there will be pretty much affected by the reaction

of the unions. In fact that is one of the big questions about the election result. Will the union movement say, 'Okay, we got through. We are there for another six years. We were major contributors to the Labor Party's success. Now we can concentrate on pushing claims for the mainstream workforce'. Or will they look more to helping the disadvantaged and marginal people? I think that the latter approach may get greater attention.

*You've said before that it will be the women in the union movement who will carry that momentum.*

Yes, really that is at the heart of why I am optimistic to some extent. It is unfair, however, that it should be the case because it is putting a great burden on them. The other factor is that some of the industrial changes are going to make the divide between the haves and have nots in the work force even wider unless great care is shown. Enterprise bargaining is the classic example. That may bring things to a head. Over the past 10 years, although the unions have purported to look after the low income people, the gap has got wider, but gradually and imperceptibly. Whereas under this [enterprise bargaining] it could get wider quite dramatically.

*You have talked before about a tyranny of opinion in government, especially in the main economic departments. What you say now suggests some change in attitude.*

During the late '80s most of one's time was spent mitigating damage; you rarely had a chance to get on the front foot. The tide of opinion in Canberra and the media was going so strongly one way that you were running back all the time defending. Now there appears to be less extremism and intolerance. This is largely because of the recession—they have been mugged by reality. It isn't a philosophical persuasion, unfortunately.

But now, for example, take recent changes in areas such as industry development, Asia, regional development within Australia—all changes which ACOSS espoused over the years. This is front foot stuff, deciding to do something instead of just playing around with macroeconomic levers and leaving the animal spirits to work

it out. I think Keating now acknowledges that that approach won't work. And the dissenters have been liberated partly because Keating has changed.

It is interesting to speculate whether Keating could have changed direction if he hadn't gone into exile. At EPAC [Economic Planning Advisory Council] once I said to him, 'I am not arguing for a U turn, I am arguing for a substantial adjustment'. And he answered, 'But look, if you are right, we need more than an adjustment'. Whether he would have had the courage to change if he had stayed Treasurer I don't know, but I recall a very senior Keating numbers man around that time saying to me that the best way of getting away from Keating's policies was for Keating to become Prime Minister. And that's right. He was the guy who had the guts to turn around. By contrast, Hawke seemed to think he mustn't look weak by changing course: 'I must show I am tough, that I don't fall apart in a heap as soon as the tough boy goes'. And, ironically, that approach brought him down.

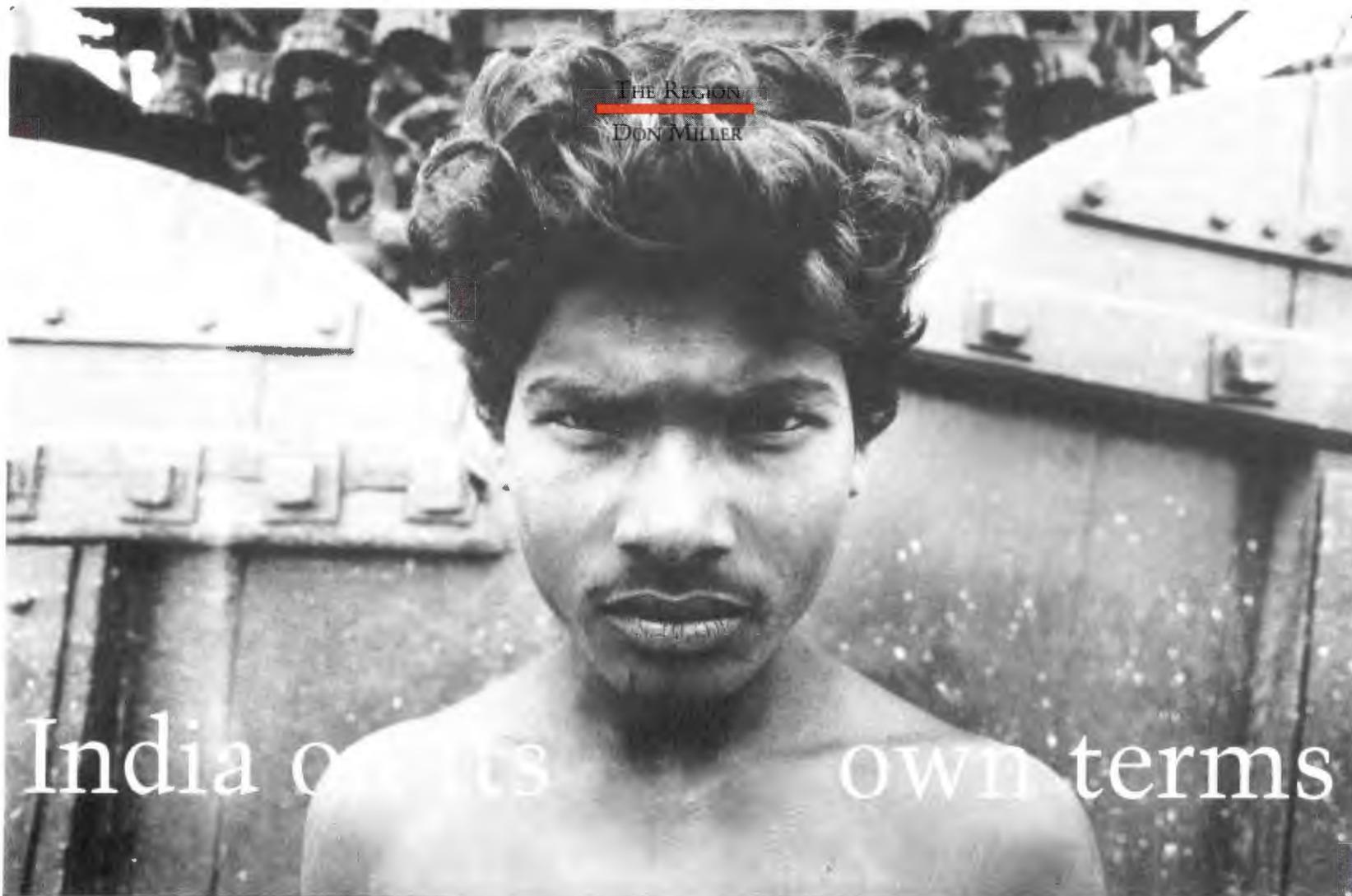
*But they weren't his policies. It is more difficult to manoeuvre when they are not your own policies.*

But at that point he had Kerin in, and Kerin of course was not strong enough in the position. So Hawke was left defending the old Keating policies and Keating was free to push a different line. ■

**Julian Disney** is professor of public law at the Centre for International and Public Law in the Australian National University. He was president of the Australian Council of Social Service from 1985-1989.

**Next month:** regional development, Treasury, trade, and republicanism.

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THE REGION

DON MILLER

# India on its own terms

**W**HEN AN EXASPERATED British official wrote in 1863 that 'all religious movements in India are political ... the people have not yet learned to sever religious faith from civil government', he was echoing the common sentiment of colonial rulers in the Asian subcontinent. And they, in turn, were repeating the *credo* of the European Enlightenment.

Nationalist leaders like Jawaharlal Nehru made such doctrines their own, and throughout the independence struggle Nehru never stopped warning about the dangerous 'fissiparous tendencies' of religious, linguistic and caste loyalties. He was proud of having created a 'secular state' in 1947, in contrast to the 'theocratic state' of Pakistan, and ever since then Congress leaders have distinguished their party from most others by its secular orientation. Whenever a bloody confrontation erupts between, say, Sikhs and Hindus, or between Muslims and Hindus, Congress politicians are the first to warn again of the dangers that the passions of religion pose to the established secular order.

But in fact India has never been a secular state. That it supposedly has been is merely its most successful official myth, constantly reiterated by its elites as well as by most Western commentators. In reality, India has

always been more some form of a 'Hindu state'.

Many Muslims, of course, have undoubtedly attained important positions in Indian public life—including the presidency of the republic. These achievements have neither been trivial nor simply ritualistic. But because the Muslim community comprises only 10 per cent of the population it was probably inevitable that the Indian polity, society, culture and academy have been always Hindu dominated—even if inadvertently. In this sense India has been a Hindu state just as much as the USA has been a white man's state.

Positive discrimination has also occurred against Muslims, openly by parties and organisations like the BJP (Bharatya Janata Party), and obliquely by the Congress itself, despite its public commitment to secularism. By a variety of means, Congress governments have, wittingly or otherwise, kept Muslims out of favour. There is no other way to explain their impoverished state—economically, educationally, culturally, politically.

This should not be surprising. Animosity between Hindus and Muslims has existed and, periodically, erupted violently, ever since the first Moghul conquests in the 14th century. This cannot be denied, but it is also

*Eye of the devotee: this young Tamil has dedicated his life to the care of a Hindu shrine in Mysore.*  
Photos by  
EMMANUEL SANTOS.

true that there has been a remarkable coexistence, even harmony, between the two communities during that 600-year period. Some of the credit for this must go to several enlightened and tolerant Muslim rulers like Badruddin Muhammad Akbar ('tolerance', of course, whatever that elusive concept means, was never the sole privilege of the modern, secular West).

The presence and practices of the British in 19th century India unwittingly upset this balance by nurturing exclusive group identities and confrontations, whether of language, culture, region, caste or religion. Much has been made of devious colonial policies of 'divide and rule'. More important, yet less noticed, were the unintended consequences of British education, administration, law and even census-taking, all of which were automatically geared to Aristotelian notions of non-contradiction and, accordingly, to a heightened consciousness of boundaries. Indians were taught to reinterpret themselves in a logic of 'either-or'. India has since become a more mobile, fluid society; but the heightened consciousness of group identity and opposition has also made it a more fragile social environment.

The partition of the continent in 1947 (in no way inevitable) and the subsequent mutual slaughter, scarred future relations between the two communities. Henceforth the Muslim minority were easily represented as modern heirs of the ex-rulers of India, and supporters of the belligerent neighbouring state of Pakistan, that persistent claimant to the prestigious and strategic territory of Kashmir. Yet at the same time Muslims are pictured as a backward, unenlightened, ghettoised 'Other'. This is predictable enough: a conservative facade of Islam is more consistently and variously buttressed in contemporary India than its weaker, liberal front.

**I**T IS SHAMEFUL, yet telling, how little is known about Indian Muslims or about the average Hindu's attitude to them. The situation is too complex to settle for simple characterisations, but I am nevertheless struck by a graphic story recently told to me by an Indian friend who vividly recalls her mother (a charming, warm and gentle woman) telling her as a child that if she were to plunge her arm into a vat of oil and then into a sack of sesame seeds, then, if for the number of seeds that stuck to her arm a Muslim would tell her to trust him, she must not. Sudhir Kakar, the Indian psychoanalyst, tells how the demons projected in the fantasies of his Hindu patients are commonly either malevolent Muslims or aggressive Sikhs. One can do little but speculate on the range, depth, power and sig-

nificance of such weighty internalised folk beliefs.

So neither the Indian state nor society have been particularly secular, or tolerant, in their attitudes and behaviour since independence. To pretend otherwise is to engage in self-deception. And the most serious form of this self-deception lies in believing that some Western form of secular politics was both desirable and possible in that vast multicultural continent. How can one think that Muslims, Sikhs and Hindus, for example, or Bengali, Punjabi and Tamil speakers, or Okkaliga, Lingayat, Reddi and Kamma caste men and women could or should ignore their separate identities and, presumably, become some homogenised, rational 'Indian citizen' acting co-operatively for the interest of all his or her fellow Indians? To think in this way is to believe that it is both feasible and admirable to produce some cloned 'Indian', either a Rational Man, a Saintly Man, or a Universal Man. On this account, presumably, politics itself would eventually wither away, since all significant potential differences would have been erased: a totalitarian state

*The dogma, exclusiveness and militant virulence of the BJP's call for Hindutva belong to a world alien to Hindu tradition. What is happening is a new political movement, not the resurgence of an old religious one.*



reflecting a totalised society.

In fact that conclusion was never quite reached because certain divisions and conflicts have actually been considered legitimate. Marxists still expect a class politics to emerge; liberals and economists desperately search for signs of a more rational conflict of economic

*Mobile home: the wives of road workers in Mysore in a makeshift shelter made from tar containers.*

interests engaged, of course, on some level playing field. To both groups—constituting the majority of Indian and Western commentators and opinion leaders—the endurance of such primordial loyalties based on religious, linguistic and caste identities and interests is an historical anomaly, an embarrassment, a harbinger of divisive passion and an obstacle to 'development' ('Westernisation'). In other words, India must cease being India for any good to emerge.

**B**UT CASTE, RELIGIOUS AND REGIONAL differences and loyalties will not go away, nor should they, no matter how much each may evolve differently over time. In the meantime, political parties and governments will inevitably have to take these differences and their periodically conflicting interests into account, as they themselves will be held accountable by such

different communities. This is politics, and rightfully so. But such communities are also heterogeneous, and on innumerable matters they have things in common with other communities, even at times more than they have with sections of their own. In short, Indian democracy is, and ought to be, an untidy affair in which religious and sectional beliefs will continue to be articulated—for good and bad.

In such an environment a template secular politics is a monstrous misconception, descriptively and prescriptively. As if an Indian state could be neutral. Whatever the state does will satisfy certain sections and dissatisfy others. 'Uniform' laws have differential impacts. No government in India can either ignore religion or religious differences or keep some neutral distance from each and every one of them.

But this does not make India either a theocratic state or one fated for bloody divisiveness. Such simple dualities, which the West has always found so appealing, should be discarded in favour of a more imaginative play of language, and thereby of thought.

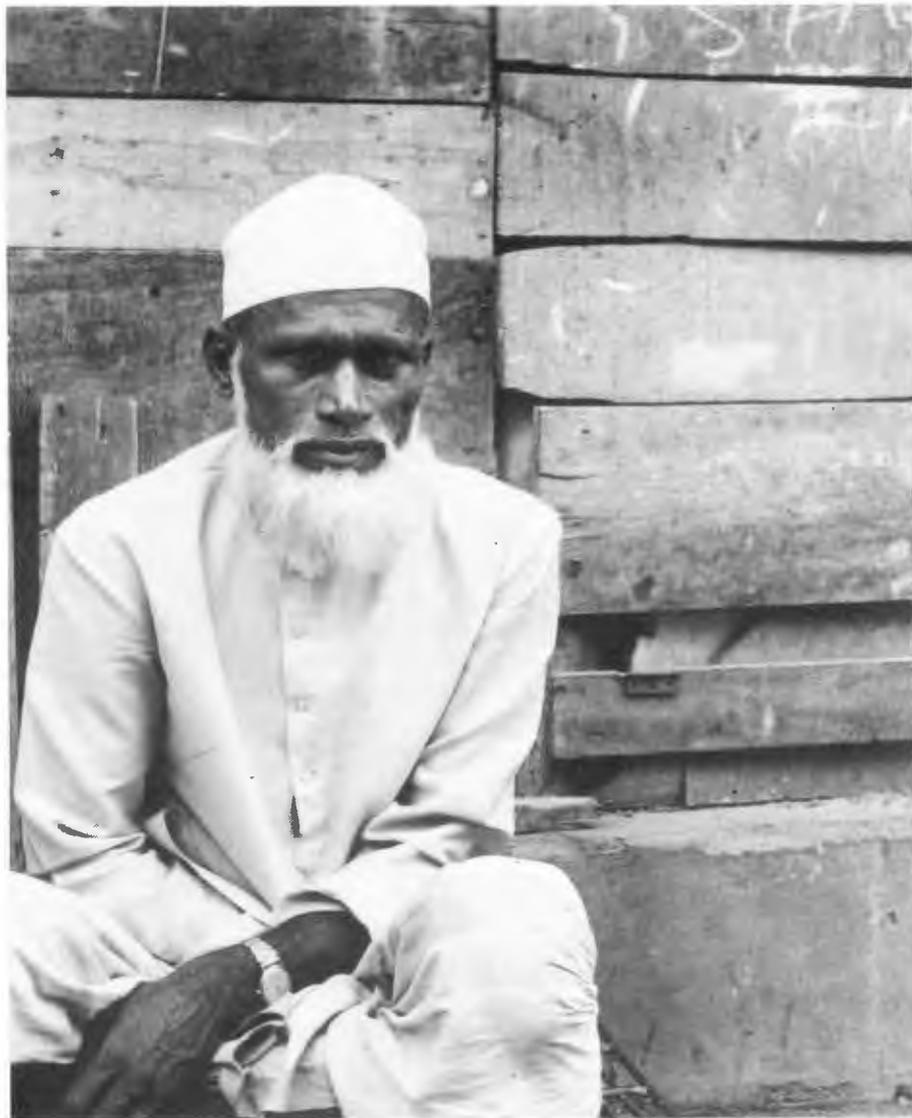
The current state of India is therefore the result of many things, but certainly not of some sudden collapse



of secularism. Responsibilities for today's traumas are many and varied. The weakness, even venality, of its politicians—perhaps first set a bad national role model by Indira Gandhi—is to a large degree responsible. In addition, nothing was done to curb the increasing role of violence in Indian politics—thugs and criminals now flourish in most if not all political parties. Terrorism and state counter-terrorism have become the order of the day. So the BJP seems casually, almost legitimately, ready to resort to bloody measures whenever it wishes; whereas its ideological progenitor, the RSS (Rashtriya Swayamsevak Sangh, a military-style organisation created within the Hindu community in the 1930s, and advocating a pure Hindu India), rarely dared large scale violence.

**I**T SHOULD NOT BE FORGOTTEN that during the past 20 years, as part of the decline of a civil and civilised polity, the police, the paramilitary and sections of the judiciary have been made puppets of local political bosses. The Congress Party once again has to be held more responsible than others for such a decline of law and order. Yet no legitimate state force was used to curb the recent outbreaks of bloodshed, arson and pillage in either Ayodhya or Bombay. This had as much to do with political instructions as with any anti-Muslim sentiment within the predominantly Hindu police forces.

*Much has been made of devious colonial policies of 'divide and rule'. More important, yet less noticed, were the unintended consequences of British education, administration, law and even census-taking, all of which were automatically geared to a heightened consciousness of boundaries.*



*It's still their home: street vendors in the Muslim quarter of Bombay.*

ination, if not eradication, perpetrated by a handful of powerful orators successfully manipulating the insecurities of those urban Indians who, at this moment of history, feel lost and betrayed.

Apart from finding a new language, it is also necessary to return to certain neglected values for a better critique of the Indian situation. Too much blame has perhaps been directed to Indian society; it is time to reappraise the Indian state. It is necessary to distinguish clever politicians from the integrity of statesmen, and to judge the willingness of leaders to take into account long-term consequences as well as short-term pay-offs. This is no jaded call for a return to dangerously simple notions of high moral principle and rigid consistency; rather, it demands flexibility, compromise, a sense of timing, discretion, sympathy, imagination—and guts.

No politician or party stands out at the moment as possible carriers of a new political culture. But at least critics and opinion leaders in India and abroad could help matters by jettisoning a discredited rhetoric and developing a new language of statecraft, one appropriate to India yet with a critical edge.

**T**HE POLITICAL TASK is more difficult now than it was a decade ago. Too much initiative already appears to lie in the hands of evil organisations like the BJP. And it seems the world has never learned to handle evil effectively. The social sciences, I suspect, would even decline to consider that four-letter word a useful post-Enlightenment concept. But it is not only India, I would have thought, that regularly reminds us that one cannot afford to neglect such a notion, in any of its myriad forms, no matter how ill-prepared one may be for the task of understanding its genesis, growth and control.

Why do we keep denying certain realities? And keep believing certain delusions?

*And the slaves tear at each other. But an Athlete of W does not even know that. He would rather believe in his Star.*

—W OR THE MEMORY OF CHILDHOOD,

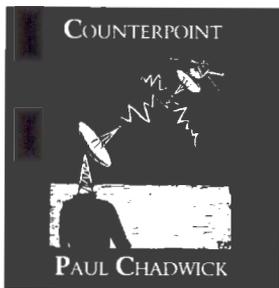
Georges Perec. ■

At this stage there are no easy solutions. But it is possible to think differently about the problem. One can, along with certain Indian intellectuals, dismiss as empty posturing the mass rallies, organised by some political parties, to proclaim yet again the majesty of secular politics, as well as the calls for a ban on religious-based parties. If the latter were to happen, it would still be difficult legally to silence the BJP, as the *Hindutva* ('Arise, ye Hindu nation') it preaches has nothing to do with Hinduism as it has been known.

Whether Hinduism should still be called 'a religion' is in fact an important question in itself. It, or rather the plurality of Hinduisms that have existed in India as pervasive 'ways of life' for some millennia, has always been characterised and, by some, criticised, for its all-inclusiveness. It has an apparent openness that makes it both internally inconsistent, if not contradictory, and quite non-proselytising, even non-judgmental. The attitude is almost like a Nietzschean tolerance to 'the play of the world', in all its varied manifestations 'beyond good and evil'.

The dogma, exclusiveness and militant virulence of the BJP's call for *Hindutva* belong to a world alien to this tradition. What is happening is a new political movement, not the resurgence of an old religious one. More pointedly, it is a hideously clever orchestration of mass psychology and xenophobia: a cultural crusade of dom-

**Don Miller** is associate professor of political science in the University of Melbourne.



# When you want to be alone

*I gave the fight up: let there be an end,  
A privacy, an obscure nook for me,  
I want to be forgotten even by God.*

**R**OBERT BROWNING'S WORDS are beautiful, but useless to the lawyer in search of a working definition of privacy. 'The right to be alone' is one American judge's pithy formulation. Too simplistic, concluded Sir David Calcutt, the English QC whose reports to the British government on privacy and press self-regulation have been watched warily by the Australian media.

Last month I reported the case of a newspaper's invasion of the privacy of a ballet dancer, the late Kelvin Coe, and wondered whether, in the absence of better self-regulation, Australia would experience moves similar to those Calcutt has led in Britain for legal measures to restrain or punish disclosures. In particular, would a tort of invasion of privacy be established as the Australian Law Reform Commission and others have from time to time recommended?

Calcutt's first report, in 1990, excoriated British media self-regulation and said, 'if it is not prepared to put and keep its own house in order, further legislation must follow.' Some attempts at improvement were made, but not enough to satisfy Sir David, who in his review last January recommended a statutory tribunal be established to lay down a code of practice and police it with powers to require printed apologies and corrections, to award compensation and to impose fines.

The press howled, then growled, and John Major's government backed off.

Calcutt also recommended, and the government accepted, the creation of new offences making it a crime, for the purpose of obtaining personal information for publication, to enter and remain on private property, use surveillance devices, take photographs or record voices (except, of course, with consent).

Australia's press cannot easily be compared with Britain's (either the best or the worst of it). Granted that the Calcutt saga is not directly applicable, the similarity in the legal systems makes it instructive to consider why Calcutt hesitated to recommend a new civil action for infringement of privacy.

The creation by statute of such a tort had been urged by the English Court of Appeal during Calcutt's first inquiry in 1990 in a case involving Gordon Kaye, the star of a popular TV comedy. Kaye, brain-damaged in a car accident, had been isolated in intensive care and the number of people permitted to see him had been severely restricted both to aid recovery and to lessen the risk of

infection. Despite notices explaining this, a reporter and photographer had entered his hospital room, interviewed him and taken photos with a flash that might have set back his recovery.

Kaye's agent tried to restrain publication, arguing that the actor was in no condition to have given informed consent. He substantially failed, with the court noting that 'in English law there is no right to privacy'. The same is true in Australian law. Sometimes privacy may be indirectly and partially protected by actions for defamation, trespass, injurious falsehood, or breach of confidence, but there is nothing approaching a 'right to be alone'.

In discussing whether there should be, Calcutt raised difficulties of definition, defences, scope and access.

*Definition:* If people are to be liable for infringing privacy, the law must say what it is. Calcutt thought that if physical intrusions were dealt with separately, 'personal information could be defined in terms of an individual's personal life, that is to say, those aspects of life which reasonable members of society would respect as being such that an individual is ordinarily entitled to keep them to himself, whether or not they relate to his mind or body, to his home, to his family, to other personal relationships, or to his correspondence or documents.'

*Defences:* As well as consent and innocent dissemination, there would have to be a public interest-defence to permit disclosures that would prevent crime or 'other seriously anti-social conduct', to protect public safety or avert a risk that the public would be 'materially misled.' This last consideration might justify, for instance, disclosure of the adultery of a politician who projected a media image of a perfect family person.

*Scope:* No new tort could be restricted to the press, so the implications for 'a wide range of human and technological activity' would need to be considered. What of the work of historians and biographers?

*Access:* Like the tort of defamation, the remedy may in practice be available only to the wealthy. Even for them, it may be counterproductive to embark on a public trial to seek relief for the unwelcome disclosure of something that is private and sensitive or embarrassing. Prior restraint raises extra freedom-of-speech issues.

None of these problems is insoluble, but they indicate the formidable difficulties and potential expense of a new legal remedy. Effective self-regulation is surely preferable. ■

**Paul Chadwick** is Victorian co-ordinator of the Communications Law Centre.

## Old soldiers never die, they merely evade away

**I**T IS NOW MORE THAN A YEAR since the ceasefire was signed in El Salvador. At the time the opposed parties saw the ceasefire as an invitation to wage war by other means. So during the year any move towards peace has been made only as the war clouds have gathered and threatened to break.

But progress has been made. It can be measured by recalling the structure of the peace accords signed last year. They named in detail the steps towards military disengagement, described sketchily the path by which the two armies were to be taken out of political life, and presented only in broadest outline the economic reconstruction of the country. It is only to be expected, then, that the disengagement should have been surprisingly smooth, the move to a professional army remains precarious, and for the creation of a more just El Salvador to have hardly begun.

The FLMN (Farabundo Marti National Liberation Front) has now been disbanded and its weapons destroyed. Similarly, many military battalions have been disbanded, including some of the most notorious. Demobilisation, however, usually causes problems unless the soldiers can find civilian work. In El Salvador, because the promised retraining has been minimal, and retirement pay small, the temptation to continue to live by the gun is high. Certainly there has been much common crime, in addition to the continuing murders by the death squads.

The reduction in the strength of the army has of itself weakened its previous role in public life. But the government has acted against the spirit of the accords in placing former soldiers in new security units, and officers have key positions within government. Hence anxiety about the future influence of the army remains. So the treatment of officers whom the Ad Hoc Commission (established to investigate the worthiness of officers to serve in the reconstructed army) declared should be purged from the army, has become a test case.

Despite strong pressure from the United Nations, President Cristiani has insisted that high-ranking officers, including his Defence Minister, should be allowed to retire in their own time. The stubbornness with which he has held this position perhaps indicates that for him the issue is one of life and death. In any case, his cause has been helped by divisions among the leaders of the FLMN on the issue. At the same time, the president tried to suppress the findings of the Truth Commission, which is charged with investigating atrocities committed during the war. At UN insistence, however, the commission made its report public, attributing responsibility for the murders of Archbishop Romero and the six Jesuits from the University of Central America and two women, the Jesuits' cook and her daughter, to senior

officers, including some in the government. But before the commission issued its findings, the government pushed through an amnesty for all who had committed crimes in the conduct of the war. This has led to the release of the killers. Although the Jesuit provincial had already sought their release on the ground, now conclusively established, that they were not the real authors of the murders, he and most critics in El Salvador deplored the way in which the amnesty was given. They had sought an amnesty after a full investigation. Meanwhile, other investigations continue, most notably into the massacre at El Mozote, where more than a hundred bodies of the thousand people claimed to have been killed by the army have been exhumed.

As a result of these events the position of the army in public life has been weakened, but not fatally so. The little that has so far been achieved has depended on strong pressure from outside El Salvador to investigate and disclose violations of human rights. Without continued pressure, the military will be able again to dominate the government.

The reconstruction of the country has been a battle where little ground has been conceded or won. The promised purchase and distribution of land to the former combatants has been opposed by the large landowners, and effectively blocked. Large employer groups have also refused to participate in discussions about economic reconstruction, and have intransigently opposed any concessions to unions. Their stance has been supported by a partisan media. But they have been forced to make concessions, which illustrate the way in which

international economic factors can be forces for good as well as for evil in El Salvador.

**T**HE UNIONS TOOK THEIR CASE to the US, and were re-  
viled for doing so. They asked that El Salvador's preferential trade status be reviewed because workers' rights were not respected there. Ordinarily they would not have won a hearing, but such is the fear in the US of jobs being lost offshore that the unions' petition was taken seriously. Representatives of government and private business in El Salvador were finally forced to sign an agreement guaranteeing workers the right to organise.

These events demonstrate that the most powerful player in the political game of El Salvador continues to be the US, and at present both its political calculations and economic interests are working in favour of a just settlement. The final outcome will depend on the interests and attention of El Salvador's large northern neighbour. ■

**Andrew Hamilton SJ** took sabbatical leave at the University of Central America, San Salvador, in 1992.



# Drawing the line

*The deregulative mania of the 1980s is fading—but debate about how much regulation of the economy there should be, and for what ends, continues.*

*The most important issue is getting a universal cover for the Trade Practices Act to extend to the professions and government-owned utilities.* —ALAN FELLS

*Photo: courtesy of The Age.*

**I**T IS A MEASURE OF HOW MUCH Australia has changed during the past decade that the following statement, contained in an Industry Commission document of November last year, failed to raise an eyebrow on either side of politics: 'Economic efficiency can be broadly equated to the welfare of the community as a whole, whereas equity is concerned with how it is distributed among society's members.'

In the deregulated, low-tariff Australia of the new decade, competition is the name of the game. The politics of the 1980s were largely driven by the confusion and trauma caused by breaking down the protective economic barriers between Australia and the rest of the world. In the '90s, Australians will have to decide what limits, if any, should be placed on the free operation of market forces.

While Australia was locked in the federal election battle, an inquiry into competition policy was quietly

proceeding. Due to report at the end of this month, its recommendations are likely, in the long run, to be almost as crucial as the voters' choice of government in determining the complexion of Australian society.

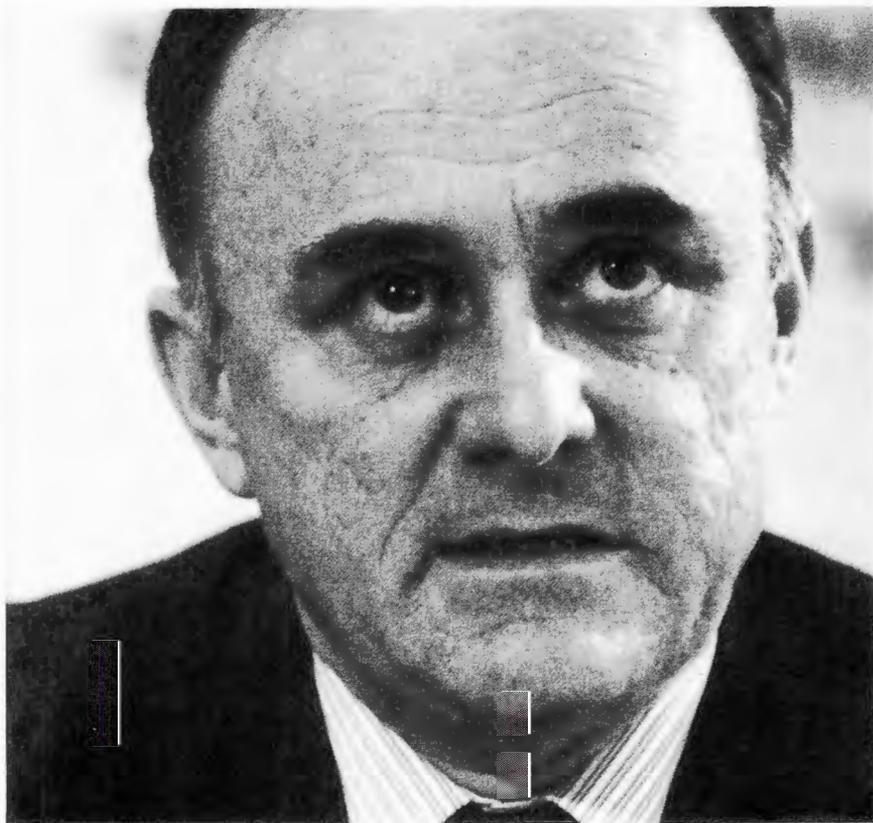
Set up last October by Paul Keating, the National Competition Policy Review is an independent inquiry headed by Professor Fred Hilmer, dean of the school of management at the University of New South Wales and a leading commentator on the implications of the new orthodoxy of competition for the Australian way of life.

A great deal hangs on Hilmer's recommendations. His report will broach not only the highly political question of how, and to what extent, markets should be regulated, but also how a concern for justice can be reconciled with the drive for efficiency.

Hilmer's inquiry has as its starting point the assumption that competition is good: that it is the most effective and desirable discipline on markets, and that the removal of tariffs and barriers to trade and competition should continue. However, the terms of reference also recognise that regulation may be needed to limit the abuse of market power, and that sometimes conduct with 'anti-competitive potential' may be in the public interest.

The report is likely to act as an antidote to the arguments of those who say there is no role for government in the regulation of markets. With his recommendations eagerly awaited, Hilmer himself is reluctant to speak about what tack he will take, but says: 'If your position is that competition is good, and everything else is bad, then you don't need an inquiry, you just do it. You just let the market rip. This inquiry is about what boundaries to competition are necessary. There are areas where you may have some social goals. The job of competition policy is to see how you can meet those goals without hurting efficiency, or how you can arrive at the best trade-off.'

**T**HE HILMER INQUIRY has been prompted by enormous changes to the way the Australian economy operates. Due to tariff cuts, the market for many goods is now subject to intense competition from overseas, reducing the need for prices surveillance and monopoly regulation by government. At the same time, industries such as banking and domestic air travel have been deregulated, and many government enterprises—previously ex-



empt from pricing and other regulations—have been sold or reorganised on business lines. Political considerations have meant, according to the market regulators, that the prices of services such as water and sewerage are often too low. Governments have set fees such as public transport fares with an eye to social considerations, rather than to the real cost of providing the service. Now the push is on to isolate the real cost of satisfying the desire for justice, and to reassess it.

Some of the newly sold or 'corporatised' functions—the transmission of electricity, for example—are 'natural monopolies' creating the potential for abuses of market power if they remain unregulated. It could be that without regulation and scrutiny, the benefits of increased efficiency will be 'captured' by those who control the natural monopolies, rather than passed on to consumers and the economy as a whole.

All of these issues have shifted the focus of the market regulators, and, as the Hilmer inquiry sits, the market regulators have been jockeying for position, empire building and treading on each other's toes.

At the moment three bodies dominate market regulation. The most powerful is probably the Trade Practices Commission, which administers legislation that, among other things, prohibits the forming of cartels to fix prices, the use of market power to damage competitors, and the fixing by a manufacturer of a minimum price for the resale of a product. It also has power to prevent mergers and takeovers that would lessen competition.

But the commission's powers are limited. It has no power over government-owned enterprises such as electricity, gas, water, the ports, the railways and the postal service, all of which are vital to an efficient economy. Nor can it act against anti-competitive practices in the professions—and there have been calls from a number of areas for the Trade Practices Act to be extended to cover the legal profession.

Second in the competition triad comes the Prices Surveillance Authority, which was set up as part of the first prices and incomes accord, to restrain the cost of major consumer items.

In the past few years, with inflation running low, the authority has broadened its role and become more controversial. Its reports, such as the one on the waterfront (see *Eureka Street* October 1992), now highlight the gaps that sometimes exist between the rhetoric and the reality of economic reform. The authority found that, although huge cost-savings had been achieved by labor reductions and increased efficiency on the wharves, these were not being passed on to Australian exporters, but rather were lining the pockets of international shipping cartels.

Because of its history, the Prices Surveillance Authority tends to be more concerned with questions of social equity than its sister bodies.

The third regulatory body, the Industry Commission, has greater resources than the Prices Surveillance Authority, and prepares lengthy reports advising gov-

ernment on reforming the economy and industry policy. Its output has tended to be dry, in every sense of the word. In a news release about the Hilmer inquiry, the Industry Commission said: 'Competition should be used solely to achieve improvements in performance of the economy ... equity and other social goals are better achieved using other means available to governments.' That claim is one commonly heard in this new, dry, age. It is one of the key issues that market regulators will have to wrestle with in the future, and its determination is likely to affect profoundly the way in which basic utilities are run.

**A**SKED TO COMMENT, the chairman of the Prices Surveillance Authority, Dr David Cousins, said: 'Where the Industry Commission and I would be in broad agreement is that when a social objective is being pursued, the real cost of it must be clear, and the government must make a decision as to whether they are going to pick up that cost.'

By way of example, Cousins refers to the controversy over Australia Post's decision to raise the price of handling registered publications—an issue that may determine the future of many small publications (including *Eureka Street*).

Cousins says: 'Australia Post was making a significant loss on registered publications, and the ordinary mail user was effectively subsidising them. Was that a social policy? The government had never made a decision on it. The true cost had never been delineated, and some of the publications were hardly deserving. You might argue social benefit for a small current events magazine, but why should the average user of postal services be subsidising *Ita*?'

The issue was referred to the government for a decision. Was it prepared to pick up the true cost of cheap distribution of registered publications? The answer was 'no', and in consequence the cost of registered publications would have soared, arguably leading to the wiping out of many smaller magazines. Intervention by the Prices Surveillance Authority led to a compromise. Non-commercial publications will be granted a period of adjustment with the subsidy being phased out over eighteen months. It is now due to end in 1994.

Cousins says: 'In organisations you sometimes get decisions because of political patronage. Things will be done, and the cost picked up without the community knowing the true cost or having the opportunity to make a decision. The decision is made by managers, who might have all sorts of motives, including just expanding an empire.'



*In organisations you sometimes get decisions because of political patronage. Things will be done, and the cost picked up without the community knowing the true cost or having the opportunity to make a decision.*

—DAVID COUSINS

*Photo: courtesy of The Age.*



Cousins believes it is quite reasonable for decisions on competition and pricing policy to be tempered by a concern for justice; but the true cost of decisions should be clear, and the community, through its elected representatives, should have the choice. 'The problem comes when government decides it doesn't want to pick up the cost of the social justice component,' Cousins says. Analogies can be drawn with the cost of public transport, or the provision of telecommunications in remote areas.

**C**OUSINS' SUBMISSION to the Hilmer inquiry has set the cat among the pigeons. He has recommended that a new Monopolies Commission be set up, to take over large parts of the role of the Trade Practices Commission and the Industry Commission. The Prices Surveillance Authority would be rolled into the new body, and would form its core.

In his submission, Cousins argued that a Monopolies Commission could cover both state-owned and private enterprises, depoliticising the pricing of services such as electricity, water and passenger rail services, and—perhaps most importantly—take over from the courts the highly technical areas of trade practices regulation.

The courts, Cousins said, had shown themselves ill-equipped to understand pricing issues. Rules of evidence had prevented expert economists from being heard in important cases and, in one landmark case, the court had ordered the supply of goods at a price which would have forced the company concerned to make a loss.

A Monopolies Commission, Cousins believes, could bring appropriate expertise to bear, and would have the flexibility to consider a range of remedies to anti-competitive behaviour, rather than concentrating only on prosecution of transgressors.

Cousins' suggestion has been seen as a threat to his former boss, Professor Alan Fels, who until late last year was chairman of both the Prices Surveillance Authority and the Trade Practices Commission, and was lobbying strongly for the two bodies to be merged. If that were to happen, the Trade Practices Commission culture, rather than that of the authority, would probably have been dominant. The idea of a merger was either rejected or deferred (depending on whom you speak to) by Cabinet, after which Fels gave up his authority hat to concentrate on the commission. Cousins was confirmed in the authority's top job earlier this year.

However, Fels has continued to lobby behind the scenes for a merger, and is believed to be a little miffed at Cousins' initiative. Cousins is frequently described as having been a protégé of Fels—a tag both men hate. 'The protégé is off and running by himself,' commented a Trade Practices Commission spokesperson. Asked whether he is empire building, Cousins smiles. 'We have been accused of it. What can we say? How can we deny it? We hope people will look beyond accusations of that sort and see we are recommending this because we think it is the best solution to the problem.'

Asked about Cousins' proposal for a Monopolies Commission, Fels was dismissive, describing it as 'just a detail'.

'The most important issue before Hilmer is getting a universal cover for the Trade Practices Act to extend to the professions and government-owned utilities,' Fels said. 'The areas of particular concern are agricultural marketing bodies and the utilities—electricity, gas, water, ports, airports and rail. They are all vital to economic efficiency.'

Fels' submission, which at the time this article was written had not yet been sent to Hilmer, would focus on extending the Trade Practices Act to cover these areas. Pressed, Fels admitted that he still favoured a merger between the Prices Surveillance Authority and the Trade Practices Commission: 'I have difficulty with the fact that we have three different bodies—the TPC, the PSA and the Industry Commission—all in the same area.'

The Industry Commission's main submission to Hilmer was a lengthy canvassing of the main issues to be considered. After the Prices Surveillance Authority proposal, however, Hilmer asked the commission for its views on the best institutional arrangements for monopoly regulation. In a two-page supplementary submission, the Industry Commission came up with a third model—the establishment of a new body to advise the existing Trade Practices Tribunal. The new body could be formed either by merging the Trade Practices Commission and the Prices Surveillance Authority, or its tasks could be fulfilled by the authority alone.

'In the case of the Prices Surveillance Authority, the commission considers that its current approach to issues and its institutional experience is both narrower and different to that required of the proposed access agency,' the Industry Commission's submission said.

**H**ILMER POINTS OUT that although the Australian economy must now operate internationally, policy makers are working within the constraints of a constitution drafted in an earlier era. He says: 'We are not taking a blinkered or dogmatic view of the role of competition ... We appreciate the need to balance the benefits of competition against other economic or social objectives.'

Competition policy is at first sight as dry as dust: not naturally interesting or fertile ground to those whom some market regulators describe as the 'bleeding hearts'—those who think first in terms of social welfare.

But, whatever mechanism the Hilmer inquiry chooses for industry regulation in the future, its recommendations will determine the way the new 'unprotected' Australia balances the desire to foster competition with a desire for social equity. It will be a vital part of determining what sort of society Australians will have as they move into the new century. ■

**Margaret Simons** is a regular contributor to *Eureka Street*.



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The Colombian drug traffickers ... are operating a business, and a highly lucrative one at that, but the idea of sitting down with them to discuss the development of a code of ethics or to look at particular cases of moral dilemma that they face (whether to kill a government investigator or merely make threats against his wife?) seems somehow to miss the point. [from 'Ethos and Ethics in Business', C.A.J. Coady.]

## Ends and means

*The drug barons may not want to discuss ethics but the rest of the world does. This month Eureka Street features extracts from Business, Ethics and the Law (ed. C.A.J. Coady and Charles Sampford, Federation Press, 1993).*

I CAN NO LONGER ACCEPT the amoral idea that 'business is business' (not a tautology but an excuse for insensitivity). According to Aristotle, one has to think of oneself as a member of the larger community, the polis, and strive to excel, to bring out what is best in ourselves and our shared enterprise. What is best in us—our virtues—are in turn defined by that wider community, and there is therefore no ultimate split or antagonism between individual self interest and the greater public good.

Of course, there were no corporations in those days, but Aristotle would certainly know what I mean when I say that most

WHY SHOULD business corporations have to justify themselves? For many, the idea that business should justify itself is likely to be resisted, even

people in business now identify themselves—if tenuously—in terms of their companies, and corporate policies, much less corporate codes of ethics, are not by themselves enough to constitute an ethics.

But corporations are not isolated city states, not even the biggest and most powerful of the multinationals (contrast the image of the 'sovereign state of ITT'). They are part and parcel of a larger global community. The people that work for them are thus citizens of two communities at once, and one might think of business ethics as getting straight about that dual citizenship. What we need to cultivate is a certain

alternative obviates the necessity for justifying their own. Some might see justification as beside the point. They would say that they are 'just doing business' as if to say that 'being in business means never having to say you are sorry'—or perhaps 'never having to mean it when you do'.

However, there are at least three reasons why we should insist on such justification.

First, we would agree with John Rawls' insistence that justice is the first virtue of institutions, but take the next step and add that that should be true of non-government as well as government institutions.

Secondly, we should not be complacent about the failure of Eastern-bloc socialism. We have had our own share of institutional failures in which institutions failed to live up to their justifications and ended up serving only the interests of those who ran them.

The third reason why we should insist that institutions must justify themselves is the concentration of power and resources represented by the modern corporation. This threat has long been appreciated by

way of thinking about ourselves in and out of the corporate context, and this is the aim of ethical theory in business, as I understand it. It is not, I insist, anti-individualistic in any sense of 'individualism' that is worth defending. The Aristotelian approach to business ethics rather begins with the idea that it is individual virtue and integrity that counts: good corporate and social policy will follow: good corporate and social policy are both the preconditions and the result of careful cultivation and encouragement. [from 'Corporate Roles, Personal Virtues, Moral Mazes', by Robert C. Solomon.] ■

socialists and civil libertarians. However it should be appreciated by neo-classical economists as well. Corporations are economic combinations of investors and neo-classical economists should be as wary of them as they are of combinations of traders and trade unionists.

Adam Smith's remark that 'People of the same trade seldom meet together ... but the conversation ends in a conspiracy against the publick (*sic*), or in some contrivance to raise prices', [*An Enquiry into the Nature and Causes of the Wealth of Nations*] is the most frequently quoted on this point. Fifty years after he issued that warning, incorporation was made easy and the benefits of limited liability permitted for good reason. But we should never forget the privilege of incorporation and the benefits of limited liability and ensure that those privileges granted and risks taken in permitting concentrations of economic power do serve wider purposes than the aggrandisement of those who head these organisations. [from 'The Future of Business Ethics', by Charles Sampford and David Wood.] ■

resented. Some might point to the failures of Eastern-bloc countries and assume that the discrediting of the most publicised



# The role of regulators

*Bob Baxt examines some of the obstacles in the path of those charged with market regulation.*

**R**EGULATION OF BUSINESS BEHAVIOUR in Australia has gone through a series of very significant changes in the past 10 to 15 years. During this period of microeconomic reform there has been a significant relaxing of the role of regulation in many sectors of the Australian economy (banking, transport, and to a certain extent, the field of corporate regulation), with mixed results.

I deal here with certain issues arising from regulation; they are generated by my personal experiences as a former regulator (chairman of the Trade Practices Commission for just over three years) and my evaluation of these issues in the context of my return to the private community. It is necessary to preface my evaluation by making clear that I am generally quite unashamedly in favour of a system that allows the market to operate with as few impediments and regulations as possible. But this must always be assessed against the public interest. The 'all or nothing approach' taken by those at either end of the spectrum is not, in my view, sensible or affordable in any country, let alone Australia at this difficult time in its history.

When I was appointed chairman of the Trade Practices Commission in February 1988, I came to my new position with a good deal of scepticism about the alleged 'permissive' attitude that had been taken by both the Trade Practices Commission and the National Companies and Securities Commission in the mid-1980s towards corporate practices. I recognised that persons in charge of those organisations had to measure their particular reaction to specific challenges in the light of the very clearly stated objectives of both federal and state governments. Deregulation was the key to the future of the development of the Australian economy!

I was also very sceptical about the political will of the federal government (and to a lesser extent the state and territory governments) with respect to the operations of the Trade Practices Commission, the consumer affairs agencies, the National Companies and Securities Commission and certain other bodies. The reason for this scepticism was due to my experience with the development of our trade practices law, our corporations law, and our consumer protection law.

I had always been concerned about the ability of governments to understand properly the way markets operated and how they could respond to the needs of the community in dealing with issues that needed clar-

ification or specific legislation to overcome problems. I was, and remain, sceptical about their commitment to areas that did not carry political votes. I was particularly concerned (a concern that in my view is now at a crisis point) at the drafting techniques being used, especially in Canberra, to deal with our commercial and other laws. Each of these issues is relevant in the context of examining the role of a regulator and what can or cannot be done by the regulator (and regulation) in relation to the area of business ethics.

I wish to deal with two of the issues raised above in a little more detail. They are:

*The drafting of legislation and regulations, and the impact of this on regulation.*

*The role of regulation—policy formulation, resourcing the regulators and sanctions.*

## *Drafting of legislation*

In the early 1980s, as a member of the Law Institute of Victoria's commercial law committee, I took part in a survey of all federal government politicians in Victoria with respect to a specific piece of legislation being considered by federal parliament. The legislation was being championed by John Howard, Treasurer in the then coalition government. It dealt with attempts to circumvent certain tax avoidance practices. It had received bipartisan support. The Law Institute survey asked politicians in Victoria whether they understood and how they understood the particular legislation. Only a handful of the various politicians surveyed indicated that they understood what the legislation was about. The rest simply indicated that they went along with it because 'it was a good thing' and was supported by their political party.

The drafting of that particular legislation was complex, obscure and poorly structured. This was and continues to be a common characteristic in the drafting of

*Drafting has become so complex and so much of a burden for the average citizen that we may find that the maxim 'ignorance of the law is no excuse', while technically correct, will have to be qualified by these further words: 'But understanding of the same cannot be taken to follow'.*



nearly all commercial legislation emanating out of Canberra and, to a lesser extent, the states. The technique used reminds one of the story of the Frenchman who was visiting England for the first time. Staying with a friend, the Frenchman came down to breakfast on his first full day in the country, had a bowl of porridge put down in front of him and turned to his host to ask suspiciously: 'Excuse me, is this to be eaten or has it already been eaten?'

The drafting of our statutes often is a mess, and one can be forgiven for being sceptical about the ability of individuals to understand it whether they are citizens, professionals, the regulators or the courts. So it should not surprise you that in a recent case involving two short but important provisions in the income-tax legislation dealing with capital gains tax, three judges expressed concern at the complexity of the legislation. The chief justice, Sir Anthony Mason, made these comments: 'The provisions of (the relevant provisions of the



Act) are extraordinarily complex. They must be obscure, if not bewildering, both to the taxpayer who seeks to determine his or her liability to capital gains tax ... and to the lawyer who is called upon to interpret them.' In a different context, the chief justice also queried the complexity of the drafting in our corporate-law statutes. In the paper to the Corporate Law Teachers Conference in Canberra (February 1992) he commented that 'the vast multitude of our corporations legislation is a wonder to behold. Its Byzantine complexity is testimony to the subtlety of mind of those who brought it into existence ...'

My concern is that the drafting has become so complex and so much of a burden for the average citizen that we may find that the maxim 'ignorance of the law is no excuse', while technically correct, will have to be qualified by these further words: 'But understanding of the same cannot be taken to follow'.

If the legislation (and regulations) are set out in such a way that the average citizen cannot understand them (and I would argue this applies to the average regulator or lawyer) the citizen has to be very sceptical about the ability and desire of Parliament to deal with these issues properly.

Other judges have commented upon the labyrinthine complexity of the Income Tax Assessment Act (and of other statutes). When asked to be creative in their response to the criticism they generally have answered by saying that their responsibility is to give the statute its normal statutory meaning. If we are to achieve a sensible approach to these issues—a key feature of any simplification program which must be at the heart of the creation of an atmosphere of appropriate ethical behaviour in this community—we will also need a change of culture in the way in which judges interpret legislation.

Perhaps we can adopt the New Zealand approach of looking at the spirit of the legislation. Mr Justice Richardson, a member of the New Zealand Court of Appeal, in the 1985 Wilfred Fullagar Memorial Lecture noted: 'In New Zealand one test and one test only is mandated by statute. Under our Acts Interpretation Act we are required—and have been since 1888—to accord to every Act and every statutory provision such fair, large and liberal interpretation as will best ensure the attainment of the object of the legislation according to its true intent, meaning and spirit.'

Whilst sections 15AA and 15AB of the Commonwealth Acts Interpretation Act have now been in force for some time, we still have a long way to go to change 'attitudes' to statutory interpretation.

#### *The role of regulation*

It is a trite observation that as deregulation of our markets increases, as we free up certain sections of our previously highly regulated economy to market forces, and as we rely on 'competition to provide the relevant discipline' to ensure that the effects of deregulation are 'delivered', that bodies such as the Trade Practices Commission, the Australian Securities Commission (and in some special cases industry specific regulators such as Austel) will play or have to play an important role in ensuring that these markets do not suffer from 'market-failure' or related problems. At the Trade Practices Commission we were continually amused and frustrated by the comments being made by politicians on how competition would deliver the various benefits from deregulation. These ranged from the banking sector through to the waterfront. These types of remarks are still being made with regrettably equally misinformed knowledge of how the rules will actually work. In near-

ly every case the government expected the Trade Practices Commission, or some other body, to ensure that competition worked.

Most in government were, and still are, blissfully ignorant of what the Trade Practices Act was really about. At no stage in the first two years of my chairmanship, except through some fluke when the commission put some pressure on the government in relation to its role in the deregulation of the waterfront, did the government vote a single cent extra to the commission to ensure that its increased work load would be adequately dealt with by it in these areas. At no stage did government turn its mind adequately to the question of sanctions.

The National Companies and Securities Commission was in a similar position. It was set up with no real funds being voted to it but with the expectation that the state agencies would somehow or other work with it in enforcing the various corporate laws. While many were critical of the failure of that body to enforce the relevant law—there was a lot of talk but few actions—one can have a great deal of sympathy for it because of the difficulties that it faced in having to co-ordinate its activities with state bodies.

Simply put, the governments did not provide the Trade Practices Commission and other regulators with the appropriate resources to ensure that they could do their job effectively.

The federal government always was prepared to support the Trade Practices Commission when it needed money in running court cases. What the government failed to recognise was that it was not the running of the legal cases that was so costly—it was the building up of the evidence to ensure we had a case to run. Public servants working in Canberra in the Finance Department did not understand these things because they did not have the 'hands on' experience. As a result, the Trade Practices Commission was continually faced with difficult decisions as to which cases to run, which allegations to pursue and which particular matters to concentrate its scarce resources on. Many people remained unsatisfied; many in the Trade Practices Commission remained frustrated; and the community got a rather distorted view of what the Trade Practices Commission was and should have been doing. Nothing has changed since I left. If anything the position has worsened.

As deregulation bites more deeply these kinds of problems are going to increase. The debate in 1991 about the takeover of the Fairfax newspapers is a classic example of the frustrations caused by a lack of understanding of how the Trade Practices Commission operated when McComas was chairman [1985-88]; what it could effectively do; what the laws can really achieve; and what might be the best long-term solution, or other than short-term solution, for particular problems.

But the governments also failed to deal adequately with an evaluation of the relevant policies that are at the heart of the operation of these bodies.

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Perhaps the most important example of this is not so much in the area of merger control (where the Trade Practices Commission was always wanting to act if the merger under consideration fell within the terms of the Act), but in relation to the areas where there was overlap between the various regulators—for example in the collapse of bodies such as Rothwells, and the financial sector market generally.

In the consumer-protection area there were thousands of complaints, overlapping between the federal, state and territory bodies, yet there was an apparent unwillingness on the part of the state (and territory) regulators for 'their' agencies to engage in activities that might have protected small business rather than pure consumers. The fact that the Commonwealth legislation does not cover individuals is a serious defect that created enormous problems for the Trade Practices Commission. The fact that the Trade Practices Commission continually had to go to court rather than have the ability to issue cease-and-desist orders (available to the US Federal Trade Commission) placed it at a serious disadvantage. The lack of co-ordination between the federal and state and territory bodies created other difficulties.

One federal example was the overlap between the Trade Practices Commission and the Australian Broadcasting Tribunal in the area of media law—a problem still not overcome by recent changes. The Treasurer often cut across the work of the Trade Practices Commission without regard to the inconsistency he was indicating to the community as to how our law worked. All of this undermined the confidence the community had in the Trade Practices Commission.

In the area of investor protection there was just no attempt by the government to assist the National Companies and Securities Commission, the Insurance Commission or the Trade Practices Commission in determining how these areas would have to be dealt with. It was left to me, as chairman of the Trade Practices Commission, to set up a series of co-ordinating networks between the commission and the Australian Securities Commission, between our commission and the Insurance Commission, and between us and state consumer affairs agencies.

In areas of the airlines and the waterfront, I set up meetings between the commission and the Department of Transport. The Australian Broadcasting Tribunal was another body we had to initiate liaison with, and the list goes on. When the Attorney-General's Department

learned about these particular initiatives its reaction was one of horror. What was the Trade Practices Commission doing getting involved in policy! When I explained to them what we were trying to do—trying to co-ordinate scarce resources in dealing with situations that overlapped or were clearly creating gaps, causing problems for the consuming public—silence was their answer.

These deficiencies made the task of the Trade Practices Commission, as the principal regulator of competition activity in the community, extraordinarily difficult. These gaps (and there are others in the law) reflect a lack of commitment to a proper understanding of the problems in this area of the law. Competition policy gets very little time in Cabinet (witness the considerable delays in considering recommendations on penalties and other issues), has a low priority on the ministers' list (witness delay in dealing with various reports) and receives very little by way of real resource.

I want to emphasise another matter on the question of resources. It is often not so much a question of money—there is a bigger question relating to other resources and the quality of the resources. There has been a failure on the part of the government to think through the issues that need to be properly addressed—airline deregulation, the waterfront, banking and finance etc. In addition, the responsible minister must have the time and the willpower to deal with the issues on hand. Regrettably, there are serious gaps in the way in which competition policy, corporate law and other areas have been tackled by ministers in the federal government.

The courts which have to deal with the cases arising from the regulation of our market must also be properly resourced. This means adequate salaries and backup resources. But they must also be staffed by people expert in the relevant area. Far too often, inexpert courts are asked to adjudicate on matters on which they have little experience, with obvious consequences. The cost to the community if this occurs is enormous—scepticism about the operation of the law, delays in changes to the law and additional compliance costs when changes to 'rectify the mistakes' are made.

We also need to encourage the private sector and academia to allow experts to spend time working in the various commissions, and vice versa. While this is happening to a certain extent at the level of the Australian Securities Commission it should occur as well in the other regulatory agencies. The 'revolving door' philosophy which works well in the USA needs to be more widely used here. It was used for a little while at federal level in the 1970s; there are odd examples of this in the context of the Australian Securities Commission but generally speaking we have a long way to go.

This brings me to the subject of sanctions. Australia has not thought through what we are trying to do with sanctions. It is not just a question of penalties of \$10,000,000 which will be the maximum penalty for a breach of the Trade Practices Act if the promised changes are enacted.

*At the Trade Practices Commission we were continually amused and frustrated by the comments being made by politicians on how competition would deliver the various benefits from deregulation. These types of remarks are still being made with regrettably equally misinformed knowledge of how the rules will actually work.*

We must ensure that if a company is found guilty of engaging in price fixing and gains a windfall profit that it should have to disgorge those profits. There is no adequate mechanism to ensure that consumers and investors who suffer loss as a result of breaches of the law can recover. It is all very well to punish the companies with small fines (leading to some rather caustic comments about the utility of resources in pursuing persons when only small fines can be imposed). But this does not get to the heart of the problem. Prosecution of cases will be meaningless if the sanctions are a token fine.

Spare a thought for the National Companies and Securities Commission. It knew that the penalties were low; it knew that the time involved in getting to court was extraordinarily lengthy; it had limited resources; it thought it was going to get a better result if it entered into 'settlements'. That was the view of others who ran regulatory agencies. I believe that such an approach, while attractive on the surface, is generally quite wrong. The law should be enforced against those who commit corporate and economic crimes in the same way as it is enforced against those who commit traditional crimes, otherwise we will fail to persuade the community that these are serious matters. But one has to balance the approach. Hopefully, we will see the development of a more comprehensive 'Australian' approach to these issues.

What the government needs to do is to take on board suggestions made by critics, and construct a more viable and sensible mechanism for dealing with breaches of the law. Failure to do so will mean that there will be even greater cynicism in the community about the seriousness of the pursuit of economic and corporate criminals than there has been in the past.

We must not lose heart because a few cases are lost on the way; there will be delays; cases are often difficult to prove; we must improve the mechanisms for running these cases. This move will help create a better ethic in the community about the need to resolve these problems.

But if the regulators are not out there enforcing the law, if the regulators appear to have given up in this area, then why should many in the community want to adopt a different stance? These are some of the more serious questions that I believe have not been tackled at all by governments.

However, despite these difficulties and deficiencies that have occurred in the past, we must not go overboard and simply throw out all of our cherished rules for the protection of citizens. We have given away too many rights already in this area. We have to be careful not to remove many of our cherished rights, for example the right to be presumed innocent until proved guilty.

On the other hand we do not want to see the other extreme of laws being piled on laws simply because there has not been enforcement in the past. The current binge of lawmaking in the corporate law area will not overcome the deficiencies exposed by the lack of adequate

enforcement. They will increase burdens on the community and the regulators and do little to compensate those who have lost their money as a result of the collapses of so many companies. The only beneficiaries in this binge of lawmaking are the forest industry, paper companies and lawyers!

#### *Conclusion*

I can provide you with no 'magic pudding' or deep philosophical thoughts about how a regulator should act. Many said that during my term at the commission we did good things; others felt that we did not do enough. We certainly did as much as I think we could with the inadequate laws, inadequate resources and a rather lukewarm Ministry and Department to support it. A momentum, however, was created. Pressure has been put on the government; and we will see what transpires in due course. ■

**Bob Baxt** is a former chairman of the Trade Practices Commission and a former dean of law at Monash University. He is now a partner with the law firm of Arthur Robinson & Hedderwicks.

• This article is an edited text of Professor Baxt's paper in the collection *Business, Ethics and the Law*.

### 'You Pays Your Money ...'

*I dropped a dollar-fifty  
in the tollgate's hungry gob,  
thus purchasing admission to that high-brow club  
whose membership can choose  
whether to travel homeward  
on the Cahill Expressway of Life  
or seek their fortune  
on the Western Distributor of Human Experience.*

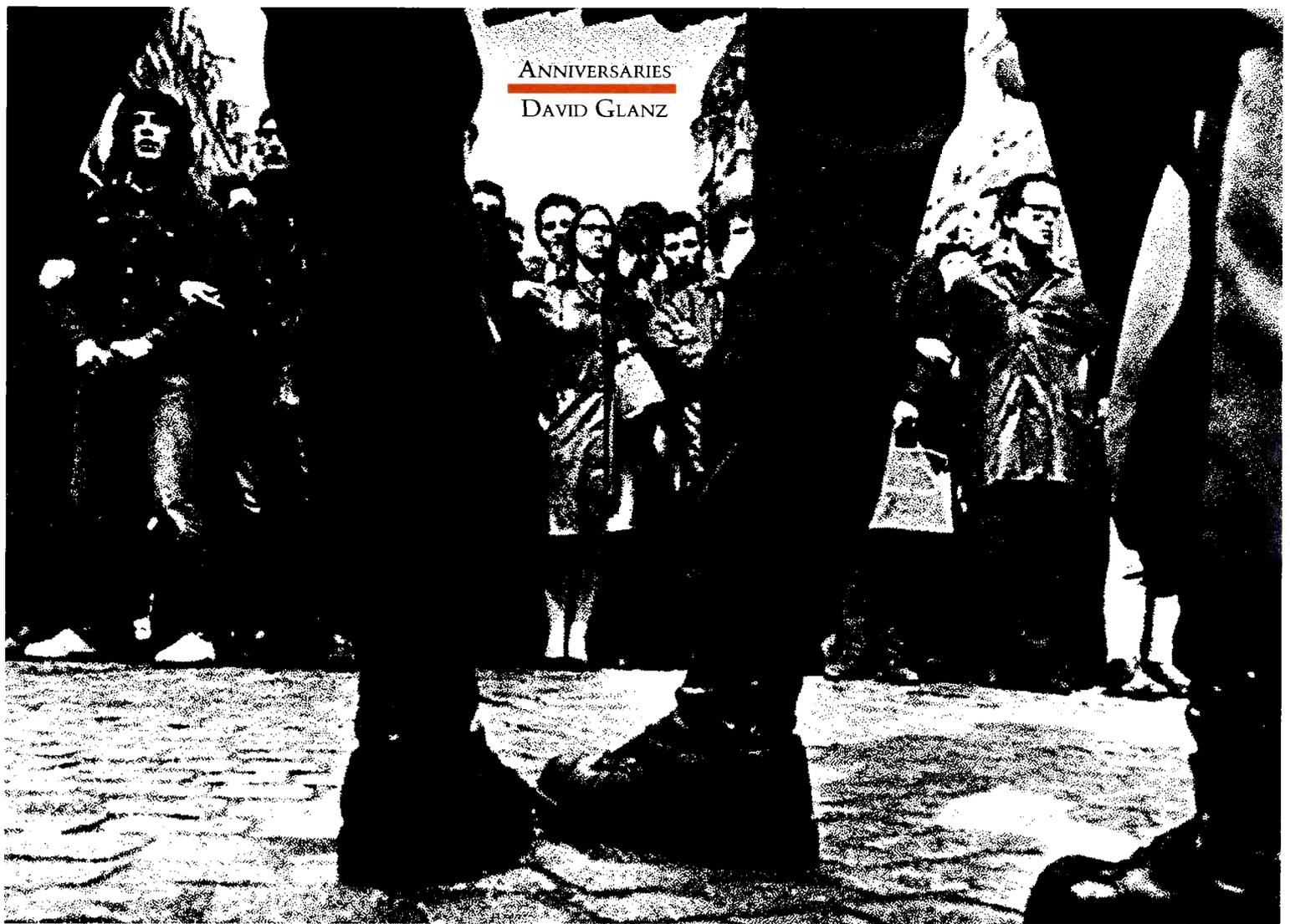
*I chose the former, so that I could see  
the Harbour and the 'Fairstar' and the Opera House  
caught by the western sun.  
Ten minutes later, with the scenery far behind,  
I'm sitting on South Dowling Street  
in traffic struck dead by a heart attack  
(a seizure caused by clogging of the arteries)  
'It's gridlock!' says the man on 2GB.*

*I'm stuck.*

*Strapped in and motionless I see  
cars moving easily a block away  
on Bourke St. I've an envious itch to join them,  
but tribal mores (and a median strip) prohibit it.*

*You pays your money and you takes your choice.*

**Dermot Dorgan**



ANNIVERSARIES  
DAVID GLANZ

*Towards 4.30 in the morning [Saturday, 11 May] the police started to attack the barricades ... For more than a quarter of an hour we stayed put under a barrage of all sorts of [tear gas] grenades. —an 18-year-old student in the Quartier Latin.*

## The buds of May

NEWSPAPER HEADLINE WRITERS are a blase bunch. By Friday, 17 May 1968, two weeks after the students of Paris had bellowed, barricaded and burned their way on to the front pages of the world's press, the best that a bored *Age* subeditor could come up was the laconic 'Students Again'.

It seemed that a generation was in revolt, that the words 'student' and 'rebel' were inseparable, that the time had finally come for that new social category, the teenager, to settle accounts with the drear, proper, suburban heritage of the 1950s.

If 1968 was the year when the old order and the new collided, May was the month that symbolised the process. It was neither the beginning nor the end. But it proved to be the kind of benchmark that historians crave.

In quick succession, student revolt erupted from Germany to Brazil, from America to Ireland—and to Australia, where in May hundreds of students occupied the administration building at Monash University. But

it was Paris that captured the mood, where the slogans of revolt caught the wider, popular imagination.

*All lines of retreat were cut off. Soon, I couldn't see any more. I could only hear the police as they charged. Blinded, suffocating, having no intention of fighting police truncheons with my bare hands, I took refuge in the stairwell of a nearby building. There were 30 of us. Even on the sixth floor, it was suffocating: the police were aiming at the roofs.*

Why students, why France? The worldwide post-war economic expansion had been matched by a dramatic increase in tertiary education. The growth in new, technologically sophisticated industries, and in social services, brought with it an unprecedented demand for skilled workers, engineers, teachers and administrators. Universities were no longer sanctuaries for the sons of



day, 30,000 students, high school students and striking lecturers marched. That night, further fighting on the Left Bank left 739 demonstrators (and hundreds of police) needing hospital treatment. Thus opened a week of demonstrations, stone-throwing and barricades.

Most commentators might be tempted to leave it there. A summit of student fury in a year of many furies. The rites of passage of the baby-boomer generation. But although the image of rioting students is the one branded into the world's memory, it was not the battle of the Left Bank that caused de Gaulle to flee the country to demand the loyalty of French troops stationed in Germany, nor to discreetly ring the capital with ar-

### Major events of 1968

**30 January:** North Vietnamese troops launch the Tet offensive.

**4 April:** Martin Luther King is shot dead in Tennessee.

**30 April:** Gough Whitlam is re-elected leader of the ALP.

**6-7 May:** The night of the barricades as 30,000 students fight the police in Paris.

**10 May:** Peace talks open in Paris between North Vietnam and the US.

**19 May:** Strike wave in France grows to 10 million.

**5 June:** Robert Kennedy is assassinated in Los Angeles.

**24 June:** The Gaullist government records a convincing election victory.

**4 July:** The US flag is burnt as mounted police battle students outside the US consulate in Melbourne.

**21 August:** The Soviet Union invades Czechoslovakia.

**3 October:** Mexican police machine-gun 26 to death as 10,000 students riot in Mexico City.

**6 November:** Richard Nixon is elected US President.

**5 December:** Students join a workers' general strike in Italy.

mour. The student battles had stirred into action a much larger and more powerful force—10 million French workers.

Universities were not the only places engorged by the postwar boom. France had undergone a sharp industrialisation after 1945, but the benefits were one-sided. By 1966 French workers paid the highest taxes and worked the longest hours for the second worst wages in the Common Market. Force was used to keep them in line. The riot police had killed eight striking union members in Paris in 1962. In 1967 alone, they had attacked picket lines in Lyons, Besançon, Le Mans and Caen. When workers saw the CRS cracking student bones, they knew what it felt like to be on the receiving end.

The immediate result was a union solidarity demonstration in Paris on Monday, 13 May that dwarfed

any mobilisation since the liberation in 1944. Union leaders may have intended it to be a symbolic affair, but the genie was out of the bottle. Starting with a factory occupation in Nantes, strike action spread like wildfire, involving between nine and ten million people within three days. The students had bucked the government, now it was time for the rest of French society to settle accounts.

The spirit of revolt spread like a virus well beyond traditional working-class industries. Architects, statisticians, junior doctors and even professional soccer players protested and occupied. The Cannes Film Festival was abandoned as hundreds of filmworkers seized the theatres and five of the 11 jurors resigned in solidarity.

*They made more than two dozen of us enter a police van from where we saw the very brutal batoning of a couple in their forties who had approached without thinking.*

As Malcolm Fraser was to do in 1975, de Gaulle rode out the anger, profiting in the snap elections from a popular sense of resignation as the radical wave dashed against the rocks. Although the President was forced to concede substantial wage rises—seized upon by union leaders keen to get back to a normality beyond the reach of the student *engagés*—his government survived the immediate crisis.

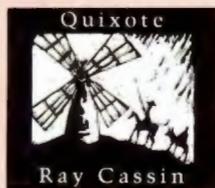
Many of the values he and others like him worldwide were defending, did not. Like a series of sharp storms eating away at shoreline defences, the cumulative effect of protest was to undermine much that had been taken for granted.

In May 1968, Salinger's *The Catcher in the Rye* was still banned for 16-year-old students in Victoria. Sir Macfarlane Burnet could advocate intermarriage as the only 'solution' for Aborigines and be reported in *The Age* without comment. And the Vietnam War was, for most people, still a war to stop devilish communism. Within a few years, the centre of political gravity was to shift sharply. The '68 generation can give itself some credit.

Are we likely to see such days again? Part of the answer is 'no'. The events of May 1968 marked the coming together of a new youth frustrated with a regimented, war-ridden society, and a generation of workers who felt they had waited too long for their share of the boom. Such circumstances are unlikely to be replicated.

The other part is, 'maybe'. Signs of a new dissent are growing, but it is difficult to discern a pattern in that dissent; from the riots of Los Angeles to the mass strikes in Italy, Germany and Greece; from the millions who rallied for the impeachment of the Brazilian president to the millions more who turn their backs in disgust on every shade of Russian politician, the omens are there to be read. Twenty-five years on, is that the wind in the trees—or another slow train coming? ■

David Glanz is a freelance journalist.



# What it is like to bash a bat

**S**OME MORNINGS STEAL through the bedroom window and grab you by the throat. But this morning is not one of them. Today at least some of the usual morning sensations seem to be coming from inside my flat. Specifically, the sound of birds, or a bird, twittering, fluttering and doing whatever else birds do by the dawn's early light. Since I am accustomed to sensory dislocation, especially by the dawn's early light, I resolve to take no notice of this intrusive flapping. If I roll over and go back to sleep, it will be gone when I awake.

An hour later, it isn't. Fearing that sensory dislocation is about to become total sensory breakdown, I stumble into the sitting room, which the phantom flapper seems to inhabit. This journey of inquiry vindicates my sense of hearing, and reveals that the flapper is no phantom. I am whole again but my flat is not. The floor is marked out with long trails of bird droppings, and beneath each window is a small pile of feathers shed, presumably, each time the bird has uncomprehendingly tried to fly to freedom and crashed into a pane of glass instead. I eye the fireplace through which the bird must have entered, and make a note to harrumph next time some fool makes one of those aren't-open-fires-wonderful speeches.

Deciding to expel my visitor forthwith, I lunge towards the coffee table on which it has settled. The bird, which apparently suffers from sensory dislocation only where glass is involved, easily eludes my grasp and takes flight. It circles the coffee table and insouciantly deposits another trail of guano, this time across an open copy of *The New York Review of Books*. The offending substance decorates a caricature of Martin Heidegger. Ordinarily, I am inclined to think that Heidegger richly deserves to be heaped with ordure. But I had wanted to read that article.

I begin negotiations with the bird, explaining that I am prepared to make significant territorial concessions. I will cede to it in perpetuity the dizzy heights to which it aspires, provided they are outside the flat. In return, the bird must acknowledge my own right to exist within defensible borders. If not, I assure it with just the right tone of understated menace, I shall immediately carry out a policy of avian cleansing.

While the gullible creature is considering my terms, I am able to approach it in the traditional manner of treacherous armed diplomacy, and snare it within the folds of a shirt retrieved from the laundry basket. This causes considerable panic in the bird, and by the time I have carried the bundle to the door and released its squawking occupant to the open air, the shirt is in shreds. I congratulate myself on my forbearance. Despite being a confirmed naturopobe, I have released unharmed an uninvited visitor that defecated all over my abode and made my favourite shirt unwearable.

After this visitor's traces have been scooped up, the remainder of the day passes without incident. By evening, I even am able to read enough of the Heidegger article to wonder whether the bird should not be given

credit for an innovative line of argument. But this magnanimous thought is interrupted by another unexpected auditory sensation. No flapping from the fireplace this time, but something I can't quite identify. A whirring sound.

As I look up, the source of the noise becomes apparent. Bats. Well, *one* bat. The sort of web-winged horror I am accustomed to seeing in Dracula movies is in my flat. Naturopobia, indeed just about all my phobias, return in a rush.

A bat is much harder to catch than a bird, but I am not trying to catch it. Fury and terror determine that next time the dawn's early light comes round, either the bat or myself will still be alive; but not both of us. In between dodging the bat's swoops—it is a much more aggressive creature than the bird, so diplomacy is obviously out of the question—I look round for a suitable weapon. A shirt will hardly do, and I don't have a wooden stake to drive through its heart.

Deciding to take expert advice, I crawl to the phone table, cringe beneath an upheld telephone book and dial a friend in Brisbane. I know her to be wise in the ways of bats, because a colony of the noisome creatures inhabits the fruit trees in her neighbour's garden. She is not sympathetic.

'So what's the problem?'

'There's a bat in my flat.'

'So you said. What's the problem?'

'The *problem*? You've been up there three years and now you're going native? Bats, bats are the problem. Bloodsuckers. Fiendish creatures of primordial evil.'

'Primordial nonsense. And they don't suck blood. They eat fruit. Anyway, you just said there was only one.'

'All right, one. How many vampires do you want in one flat?'

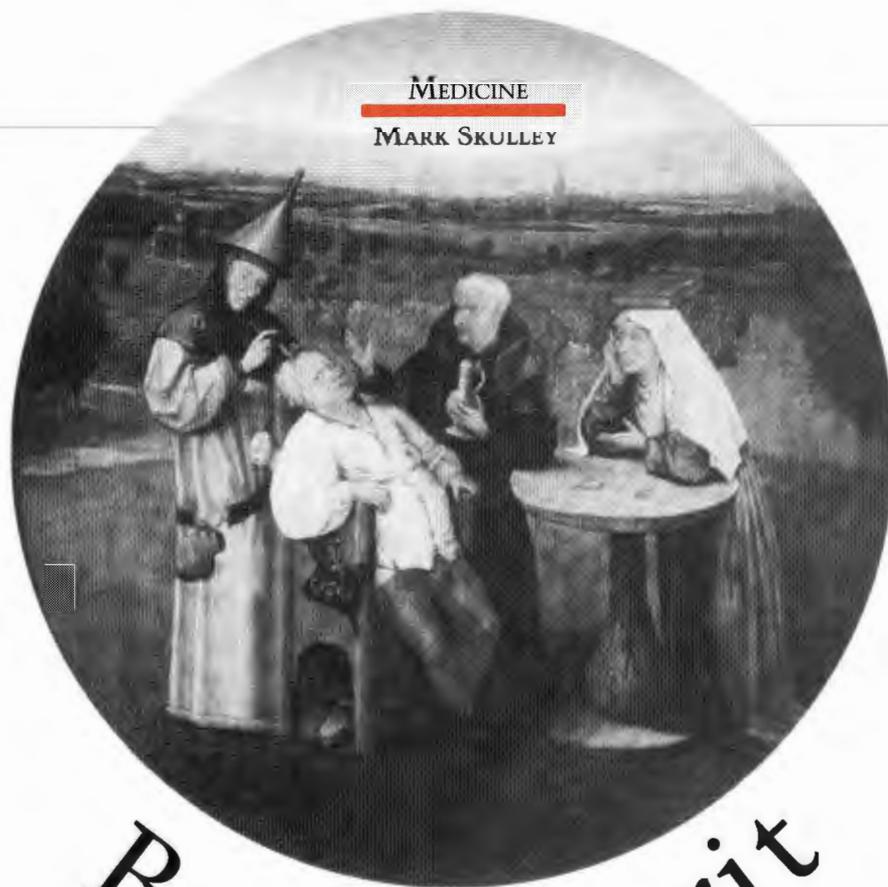
'The fiendish creature of primordial evil is probably more scared of you than you are of it.' She giggles. 'No, I guess that's not true. Look, you wait till it's near a door, then open the door and shoo it out. Just like a bird had flown in or something.'

Just like a bird had flown in. Great. I thank this naturalised Queenslander for her advice and hang up. The bat has now completed several circuits of the flat, and is preparing for another swoop. I lash out with the telephone book, and connect.

One dead bat on the sitting-room floor. Terror abates as quickly as it arrived, and remorse succeeds it. I carry the corpse out to the garden and bury it. It is retrieved by someone's cat, looking for a dietary supplement.

I finish reading the article on Heidegger and turn the page. The next article is a review of some book about deep ecology. I lose interest quickly and decide to go to bed instead. As I begin to drowse, I wonder whether I should ask the landlord to block up the fireplace. ■

Ray Cassin is the production editor of *Eureka Street*.



## Bodily writ

**A** QUICK QUIZ. Name the US president who fits the following medical description: 'When out of the public gaze, he used crutches for the last 10 years of his life, had his left heel built up, wore a corset-type brace and found most relief in a rocking chair. He also slept with a board under the mattress.'

The answer is not the polio-afflicted Franklin Roosevelt, or the threescore-and-ten shakiness who was Ronald Reagan, but that symbol of youthful optimism, John F. Kennedy. It was widely known during JFK's presidency that he had hurt his back playing college football in 1939, and aggravated the injury during navy service in World War II. It was less well known that Kennedy also suffered from Addison's disease, a deficiency in cortico-steroid hormones released by the adrenal gland that causes increasing weakness and tiredness.

Kennedy received regular cortisone treatment for the disease and developed his characteristic 'moon face' from excess cortisone, which also in-

creases energy and may explain his sexual athleticism. The brace and corset worn for his bad back probably also kept him propped upright for the fatal gun shot wounds in Dallas.

A Perth general practitioner, Dr Jim Leavesley, began putting together the medical histories of JFK and other famous patients a decade ago, for ABC radio's *The Body Program*. Leavesley, now retired, studied medicine in Liverpool before emigrating to Australia in 1957. He had long been fascinated by the byways of medicine and history, but only began to write as his medical and family responsibilities eased. The broadcasts spawned *The Common Touch*, in which Leavesley discusses 14 famous patients, including Kennedy. The book sold 15,000 copies over two reprints, and four more books followed—on other famous patients, famous diseases, contraception through the ages, the history of medical education, stories from his experience as a GP, the healing arts of ancient times and the relation between medicine and religion in the Bible, the

Talmud, Koran and the Vedas.

But famous patients are the favourite subject. Leavesley's style is chatty but informed, with an eye for anecdotal detail. Beethoven's body, he tells us, was twice exhumed in a fruitless search for the cause of the composer's deafness. (The bones in Beethoven's temples were removed at a *post mortem* examination in 1827, conducted by a man called Wagner, but went missing and were not mentioned in the written report.)

Of deeper interest is the contrast between public image and reality, as when Florence Nightingale returned from the Crimean War only to take to her bed for 54 years as a 'tyrannical invalid'. Leavesley has the French army stopping for a crucial two days at the gates of Moscow, while Napoleon overcame an 'acute bladder infection characterised by the frequent and painful passage of urine. It took 11 days to settle completely. Subsequently he suffered difficulty passing urine on and off for years. It would be drawing a long bow to blame the Russian Ceba-

THE CURE OF FOLLY, Hieronymus Bosch, c1490, from the Prado, Madrid. Lubbert Das, a Dutch fool figure, has the 'flower' of folly cut from his head, as the church (priest figure) looks on. The woman represents melancholia: she carries a book on her head symbolising false learning.

cle on ill health, but there is no doubt that on his return he was moody and introspective; and who wouldn't be in the circumstances?'

Napoleon escaped exile on Elba after a year—fatter, with reduced powers of concentration and still bothered by the embarrassing bladder problem. He uncharacteristically failed to pursue and crush the retreating Prussians on the opening day of the three-day battle of Waterloo, and Leavesley says the lapse came as the Emperor was afflicted by a severe attack of prolapsed haemorrhoids. 'While *hors de combat* the allies regrouped and the Battle of Waterloo commenced. During the afternoon he (Napoleon) returned again to the farm (headquarters) and was seen to walk with legs apart in obvious distress. The battle was lost for a variety of reasons, but somewhere on the list must go preoccupation with matters physical rather than military.'

Consideration of Napoleon's personal woes offers an amusing corrective to the quasi-supernatural status he is sometimes accorded by historians, whether they see him as hero or demon, and especially by amateur hagiographers such as Conrad Black, the Canadian media magnate. Tolstoy, for example, allowed that Napoleon had a head cold at a crucial stage in his invasion of Russia, the Battle of Borodino, but the novelist was also the most long-winded critic of the 'great man' theory of history. In *War and Peace* Tolstoy insisted that 'the actions of Napoleon and Alexander [the Russian emperor], on whose words the event seemed to hang, were as little voluntary as the actions of any soldier who was drawn into the campaign by lot or by conscription ... Every act of theirs, which appears to them an act of their own will, is in an historical sense involuntary, and is related to the whole course of history and predestined from eternity.'

Tolstoy can say what he likes about theebb and flow of history but, as Leavesley cheerfully notes, kidney stones concentrate the mind wonderfully. A book called *Fit To Lead* by Hugh L'Etang, relates the physical state of world leaders to their decision-making. Among the examples L'Etang cites is the attendance of the ailing President Roosevelt at the Yalta

summit with Stalin in 1945, when the shape of postwar Europe was decided. Says Leavesley: 'That was a tragedy and the Western world suffered for many years after because he (Roosevelt) lived a lie there, supported unfortunately by (Admiral) McIntyre, who was his doctor. Alexander the Great died of natural causes and, because it would affect the morale of his troops if they knew he was dead, he was propped up in a cart and driven through the lines for two or three days after he died. In a sense, that's exactly what they did to Roosevelt.'

Winston Churchill kept his faculties through the war years and the Yalta conference, but strokes in 1949, 1950 and 1953 meant that Churchill was a 'complete figurehead' in his second term as Prime Minister. His successor, Anthony Eden, had severe gall bladder trouble during the 1956 Suez crisis. 'I'm quite sure that it flavoured his (Eden's) decisions,' Leavesley says. 'It couldn't do anything else. You know: "that bloody Nasser, let's get in there lads." If you're in pain, you're irritable too.'

The inside story of Churchill's health was told after his death by his physician, Lord Moran, and Leavesley believes that doctors with an eye to posterity will do the same for leaders such as Ronald Reagan. Doctors, Leavesley reckons, have the 'maximum temptation and the maximum

of opportunity' for giving an insider's view.

**D**OCTORS HAVE TO consider the physical evidence—what is written on the body—rather than just what people say about themselves. The American poet William Carlos Williams, who delivered more than 3000 babies during 40 years as a GP, wrote in his autobiography that the physician is given an entree to a patient's 'secret gardens of the self'. Other medics to take up the pen include St Luke, Rabelais, Sir Thomas Browne, John Keats, Anton Chekhov, Somerset Maugham, Arthur Conan Doyle and Walker Percy. Leavesley writes of perhaps the greatest physician-turned-writer: 'Typical of a doctor, Chekhov had an eye for details of human behaviour, their motives and compromises with reality.' In Chekhov, doctors themselves are often under examina-

tion: Dr Ragin's withdrawal into books and vodka in *Ward 6*, the secret love of Dr Stepanovich for his young ward in *A Dreary Story*, the ageing bachelor Dr Dorn in *The Sea Gull* and the disillusioned Dr Astrov in *Uncle Vanya*.

An American doctor and medical historian, Ann Carmichael, argues that western healing is doctor-centred, so that the 'grand story of medicine is supposed to be a story about great doctors'. Carmichael writes in the preface to *Medicine: A Treasury of Art and Literature* that stories about the early Mediterranean gods of medicine, like Imhotep and Aesculapius, have the common theme of mortals borrowing power from the gods. This is different from, for example, an Oglala Sioux medicine man who cures and sees because the gods speak *through* him rather than *to* him.

Much of the practical healing through the ages has been done by women, although the 'nebulous body of great doctors' identified by Carmichael has been dominated by men. There have also been struggles between midwives and the male-dominated medical profession. Carmichael notes that our official medical languages are best at describing the active—the doctor and the disease—and leave little room for writers who put the view of patients, such as John Donne (who survived epidemic typhus fever) or Katherine Mansfield (who died from pulmonary tuberculosis).

Even writers who complain about doctors, such as Petrarch (a survivor of the Black Death) and Montaigne (a sufferer from kidney stones), still put them at centre stage. Molière got his come-uppance for satirising doctors when he was taken ill on stage while playing the lead in *The Imaginary Invalid*; he died the same night. Visu-

*Napoleon  
uncharacteristically  
failed to crush the  
retreating Prussians  
on the opening day of  
the battle of Waterloo  
... the lapse came as  
the Emperor was  
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of reasons, but  
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list must go  
preoccupation with  
matters physical.'*



A Man - Midwife

A Man Midwife, Isaac Cruikshank, 1793. Many kings of the late-17th and 18th centuries employed men to deliver their legitimate and illegitimate heirs, popularising the figure of a male midwife among the upper classes. It was one reason why the development of obstetrical technology was male-controlled.

al artists have fared better in depicting patients: consider works such as Rembrandt's sketch of his sick wife, Edward Munch's *Death In The Sickroom* and Picasso's *The Sick Child*.

Disease occasionally gets to share the doctor's spotlight but it is usually presented metaphorically, often as a 'symbol of evil, thus lending a subliminal religious meaning to medical intervention'. Some reactions to the spread of the AIDS virus suggest that the notion of illness as sin is still current, although Carmichael believes that the epidemic is one reason for the growing numbers of unsilent sufferers who are changing the 'doctor-centredness of western medicine'.

Leavesley says the famous infectious diseases have a life of their own, waxing and waning over time. The Black Death, or bubonic plague, of 1334-51 'blew itself out' but made periodic comebacks. Recurrent waves of syphilis wracked the world between 1493 until after World War II. 'If you had no treatment at all for syphilis it would still regress. Mind you, I think

it's a damn sight better to have treatment, but it has a life of its own. That applies to cholera, typhoid, doesn't matter what.'

The big turning point for medicine, according to Leavesley, came between 1875-95 when Louis Pasteur discovered that bacteria spread infectious diseases and the German Robert Koch developed methods of isolating and growing bacteria which led to inoculations against anthrax and isolating the germ which causes tuberculosis. 'Once you get rid of the things that kill people then you can look at other things, such as transplant surgery. Before that they just had to keep them alive.'

Apart from AIDS, Leavesley sees future threats in mutations of the influenza virus. The use of antibiotic drugs means the flus of the future will not cause the millions of deaths wrought by the Spanish influenza outbreak after World War I, but they could bring higher morbidity and some fatalities. The so-called 'white death', tuberculosis, was thought to have been whipped, but reports on the ABC's *Four Corners* and *Quantum* now warn of a comeback. Similar warnings have been made about malaria, and about diseases such as cholera and typhoid, which still occur in developing countries struggling to provide basic needs such as clean food and water.

For most of recorded history, the techniques of doctoring itself have been enough to make you sick: bleeding with leeches, the use of violent emetics and laxatives. Folk remedies and superstitions are still around, of course, even if they are not so imaginative as removing a wart by rubbing it on the father of an illegitimate child. Says Leavesley: 'The main thing is to do no harm, and if you used these

rather simple, folksy methods, then most of them would do no harm. The question is whether you do any good. The majority of illnesses—there are many exceptions—get better spontaneously.' He adds with a laugh: 'You've got to rush in and treat it before it gets better itself.'

**T**OLSTOY WRITES OF another role for doctors when describing Natasha's illness in *War and Peace*. 'Their usefulness did not depend on making the patients swallow substances for the most part harmful (the harm was barely perceptible as they were given in small doses), but they were useful, necessary, and indispensable because they satisfied that eternal need of the invalid and of those who loved her—and that is why there are, and always will be, pseudo-healers, wise women, homeopaths and allopaths. They satisfied that eternal human need for hope of relief, for sympathy, and that something should be done, which is felt by those who are suffering. They satisfied the need seen in its most elementary form in a child, when it wants to have a place rubbed that has been hurt.'

Historians and biographers have to consider both kicks in the shin and serious ailments, but an article on Dostoyevsky's epilepsy, published in *Modern Medicine of Australia*, shows how things can get out of hand. The writer of the article, Dr Joseph Lovell, a senior medical officer at Parramatta's Cumberland hospital, notes that Dostoyevsky had at least 400 general seizures, and described many features of epilepsy 20 years before they were clinically identified: 'This evidence moves us literally into the soul of a sufferer of epilepsy. Dostoyevsky demonstrates his feelings, his anxieties and defences. In short, we can learn from him points which are hard to learn from medical text books.'

The writings of Dostoyevsky and his second wife indicate that he had primary generalised epilepsy, although three friends published reminiscences after his death saying that he had experienced the ecstatic aura associated with temporal-lobe epilepsy. The character of Prince Myshkin in *The Idiot* experienced such auras, and a 1984 book on psychiatric aspects of

epilepsy presented the novelist as a typical example of a temporal-lobe epileptic personality, characterised by hyposexuality, a preoccupation with philosophical, religious and humanitarian issues, 'hypergraphia', and a lack of humour.

But Lovell says it is difficult to accept this image of Dostoyevsky. It is true that he was married twice, fathered four children and had passionate affairs. But he had always been interested in humanitarian issues, wrote detailed plans of his novels because he had to, and his fits generally occurring during the gestation of a novel rather than during the writing. As for having no sense of humour, it should be remembered that Dostoyevsky survived a mock execution, 10 years' exile in Siberia, multiple debts from gambling and the collapse of his journal, and, within a month, lost his first wife, a brother and a close friend. Hardly the sort of life that makes someone the Milton Berle of St Petersburg.

Lovell writes: 'It is problematic, using Dostoyevsky's literary work to assess his illness, as we do not know what was the author's personal experience—whether his experience was modified by his creativity, whether what he described was taken from his extensive reading or from the observation of other epileptics, or was entirely a product of his imagination. Dostoyevsky was not crushed by his illness but chose to incorporate it into his art.'

**I**N ANY EVENT, medico-artistic theories change over time. Vincent Van Gogh was treated for epilepsy in the hospital at Arles even though no convulsions, a classic feature of the illness, were recorded. Twenty years ago it was suggested that Van Gogh had glaucoma, a disease whose sufferers often see 'halos' around lights—a feature in several of his paintings, such as *The Night Cafe* and *Starry Night*. Leavesley writes that Van Gogh's portrait of his physician and confidant, Dr Gachet, has a large sprig of foxglove in the foreground and that digitalis, the extract of the flower, was then a fashionable treatment for epilepsy. The refining of digitalis was crude and high doses meant that side-effects were common. 'These include,

among others, mental confusion, disorientation and, surprise, surprise, a cloudy or yellow vision and red-green perception difficulties. Hence the sky will appear green, yellow rings will form around objects and landscapes will have a saffron hue.'

The American biographer, Deirdre Bair, said that she wanted her groundbreaking biography of Samuel Beckett, published in 1978, to fall somewhere between Samuel Johnson's dictum that biography must be all that is seemly to know of a man's life and Lytton Strachey's impertinent adage that 'discretion is not the better part of biography'. Bair reckoned that 'warts and all' was the current biographical approach, but that the only warts she intended to show were those that 'produced or were produced by the writing. "Warts" for their own sake would not do.'

Her biography mentions Beckett's weak eyesight, his attacks of depression and anxiety, and recurrent boils and cysts. But the sores are not the most interesting physical ailment. Bair writes that the young Beckett 'wore pointed-toe patent leather pumps that were too small because he wanted to wear the same shoe in the same size as (James) Joyce, who was very proud of his small, neatly shod feet. Joyce had been vain about his feet since his youth when poverty forced him to go about Dublin in a pair of white tennis shoes ... What is intriguing about this imitative gesture is the sacrificial element involved in the picture of Beckett, suffering terribly from huge corns and terrible calluses, walking only in great pain.'

The symptoms of Beckett's choice of footwear were physical but the cause was not. Similarly, epilepsy does not explain the genius of Dostoyevsky or Van Gogh, nor asthma the character of Patrick White. The body matters—but so does everything else. Leavesley says of the famous patients about whom he writes that they were all 'extraordinary in one way or another—nothing to do with medicine—but they were all afflicted by the things that you and I can have, which makes them ordinary persons.' ■

**Mark Skulley** is a freelance writer. His favourite epitaph is 'I Told You I Was Sick'.



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## Wheat Field

(for George and Isabel Russell)

*Wind like a shadow moves across the wheat field,  
and a dark tide, wave on wave in salient,  
breaks as the bent blades mesh, the tall stems touch.  
Orchestral, and quivering, they spin a quiet  
continuo looped over silence; then green  
and jewel-set with milkgrain, the packed sheaves  
straighten, their bronze awns bristling in the air.  
The wind has stopped, the strings have found their rest;  
so lean your head against the furrowed earth  
where the dead clans still whisper to the world  
and hear the roots at their incarnate work.*

*On the field's far crest a casuarina sways  
whose needle leaves hum like tuning forks;  
the wind has come again, and the green harp sings  
of Jericho eight thousand years forgotten,  
of bones long buried that laughing once  
tamed the wild grass and coined shekels that built  
the bridal city, Jerusalem the Golden.  
There Christ took matzos and made Eucharist:  
that this field too shall form our daily bread  
send the clear rain and make our harvest firm  
under the gold-transcending, turquoise sky.*

**Jeremy Nelson**

## Ice Plant with Serpent

*Spiralling from the pink  
brown earth,  
the ice plant glistens.*

*On leaves as thick as tongues  
it constellates vesicles  
like a wine-chilled glass,*

*its bottlegreen calyx  
gaping like the throat  
of an infant bird:*

*such rubbery trumpets  
dream in the noon's blue fire  
at the edge of the wheat field,*

*where the sudden serpent,  
bronzed and electric,  
lies coiled as a spring.*

*Tread with awe—  
the ground is holy  
that we grow from.*

**Jeremy Nelson**

## A Dark Distraction

*The sly  
but quite real  
misting over mindscape  
at the heart of night*

*is disconcerting  
in that poor you  
only notice  
when it's full bottle*

*when you find  
that thoughts won't come  
and the cloudy metaphors  
go nodding off*

*semi-detached  
from throbbingness  
or tucked away  
on a cluttered bookshelf.*

*the excellence pathology  
dries up like a sinus  
and the path of excess  
proves a dead duck*

*but come pink morning  
you'll be able to ride  
the palomino  
metaphysics*

*eggy sunrise  
rolling round again with  
a booster shot  
of intellection.*

**Chris Wallace-Crabbe**

## Interior Dialogue #1

*A tenant in the palace of art  
once said to me that  
nowhere was a thing to be  
seen which resembled so much  
dross as a poem.*

*A poem she said was fluked  
and pulls two ways at once  
and flings out words as  
lures which catch  
and hang and glitter,  
confounded in the skin.  
It was not, she said, unusual  
for poets to feed on their poems.  
Such ipsophagy is so senseless and so ...  
necessary in the larger scheme of things.*

*For myself I find it different  
noisy, a clamour,  
too selfish in its call,  
too demanding by far.  
How easy it would be  
in that unforgiving palace  
simply to lie around  
and wait for the thunder to come down.*

**Tim Vallence**

## Kenning

*The moth sets down at dawn  
and is formed to the leaf*

*The bird returns at noon  
and fulfils the nest*

*Where are you sky-wanderer?  
All day my hands lie upturned empty*

*Where are you will of wind?*

*The nestled grasses cool  
open to ponding dusk*

**Aileen Kelly**

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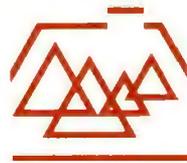
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MICHAEL MCGIRR

# Learning where to lie

**No Regrets**, Mabel Edmund, UQP, 1992. ISBN 0 7022 2426  
 x RRP \$14.95. **Infanta**, Bodo Kirchoff (tr. John Brownjohn),  
 Harvill, 1992. ISBN 0 00 271189 3 RRP \$32.95

**A**T THIS YEAR'S Canberra Wordfest, the visiting German writer, Bodo Kirchoff, found himself sharing a platform with a black Australian, Mabel Edmund. Edmund's recent autobiography, *No Regrets*, takes a bare 100 pages to tell of experiences that, for most of us, would be enough to fill three lifetimes. When Kirchoff had finished explaining the workings of his imagination, Edmund responded, that if she were to write another book, then it seemed she would need to 'learn how to lie'. It was obviously a foreign prospect to her. She had already had her truth. *No Regrets* confronts the reader with that truth at point blank range. It is the terse witness of a woman who has stood her ground.

Kirchoff's novel, *Infanta*, is, by way of contrast, a traveller's tale. It meanders in and around the fortunes of a German tourist, Kurt Lukas, who finds himself in the southern Philippines at election time, enjoying the hospitality of a community of five elderly Jesuit missionaries. It is an experience that Kirchoff has shared. So, for that matter, have I. When I caught up with the author in Kings Cross he was about to change hotels yet again. I mentioned that I had stayed on the site of his book and that I recognised the hot water jugs on the sideboard of the Jesuit house and also the noisy fridge. He was thrilled. Such are the minute recognitions that connect one traveller with another.

I asked him whether *Infanta* was largely concerned with the difficulties of writing up the truth.

**Bodo Kirchoff:** ... really it was a task of working out a language for a couple of human situations. First for the experience of love. Then for the experi-

ence of writing about love, and then of dying. I have problems with our media because our media world has both a picture language but also a real language for everything. It is very difficult to find new words which people can trust for these things. I cannot trust in soap operas. But people mostly believe that these pictures or this language they get from the media is the definitive language for that or the definitive picture for this. But that's not true. So I had to go to the beginning and try to find better words for all these things. Initially, I just wanted to write something about the different sides of love. But, as I say, this is difficult without resorting to clichés, unless you stick to the shady sides of love. That's why I got this idea of having the priests commenting on one side. The writing of the priests is more ironic and distant. You know, you mentioned that word 'lie'. I think the book is an invented truth.

**Michael McGirr:** *What I pick up is that you are a person who trusts language. Language is not slippery for you but dependable.*

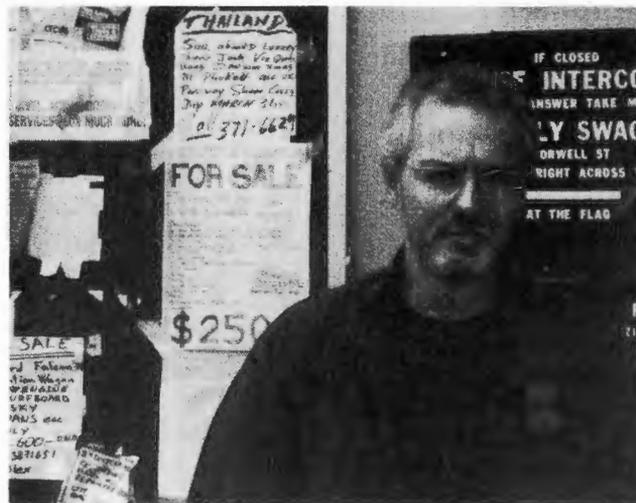
Absolutely. Language can tell you more than pictures. I believe this. But it's difficult because we are living in a picture world. I try to fight against this picture world.

*This puts you in a minority. Many books are sceptical about language. A lot of fiction is at pains to tell you that the whole thing is no more than ink on a page.*

I know. I have done that kind of work before. I know that language philosophy very well. I have written books like this. Maybe it was my intention to try something else, to find out what is possible with my language and how



Mabel Edmunds



Bodo Kirchoff

far I can go. It's always dangerous. Some reviewers said the book is too close to clichés. Some said I did it well. You have to see how far you can go.

Kirchoff's central character in *Infanta*, Kurt Lukas, is tested and measured against the witness of five elderly Jesuit missionaries. 'He is a professional deceiver,' writes one of the priests. They observe changes in him over time which they inscribe diligently into their letters and diaries. Kurt, the ever-wandering, eventually learns where not to lie.

Mabel Edmund's *No Regrets* is part of a sustained venture in straight-forward truth-telling on the part of Aboriginal writers. Magabala, her Broome-based publisher, is currently the only imprint for exclusively black writing, and autobiography is prominent on its list. Peter Binny, Magabala's editor, sees the writing of personal stories as a phase in aboriginal writing. He says that the success of Sally Morgan's books, notably *My Place*, may have stimulated a certain style of work but that there were many other stories waiting to see the light of day. 'There

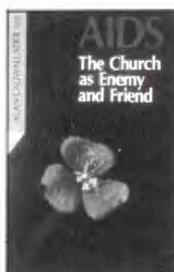
is a lot of emotion still waiting to find a place.'

Mabel Edmund has hewn a place for herself. She was the first aborigine and the first woman on her local council. She was invited to join the Aboriginal Loans Commission, a labour which found her feeling homesick in motels and offices. Unlike Lukas or indeed Kirchhoff, she is a person for whom travel is by no means natural. Her place is marked by pain.

At one point in her story, she struggles to get her father to hospital. A nurse looks at him and says 'Your father is dying.' Dying or not he is denied a bed in the hospital because he is black. 'The other patients might say something to upset him,' lies the nurse with a smile.

Much as they do for the damaged character of Mayla in *Infanta*, such experiences seem to create an unmistakable sense of self. While Bodo Kirchhoff writes of vagrants who encounter truth-telling for the first time, Mabel Edmund speaks as one for whom there were never any glittering lies. ■

Michael McGirr writes regularly for *Eureka Street*. He spent part of 1992 living in the Philippines.



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## Getting your words' worth

**Modern Australian Usage**, Nicholas Hudson, Oxford University Press, 1993. ISBN 0 19 554860 4 RRP \$29.95.

NICHOLAS HUDSON's familiarity with many phases of book production gives authority to articles that alone would justify the purchase of *Modern Australian Usage*. Fowler has nothing like them: COPYRIGHT, EDITOR, HOUSE STYLE, PAPER, PUBLISH, QUOTATIONS, SELF-PUBLISHING, TYPOGRAPHY. KEYBOARDING is a new member of the family, apparently replacing TYPING to advise on how to prepare manuscripts for the press; but not how to correct the proofs when they come in, something that seems to be as necessary as ever it was.

I should also have liked stronger criticism of sans serif type, and a line or two extra to illustrate how photo-set faces lose density and legibility when they are reduced for footnotes or quotations.

Longer articles introduce the technical vocabulary without which we cannot discuss usage with people we are trying to help meet college and university requirements, or even just to write intelligibly: GRAMMAR for instance, OR PRONOUNS, OR TENSE. CORRECTNESS is a good summary of what the book is about, while PREJUDICE points to pitfalls.

AMBIGUITY is another key article; for the purpose of language is clear thought and exact communication in speech and writing. Since I believe this art is most economically mastered through written practice, I remain quite unimpressed by disproportionate emphasis on the spoken word—if something better than bazaar language is the objective. Even where one's meaning is quite clear, unacceptable usage undermines credibility. This is as true of ACCENT as it is of construction and vocabulary. We bad-

ly need a common diction that will eliminate the kind of constant sound translation that inhibits communication even with native English speakers.

At the same time, 'if enough people make a mistake it is no longer a mistake'. We are quite entitled, though, to remain fuddy-duddy about such words as 'kilometre' and 'harass'. Good language, like good conduct, is a matter of reasonable choice. It helps if others make the same choice, so long as fundamentalism doesn't get a leg in. As for ABBREVIATIONS, SEXIST LANGUAGE, honorifics such as MR, MS, and slippery patches like PUNCTUATION and NEGATIVE DILEMMAS, look them up, along with RESTAURATEUR and THAT, to say nothing of THERE as a weak adverb.

*Modern Australian Usage* is clearly unlike Fowler in many ways. Rather than a catalogue of rules and regulations, it is a cheerful chat about the scenery we shall see on an adventurous journey, as well as the side tracks that may tempt us and the places where we have to be very careful.

Hudson has not cluttered the highway with humps, roundabouts and distracting or misleading signs. He has given us a convenient and reliable reference to look up before we set out, and to take with us in case of choice and emergency. It is delightfully grimless, a most entertaining and urbane companion I recommend very strongly to half-day hikers and seasoned bushwalkers alike. ■

John W. Doyle SJ worked in education between 1939 and 1992.



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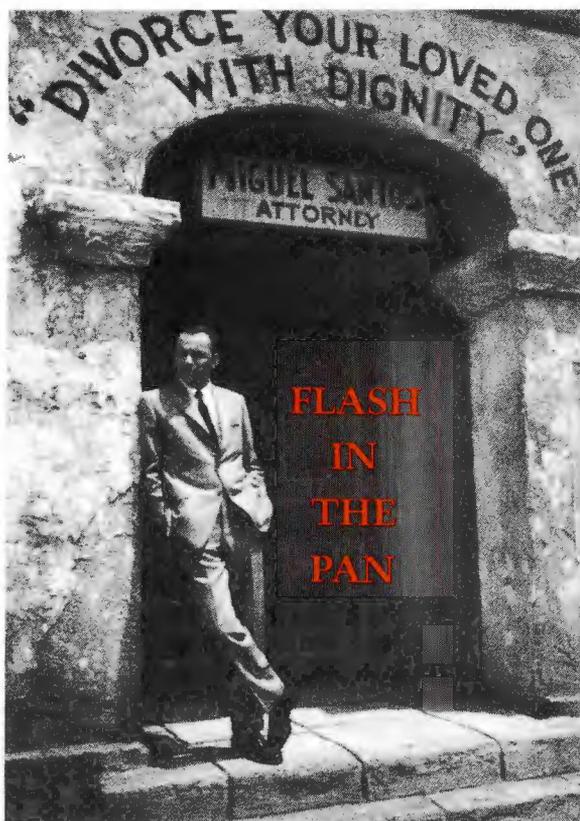
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## Bridge of sighs

*Les Amants du Pont Neuf*, dir. Leos Carax (independent cinemas), is an unromantic romance set on Paris' oldest and most famous bridge, the Pont Neuf, at the time of its renovation during the republic's bicentenary celebrations in 1989. The film's central characters are three homeless Parisians who sleep on the bridge: Alex (Denis Lavant), a disturbed, ugly and inarticulate young tramp; Hans (Klaus-Michael Grüber), an aged derelict who keeps Alex supplied with sedatives; and Michele (Juliette Binoche), an artist driven on to the streets by the twin burdens of a failed love affair and a degenerative eye disease. Michele carries a tattered folio of drawings, a tin of paints and brushes, a pistol and a cat named Louisiana. No points for guessing that the gun will eventually go off. (But don't worry, the cat's not involved.)

At its simplest, the film tells the story of the love between Alex and Michele—a love that threatens to fall apart when Michele is provided with a *deus ex machina* opportunity for a sight-saving operation. Alex, in a mania of possessiveness, tries to rid Paris of the missing-person posters that advise her of the potential cure. His frenzied actions end in a tragedy,

and Michele finds out about the operation anyway, deserting Alex to return home. Love triumphs in the end, however, and the pair are reunited in an unconvincing, Hollywood-style ending.

But despite its unsatisfying plot, *Les Amants du Pont Neuf* is a film of great visual and emotional power. Carax uses the camera in painterly fashion, creating delicate, abstract canvases from the images of fragmented neon lights reflected on the Seine at night, or from the foaming movement of an ocean wave folding onto a beach. In one striking scene, Michele, imagining that she has committed a murder, rushes in terror through the streets of Paris; her flight is juxtaposed with menacing images of a massive military parade. And, in a contrasting scene of surreal beauty, she water-skis on the Seine at night, towed by Alex in a stolen speedboat, while showers of fireworks cascade round them from bridges and embankments.

—Dean Moore

when it comes, disrupts your whole relationship to the film.

The film begins as a highly charged political thriller, with the abduction of Jody (Forest Whitaker), a black British soldier, by the IRA. While guarding Jody, Fergus (Stephen Rea) not only experiences doubts about the 'cause', but discovers a human side to both himself and his prisoner.

Before long we find Fergus hiding in London, where he frequents the places Jody has told him about. Here he meets the mysterious Dil (Jaye Davidson) and becomes embroiled in a relationship based ambivalently on attraction and a sense of guilt—a relationship that has dramatic consequences for both their lives.

As well as directing *The Crying Game* Neil Jordan wrote its Academy Award-winning screenplay, but much of the success of this relatively small-budget film is due to the fine acting performances of Rea and Davidson, who bring a depth to their characters that is rarely seen on the big screen.

—Tim Stoney

### Eureka Street Film Competition

Tell us what ol' Blue Eyes is thinking, and we'll award two tickets, to the film of your choice, for the answer we like best. The winner of the competition for March was Jane Hocking, of Manning, WA, who thought Dorothy would have voted for Paul Keating rather than John Hewson as Wizard of Oz, for fear that the latter would make the Wicked Witch of the West his adviser on women's affairs.



## Faking it

*The Crying Game*, dir. Neil Jordan (Village Cinemas). This is a film that is agonising to talk about with people who haven't seen it. Not because it has an Agatha Christie-like whodunit revelation, but because the plot depends on a central surprise that,

## Bob-a-job?

*Bob Roberts*, dir. Tim Robbins (independent cinemas) is a mock documentary in the same vein as *This Is Spinal Tap's* poker-faced look at the banalities of rock music. Robbins also wrote the screenplay and stars as Bob Roberts, taking up again the persona he adopted for the part of the slick, amoral film producer in Robert Altman's *The Player*.

Bob is a rabid reactionary, millionaire whiz-kid, fencer and folk singer whose songs carry the message that 'The Times They Are A Changin' Back'. He takes the greed-is-good message into a senatorial race in Pennsylvania; dirty tricks and media brawls ensue, but an investigative journalist is the fly in the ointment. Two-time Democrat candidate Gore Vidal (a relative of both Al Gore and Jacqueline Bouvier-Kennedy-Onassis) is very good as Bob's opponent, the splendidly named Senator Brickley Paiste, and Alan Rickman and Ray Wise also excel as Bob's sleazy advisers.

*Bob Roberts* has wickedly funny moments and lands some sharp jabs on the granite chin of American television, but much of the film is spent

milking the single gag of inverting Bob Dylan songs, such as the parody of 'Subterranean Homesick Blues' in the 'Wall Street Rap'. The film runs out of steam before the end, when it tries to SEND A SERIOUS MESSAGE.

A review in *Time* noted that Robbins ends up blaming Bob and his advisers for every political atrocity of the past decade: 'The crimes are listed not so much to push a leftist agenda as to clarify Bob's villainy for viewers who might be seduced by his style. Robbins, eager not to be misunderstood, has insisted that there be no soundtrack album, since the satire in Bob's songs might get lost or perverted on pop radio.'

In other words, people who think central America means Kansas might not recognise a satire when they see one. Millions would holler 'Yessiree.' Not so ironic when you consider Republican reactions to the Los Angeles riots, or that the warm-up act to Barbara Bush on 'Family Values Night' at the Republican convention was a five-times married country singer called Lee Greenwood.

—Mark Skulley

## Achy breaky hearts

*Map of the Human Heart*, dir Vincent Ward (independent cinemas), managed to remind me of most of the sillier films I have seen. *Cross Careful*, *He Might Hear You* with *An Officer and a Gentleman*, chuck in a bit of *Apocalypse Now* and you'll get the idea. Except this film is more tedious than any of the above and not as much fun.

The film starts as it means to go on: predictably. Avik, an aged and drunken Inuit (Eskimo), pesters a map-maker stranded in a remote Inuit settlement for a drink, and begins to tell his story. Flashback to 1931. Avik is a boy who is ripped from his surroundings by a Biggles-like European map-maker (Walter Russell) who takes him to Montreal and abandons him.

Confined to hospital, Avik meets a half Indian girl, Albertine. The pair are separated, and the rest of the film is about how these three characters struggle through war, separation, what can only be described as unbelievably coincidental reunitions, and cultural clashes. There are many breath-takingly silly moments, enacted by char-

acters with more passion (you know they are passionate because they grimace a lot) than substance.

Avik and Albertine make whoopee on top of the Albert Hall in the middle of an air-raid. They do it again on top of a barrage balloon. Avik's plane is shot down during the fire-bombing of Dresden but Avik (surprise, surprise) miraculously survives. One of the last images in the film is of Avik on a motor-sledge scooting across the snow plains shouting Albertine's name (yes, there is an echo). This film is a four country co-production (Australia, Canada, France and Britain) and is only just over two hours long. It seemed longer.

—Margaret Simons

## Whiff-ful thinking

*Scent of a Woman* dir: Martin Brest (Greater Union). I suppose that Al Pacino deserved an Oscar for his performance as Frank Slade. Slade is a retired blind officer intent on a last weekend in New York before ending a life that no longer has any savour for him, trapped among well-meaning relatives. Pacino is riveting, dominating the screen in the way that Jack Nicholson might—except that he is acting rather than just performing. It's easy to see what makes Slade want to end his life, as well as to understand the manipulative charm that makes Charlie (Chris O'Donnell), the student hired to look after Frank for the weekend, go along with most of the trip.

What isn't easy to see is how any transformation in Frank is possible in a weekend. Nothing persuaded me that fine food, a fine whore, Italian cars and a tantalising tango with a chance encounter could wipe out years of cynicism.

While all this is happening Charlie is supposed to be dealing with a Moral Dilemma; but this too is hard to take seriously, if only because the nature of the issue is whether to reveal the identities of schoolboy pranksters who aren't even his mates. These cracks in the film widen in the final scenes, which become implausible in a way that undermines almost everything that the film has achieved until then. But it never actually loses your attention.

—David Braddon-Mitchell

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# Television Program Guide

Michael McGirr

## Series

### Invisible Enemies

The first program of this Australian-made series is about new diseases and, unlike much reporting on the subject, which oscillates between hysteria and science fiction, this show is rather understated. A doctor draws the distinction between an illness and mere suffering which gets itself reinforced by medical jargon. 'If you name a disease,' he says, 'there will be plenty who rush to join it.'

An example of this would seem to be our very own RSI, dubbed by *60 Minutes* as 'The Aussie Plague'. Sufferers may beg to differ, but few self-respecting hypochondriacs will disagree with the basic thesis of the series that our history and our destiny is shaped by our illnesses. On 16 May

the program finds that bubonic plague, which left such deep scars on the 14th century, is one of a number of epidemics that persist unaccountably to the present. Screens every Sunday, from 9 May, at 7.30pm (7pm Adelaide).

### American Chronicles

If, on the basis of this series, you had to choose a single word to describe the psyche of the United States you might settle for 'obsessive'. Each episode explores a different occasion for obsession: the New Orleans Mardi Gras, the Miss Texas Beauty Pageant, the purchase of a new car

and so on. Yet we never lose a human perspective, thanks largely to the strength of photography that has a genius for lighting on a single face at a key moment. On 18 May images of Manhattan after dark are tellingly set against a talkback radio show in which

New Yorkers speak of their own obsession with New York. Screens every Tuesday at 7.30pm (7pm Adelaide).

### The Second Heimat

Roughly speaking, 'Heimat' means 'home'. The First Heimat chronicled in absorbing detail life in a homely German town after the war. The Second Heimat follows the fortunes of one Hermann Simon, who, as a young man, leaves that town in 1960 to find a home away from home and enters the world of alternative arts in Munich. 'In Munich you can still smell the Nazi's sweaty feet,' he says as he watches experimental film-makers setting up their cameras like rifle drill, hoping to capture the essence of the period. The same might be said of the makers of the series which is nothing if not ambitious, comprising 13 two-hour instalments.

*The Second Heimat* is being shown across a dozen countries in Europe, indicating its credentials as one of those scarce films that speaks to the whole spectrum of European preoccupations. It thoroughly deserves to win devotees in Australia. Screens every Saturday at 8.30pm (8pm Adelaide).

## Sport

If the World Youth Soccer Cup in March was not enough, May is the biggest month on the European soccer calendar. The European Cup Winners' Cup is on May 13, the FA Cup Final on May 15, the UEFA Cup on May 20, the European Champions' Cup on May 27 and the Scottish Cup Final on May 29. Check local guides for times of live broadcasts and replays. Not to overlook the domestic scene, the Coca-Cola Soccer League Grand Final is on May 16 and the first game in a World Cup qualifying series between Australia and New Zealand is on May 30.

## Documentaries

### 7 Up South Africa

At the beginning of this program, a seven-year-old black South African

tells an interviewer that 'we have problems lots and lots of times.' 'Like what?' 'Like killing people.' Later a girl whose village has been destroyed is asked where she'd like to live. She'd like to live in town because her mama works there and she only sees her on Sunday. She rarely sees her father. Then we meet two Afrikaner seven-year-olds, Tienie and Gisette, who speak proudly of their 'relationship'. They have been going steady since nursery school. Next a seven-year-old from Soweto who goes to a private school in Johannesburg. He says in English that he has few friends here yet is unable to speak his tribal language when he goes home. Then a seven-year-old tribal says that he wants to learn English because then 'you will speak nicely and people will envy you.'

This is just a part of the complex mosaic of South Africa seen through the eyes of kids too young to even remember the release of Mandela. Just as happened with the renowned British prototype, we are promised a sequel seven years from now. It should be worth the wait, if only as a grassroots indication of the pace of change. Screens 3 May at 7.30pm (7pm Adelaide). This same format is also used again for *7 Up Japan* which screens 2 May at 7.30pm (7pm Adelaide).

### The Strange Life and Death of Dr Turing

Even if his name remains unfamiliar, Alan Turing, without exaggeration, turned the world on its head. He invented artificial intelligence and conceptualised the computer. In 1935, he published a paper suggesting that any rational process could be broken down into precise sequential steps which could, in turn, be carried out by a machine. By the time he took his own life in 1954, he had set us on course towards the inevitable realisation of this dream.

His style of genius does, however, raise all sorts of questions about being human. He saw artificial intelligence as a way of cheating death, of freeing ourselves from the constraints of a



Facing his future: 7 Up South Africa screens on 3 May at 7.30pm

# May

fleshly body, of putting something alive and loving into a body that can last longer than we do. Even today, an annual prize of \$100,000 is offered for a machine than can pass the 'Turing Test' and convince a panel of judges that it is human. I secretly hope it remains unwon.

This fine documentary is not without humour. While working during the war as a code-breaker, Turing kept mum about his homosexuality. 'It was a good thing he did so,' says a friend, 'because otherwise he might have been fired and then we would have lost the war.' Screens 7 May at 8.30pm (8pm Adelaide).

## Fast Life in the Food Chain

Without getting overly sentimental about the rights of animals, this film points to the suffering of farm stock engendered when geneticists push them too quickly towards maturity. In Britain an increasing percentage of broilers are unable to stand because their bodies grow too fast for their legs, young pigs die of heart attacks because they have too much muscle and not enough blood vessels, and cows too often give birth by Caesarean because of the unnatural size of the foetus. But, as the dour filmmakers suggest, farmers are themselves caught in a chain of production that demands such changes. Screens 18 May, 8.30pm (8pm Adelaide).

## Home from the Hill

The subject of this gently paced documentary, Col. H. Hooke is racist, sexist, speciesist but, however objectionable in real life, is thoroughly endearing on film. He went out to India with the British army 'before the war' and spent 20 years as a professional hunter in Kenya. After an absence of fifty years he returns to Britain. 'I'm still punch drunk from that pig of a journey,' he says on arrival, 'I lost my temper and I lost my gun.' Yet the manner in which an old gentleman finds his bearings again and buys his thermal underwear makes a poignant tale. Screens 21 May at 8.30pm (8pm Adelaide).

## Hitler's Mistress—Eva Braun

Pity Eva Braun. She was Hitler's mistress for 14 years until, a day before they committed suicide, he married her in 1945. She always despised what she called her 'backstreet existence'. She had met Hitler when she was working for his photographer and one wonders if, subsequently, her exhaustive filming of the private life of the Third Reich became a form of passive aggression. In this documentary about her own life she is little more than a pair of eyes, seeing everything through the movie camera that was rarely out of her hands, often allowed no closer to Hitler in public than her lens would take her. Screens 28 May at 8.30pm (8pm Adelaide).

## Music

### nomad

nomad is a wandering blend of music, dance, photography and graphic art. A pilot for its first outing on 7 May was certainly invigorating. Unlike most music video shows it seems genuinely capable of turning up surprises, such as an interview with the Australian, Jane Castle, who has made videos for Prince, U2 and Midnight Oil or, to coincide with the anniversary of Bob Marley's death, a cultural history of reggae music. This is the kind of mixed bag that's great to get home to at the end of a long week or a boring meeting. Screens every Friday at 11.15pm (10.45pm in Adelaide).

### High Fidelity

The Guarneri String Quartet have been playing together since 1964. It is an intense way to earn a living, a fact that is made apparent when we see the four standing at the desk of a plush hotel haggling to get rooms as far away from each other as possible. Nevertheless, the results speak for themselves and can be heard live in Australia in the middle of May. Screens 10 May at 8.30pm (8pm Adelaide).

## Synergy with Synergy

The Sydney Dance Company, choreographed by Graeme Murphy, presents a number of sequences of human movement on an industrial landscape designed by Brian Thompson. Some of the dance is remarkably intimate, as when a hand appears from nowhere



around a perspex corner. Some is on a broader scale, provoked by cacophonous music from the percussion ensemble, Synergy, which also plays, as occasion warrants, with delicacy and warmth. Screens to coincide with Dance Week on 3 May at 9.00pm (8.30pm Adelaide).

## Dance

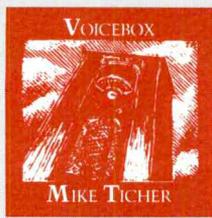
### Dance of the Century

In 1900, the tradition of ballet in Russia, where it was fed by folklore and even the incidents of everyday life, contrasted with the ossified performances being offered in France and Italy.

This is the starting point of a five-part series about dance in the 20th century. Dance has a propensity to withdraw to a rarefied atmosphere; this series tries to keep it close to its popular roots. Screens every Monday, from May 10, at 7.30pm (7pm Adelaide).

**Michael McGirr SJ** is a regular contributor to *Eureka Street*.

*Feeling ratty: Dr Norman Swan comes face to face with one of the better-known plague bearers. Invisible Enemies screens on Sundays at 7.30pm*



# It only hurts when I laugh

IT'S NO SECRET that there isn't much love lost between ABC managing director David Hill and Radio National. Not so long ago Hill berated RN as a nest of 'predictable, tired, unreconstructed left-wing views' and has consistently criticised the station for not attracting enough listeners to justify its budget. Had the coalition won the election, RN would almost certainly have been first for the chop at the ABC. The network has responded to such threats by periodically attempting to spice up its programming, while resisting attempts to save money by running all its programs into one continuous 'flow' of news and current affairs.

In theory, and usually in practice too, such initiatives are admirable: stout rearguard actions against the onset of commercialisation, a defence of quality programming and all that. But they also reveal something, perhaps, of why Radio National finds it so hard to break down its 'worthy-but-dull' image. Its comedy programs, for example, illustrate the futility of trying to foster more popularity by inserting self-conscious slices of levity into a network that prides itself on its seriousness.

Despairing commentators still casting around for a satisfactory explanation for the rapid rise in republican sentiment surely need look no further than RN's persistence in re-broadcasting old episodes of *The Goon Show*. What more devastating indictment of our would-be future monarch could there be than his well-known predilection for this jumble of silly voices and appalling puns that has somehow been transformed into a cultural icon of the first order? Its continued presence in the program guide (along with such contemporaries as *Hancock's Half-Hour* and the excruciatingly awful *Round The Horne*) is as irritating as the boring uncle who insists on telling you the same interminable anecdotes every Christmas.

Given that the catalogue of revivable BBC radio comedies ends about 1970, it looks as though we may be stuck with repeats of *The Goons* for the rest of our natural lives, or at least until Radio National itself is quietly put out to grass. Its only Australian

rival in the longevity stakes is *Blue Hills*, which still goes out periodically on Sydney's Christian station, 2CBA. They, at least, are unashamed about their target audience—their program schedule also includes such riveting offerings as *Arthritis* and *Cacti*. RN has no such excuse: many of its listeners are even younger than Prince Charles.

RN promotes itself, if that's not too vulgar a word, with the slogan 'Mind Over Chatter'. That suggests that it sees the two as mutually exclusive (although Phillip Adams, for one, might disagree) and regards comedy as belonging to the latter, inferior category. Certainly, the network's other contribution to the thin ranks of radio comedy elevates mindless gabbling to something approaching an artform. *Livewire* was introduced as part of RN's overhaul in 1991 as a conscious attempt to inject some humour into a stodgy product. It's a fatal assignment. *Livewire* tries so hard to get away from RN's preoccupation with substance over style that it more or less jettisons subject matter altogether, relying instead on a series of apparently randomly-selected 'themes' on which to hang the jokes.

The most intriguing thing about *Livewire* as a comedy show is that the studio audience never laughs. Ever. But they do cheer frequently. That's because the show is essentially as much an exercise in nostalgia as *The Goons*, though for a slightly younger generation. The point of the program doesn't seem to be to stimulate or surprise the audience so much as to ease its descent into middle-age by invoking a succession of comforting reference points.

An edition that dealt with the '70s was only the most obvious example. It was enough simply to mention denim, beanbags or John Paul Young to extract roars of approval from the crowd. Even Glenn A. Baker, who would have to be in the running in any competition to find Australia's most earnest man, got a rapturous welcome. I mean, really.

By contrast, the people who are genuinely funny on radio are generally not to be found in shows with a big 'comedy' warning label. JJJ's jewel, *This Sporting Life*, and the ABC's *Cooda-been Champions* (the latter now half lost to the Melbourne commercial sta-

tion 3AW) both have the huge and familiar panorama of real sports personalities around which to weave their fantasies. In a rather different context, Richard Ackland made a big success of RN's *Daybreak* breakfast program because he was able to insert his idiosyncratic sardonic wit into even the most turgid news item. John Doyle (Roy Slaven from *This Sporting Life*) is similarly effective on Sydney's 2BL in removing colleagues from their normal context as weathermen, finance reporters or newsreaders and gently unpicking the thread of their objective, controlled, efficient ABC personas.

Too often, however, RN falls into traps like Wendy Harmer's thankfully short-lived drivetime effort, *Kaboom*. This used to follow *International Report*, presented by the beautifully enunciating Helene Chung. After the final item on, say, corruption in the highest echelons of the South Korean political system, Helene would be compelled to introduce the ludicrous *Kaboom* in the same ringing tones, a metamorphosis that was a lot funnier than the program itself.

Some interaction between the two could have done for Helene what John Doyle has done for the equally proper-sounding Virginia Small on 2BL (Virginia is very much into powerful motorbikes, it turns out). But instead the rigid distinction between serious analysis and supposedly off-the-wall humour was sternly maintained. Rather than the more relaxed program leavening the RN diet of unremitting seriousness, it just made them both look ridiculous.

But *Kaboom* was also lucky, in a way. Last year RN renamed some of its shows to give them a more dynamic impact and a new identity. So *Ring The Bells*, for example, became *The Parliament Program* and *Kronos* turned into *The Religion Report*. No doubt there was a strong lobby in favour of calling the new comedy program *The Comedy Program*, just to make sure there could be no confusion. Sometimes, you know, I think David Hill's got a point. ■

Mike Ticher is a freelance journalist.



# Eureka Street Cryptic Crossword no.13, May 1993

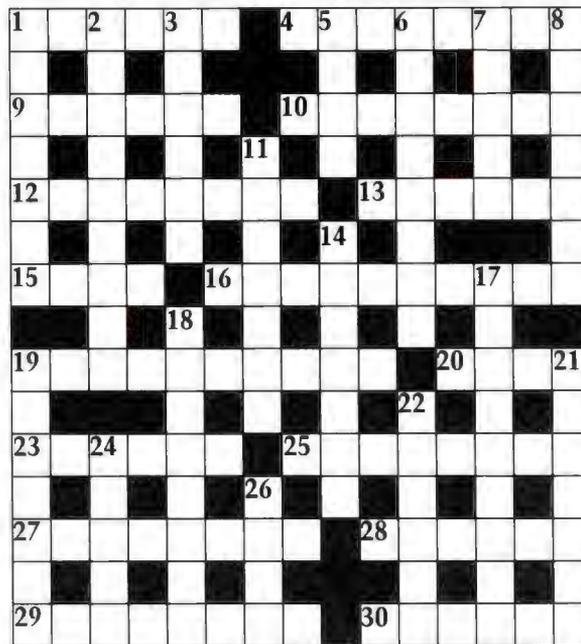
Devised by Joan Nowotny IBVM

**ACROSS**

- 1, 4 She wants to enjoy the April break, so eats her daily porridge. (6, 8)
  - 9 In part the Sistine chapel illustrates the proposition to be maintained. (6)
  - 10 About the beginning of Easter, the soldiers were under canvas for their accommodation. (8)
  - 12 An electric charge in a South African province is hardly a state matter. (8)
  - 13 Grasp the hatch of eggs. (6)
  - 15 Not exactly fast, the swooping owl's reaction! (4)
  - 16 Somewhat troubled I join the Grail cult to seek this sort of public service. (10)
  - 19 A meeting called to study hesitation in the shady dealer. (10)
  - 20 Not quite left! (4).
  - 23 In France they cry differently for these songs. (6)
  - 25 The attitude of this unusual shirtless clan, licit as it was, turned out to be scientifically detached. (8)
  - 27 If I join pacts it's because I'm opposed to war. (8)
  - 28 The referee in the pig pen is short and thickset (6)
  - 29 On the other side of the page you'll find the names of Eve and Flora, perhaps. (8)
  - 30 Therefore, inside suggestion indicates Japanese religion. (6)
- Bonus Clue:* Could 12, 16 and 19 across combine to describe a gathering of gurus? (8, 10, 10)

**DOWN**

- 1 In part of the Church Office, Sext ends when the day lengthens. (7)
- 2 A variety of maize for those who hold Tiny Tim initially in contempt. (5, 4)
- 3 It follows Edward or the journalist. (6)
- 5 There is nothing over the cage so the way is not blocked up. (4)
- 6 In preparing the video, log your ideas, which underlie, in part, political action. (8)
- 7 Turn away a French green in your salad. (5)
- 8 In the Gaelic class every Celt has repaired her schoolbag. (7)
- 11 Silas the miser embraced one idea—to become a seaman. (7)
- 14 Lively mistress of the Boar's Head tavern (cf *Henry IV, 1 and 2*) (7)
- 17 When it comes to the crunch, hem somehow the garments of the clergy (9).
- 18 Does 17 across, when upset, feel a cup of tea would help to make him free from tension? (8)
- 19 As policy is so confused, I drop out of the dance. (7)
- 21 Call to hunt for the tangled holly at Christmas. (5-2)
- 22 Suddenly grasp the short burst of song! (6)
- 24 The cur he decorated with a frilled collar! (5)
- 26 In these words, as I always say, a whole continent can be described. (4)



**Solution to Crossword no.12, April 1993**



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