

news you're not supposed to know

noseweek

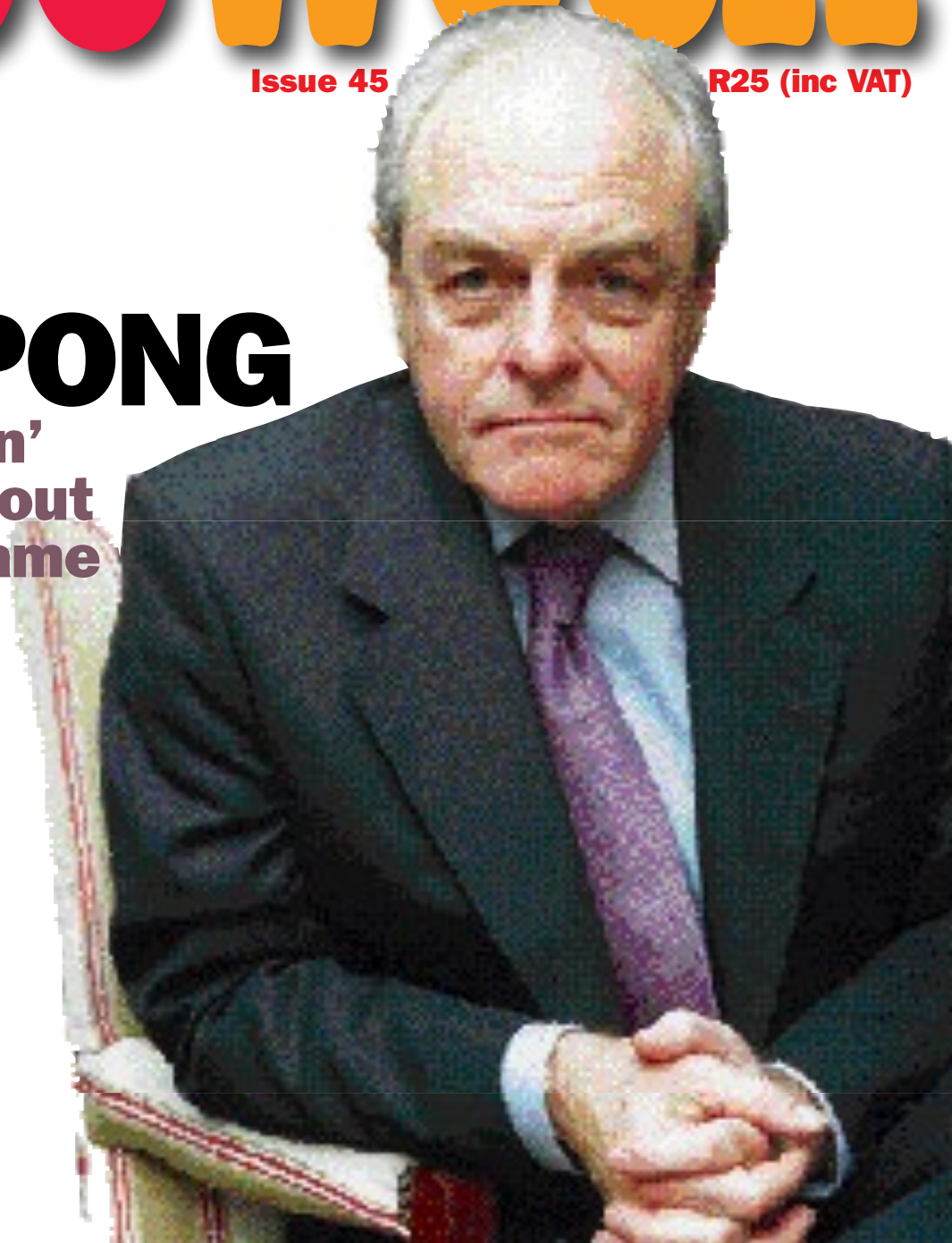
April 2003

Issue 45

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KING PONG

How 'Mr Clean'
helped clean out
the Phillip Frame
Will Trust



Gangsters, gunfights and Stanbic ■ Big cat adventure

■ Straight talk from those 'troublesome' Holomisas ■

Cape to Rio: Piracy on the high seas ■ Lessons for Baby Bush



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THE FRAME AFFAIR

6 How the trustees of textile magnate Phillip Frame's estate were induced by a multi-million rand payoff to betray his will. And how several men who are today pillars of society – among them Judge Mervyn King – were party to the inglorious stitch-up that cost 24,000 breadline textile workers their jobs.

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The World's
Most Interesting
Bottle



...famous to: Navcu
32Kc 1924



Lift your head

It is encouraging that *noseweek*, with "How Manuel signed away parliament's rights" and "Anti-globalisation alive and kicking," (*nose43*), as well as the editorial "Manuel's arse" (*nose44*), is now giving readers insight into the bigger picture.

Such views help overcome the illusion that your reports are simply about aberrations in an otherwise normal world. The point is that the scams are symptomatic of an abnormal, though pervading context of exploitation that dominates the world.

Think how misleading the measure gross domestic product (GDP) is of economic activity. In the name of growth and progress, GDP simply adds up what is spent, but it hides the huge costs in human unwell-being and environmental destruction entailed. GDP leads us to believe, absurdly, that curbing pollution for the sake of public and environmental health is bad for the economy.

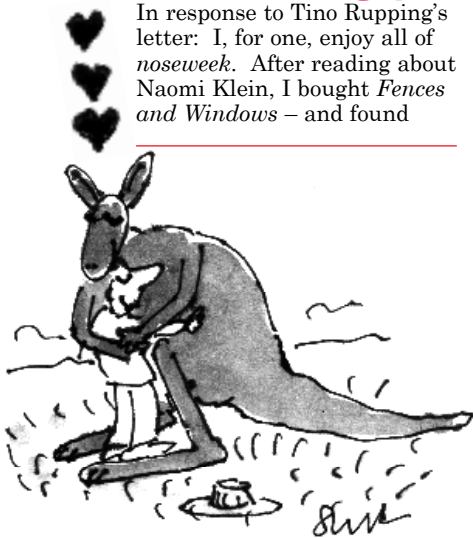
In our world, shopping is equated with happiness despite the exploitation that underpins the production process. It is in this context that creates the motivation for the gross materialism that drives the frauds and scams.

Keep onto the shysters, but lift your head as well to see where they're all coming from.

Jim Phelps
Empangeni

What's Tino's gripe?

In response to Tino Ruppung's letter: I, for one, enjoy all of *noseweek*. After reading about Naomi Klein, I bought *Fences and Windows* – and found



Liaisons kangereuse

a few mistakes about South Africa, which I have informed her of. I read about Sampie Terreblanche and also got his book! I look forward to finishing it – and yes, I have a few problems with this as well! Harold's "Last Word" is brilliant. What's Tino's problem? I know *noseweek* keeps me informed: *all* of it.

Tony Wilson
Claremont

Indian takeaways

Here's a story to add to the letter "Chinese whispers" (*nose44*): My husband has had to accept that when he imports gifts from India for his shop, the customs officers will help themselves from each box of goodies.

On average, "their share" equals 1% of the total. When my spouse queried the missing goods, he was told they were samples! So many samples, you could open a shop with them. Suddenly the government wants to open an exhibition of brass goods made in India? Writing to the department about it is like throwing ash into the wind.

Bev
Port Alfred

Gobsmacked by nose

Reading all copies of *noseweek* for the past 24 months has left me gobsmacked. I regard *noseweek* as a must-read and feel that the magazine requires a stronger marketing drive to create greater awareness of the product.

South Africans have become a complacent lot, showing only selective and sporadic resistance to corruption and decisions (from government) that impact on us daily.

For those who choose not to subscribe to complacency, *noseweek* provides that spark of activism which is an essential ingredient in any truly democratic society.

It is gratifying that journalists across the country are not only quoting *noseweek*, but also acknowledge the contribution the magazine has made to exposing corrupt practice in government and business circles.

Adrian Cook
By email

Smacked by cop

After midnight on new year's eve, while assisting at the scene of a motor accident in Plettenberg Bay, I was hit in the face by a traffic officer who told me he was the most senior officer in Plett.

He objected to being asked to slow down as he approached the scene of the accident. At a meeting on 6 January, he apologised. I accepted the apology. But when he hit me, he broke my glasses, so I put in a claim to the town council for a replacement. The chief of protection services forwarded the claim to the council.

Since then, nothing. The council appears to have chosen to ignore all correspondence on the matter. I was told: "It is a private matter between the traffic officer and yourself and you should take legal action against this officer." This despite the fact that the officer was on duty at the time.

Does this mean that officials of the Plett town council can deal with the public in an abusive manner and that the council carries no responsibility? An enquiry to another council representative elicited an abusive response.

It leaves one wondering how sincere the council's promise is to serve the community and promote tourism.

Neville Bews, PhD
Johannesburg

Cheque in the post

You have previously dealt with the Courier and Freight Group (CFG) – part of the Post Office.

Now consider this: both Speed Services and XPS are advertising extensively at present on TV and radio. This is odd for a number of reasons.

- They belong to the same company (CFG), but are in effect competing with each other and cutting profit margins while duplicating overhead costs.

- Both are battling and are retrenching staff.

- In this market, advertising rarely brings in additional income.

Taxpayers' money is supporting these idiotic business decisions.

'Courier'
Johannesburg

Join the dots

You stand out as a publication with the courage and tenacity needed for fine investigative journalism.

But we were taken aback by the crude language in your March issue, particularly on page 30 ("Bang, bang you're dead").

We realise that your style is to be factual and to pull no punches, but crude language does not enhance your publication.

We realise that you were quoting somebody on page 30, but dots can equally well tell the story.

RCH and CT Garbett
Lanseria

Muckrakers don't wear dress suits to work. This f...ing job calls for the working man's tongue – and touch. That said, point taken. – Ed

Moved by Strachan

Thanks for another marvellous issue, though I cried at Harold Strachan's article "Bang, bang you're dead".

Jenny Allebone
By email

Eyewitness

Thanks for publishing "last word" by Harold Strachan.

I was a witness to the shooting and the account was mostly accurate. Your illustration, however, was misleading. The policeman who shot him was white. (What a pity that we still have to resort to these classifications.)

Douglas' knife was not quite a butter knife, but the really sad thing was that if they had just left him alone, he would have been in his usual spot the following day and could have been apprehended when everyone had calmed down.

I gave statements to the police and I emailed a report to the people who should monitor this sort of senseless killing and I have not had a reply on disciplinary action as I was promised.

Thanks for going out on a limb time and again to keep us informed and the rogues on their toes.

Charlotte Hatfield
By email

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King Pong

*I'm just a man whose intentions
 are good.*

*Oh Lord, please don't let me be
 misunderstood.*

No, this time it's not Carlos Santana singing those immortal lines. It's the ghost of much maligned Phillip Frame, 23 years after his death come to haunt South Africa's idol of corporate governance, Mervyn King.

Our lead story demonstrates once again how history can be news. The events it describes took place 20 and more years ago. But it casts new light – a remarkable, redeeming light – on the life of a man who may until now have been most grievously misunderstood. It also exposes the tacky motives of some of those people who, after his death were most eager to malign him.

But when history really becomes news is when the story suggests that the likes of Mervyn King and Sydney Kentridge helped execute a plan, contrary to the public interest and driven by greed. A plan which the perpetrators knew would cost as many as 20,000 breadline employees their jobs at a time when this meant starvation and even death.

If something smelly has gone down in your company, why not offer ex-Judge

Mervyn King a small parcel of shares and a director's fee appropriate to his status to join your board? Any number of users can testify to the quality of this tried and tested product.

A board that the ex-judge joins is guaranteed instantly to smell of probity, lavender and roses. Judicial inquiries and police investigations become superfluous, while the press will quote every reassuring word he says, verbatim. His membership of the AVINS board for the duration of the Crulife cover-up is a case in point (see *nose13*).

Unfortunately, with regular use, more and more people get to recognise the sweet scent of toilet deodorant. At the first whiff of it, their nostrils twitch to discern the ghastly undertone of excrement. Maybe the AA now calls for a closer look. And should Corp Capital's shareholders be nervous when the ex-judge makes it his business to be ever so reassuring?

King was appointed a trustee of Phillip Frame's will trust immediately after the textile tycoon's less-beloved relatives secured the resignation of the trustees appointed by Frame himself.

It was the sickly-sweet scent of deodorant that alerted us to the possibility that we were looking at a smelly situation.

Turn to page 6 and be the judge.

It's party time

Yes, in parliament it's boogie time. And now that Patricia De Lille has decided to start her own new party, she's free at last to do it her way.

We have no doubt that *noseweek* had a hand in that decision. After all, it was way back – in October 2001 – that we led the hack pack by suggesting she dance to her own tune.

The cover of that issue featured a picture of Patricia doing the tango with a *noseweek* cub hackette.

The prescient young interviewer was saying, "C'mon Patricia, isn't it time you started your own party?"

Pip, pip.

The Editor





THE FRAME AFFAIR

A STORY OF TRUST

PART 1

EVERYONE knows that Natal textile magnate Phillip Frame was a colossus of industry in the twentieth century. We've all heard how fabulously wealthy he was, and what a mean bastard. Such a bastard, in fact, that he triggered some of the biggest strikes by black workers in South Africa's turbulent labour history.

Professor Marcus Arkin has a more considered approach. "Any highly successful businessman like Phillip Frame will have his admirers and his detractors," he cautioned in a small essay that appeared in the journal *Hashalom* a while back.

The professor summed up the con-

troversy that surrounded the textile magnate's life in a neat paragraph: "To many, his tremendous enthusiasm and dedication were an inspiration. To [as many others], however, Frame was a ruthless loner who would stop at nothing to sweep aside competition and who paid starvation wages."

But the professor's concluding paragraph really aroused our interest:

"When Phillip Frame died in 1979 the Frame Group's workforce numbered well over 30,000, but the extent to which his industrial empire depended on his own expertise and guidance quickly became apparent by its rapid disintegration thereafter. Disputes among heirs ... accompanied by the dismemberment of some of the group's struggling limbs by encircling and voracious asset strippers had shrunk the number of employees to less than 6000 by the turn of the century."

This prompted us to investigate: Those disputes about Frame's will that featured fleetingly in the business press in the mid-1980s – what were they really about? How might they have resulted in 24,000 South Africans losing their jobs? Who were the asset strippers? And, finally, what in the end became of Frame's fabulous fortune?

The extraordinary story we have uncovered not only demonstrates the havoc and grief that unbridled greed can cause; it also casts long shadows that reach across the decades to darken the reputations of some of South Africa's most eminent pro-

fessional men (see box).

But as with all good stories, we need to begin at the beginning.

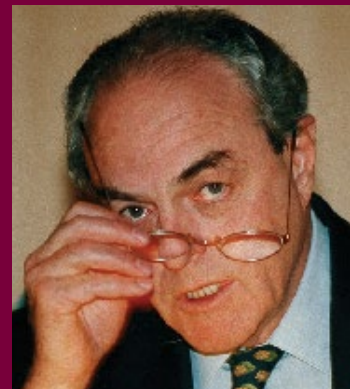
Born in Memel, Poland, in 1904, Phillip Frame came to South Africa when he was just 20. He worked for a time as a loom tuner at a textile mill in Paarl before moving to Durban. There, in 1928, he started his first textile business with money borrowed from a Vryheid shopkeeper.

The second world war saw Frame's enterprise really take off as the Union Defence Force placed enormous orders with his company for canvas shoes, boots, blankets and clothing. When the **page 8** ▶

THE CAST OF PROS

Those involved in the subversion of Phillip Frame's will, include men who today carry weighty reputations in South Africa and beyond our shores:

Ex-Judge Mervyn King



Top of the list, King is generally punted as the "Mr Clean" of South African business (although noseweek has never subscribed to that view).

Charles Stride

Founder-partner of one of the country's major firms of accountants and auditors (known today as Fisher Hoffman Sithole) and a one-time member of the Public Accountants and Auditors Board.

Charles Friedman

Former senior partner in Hayman Godfrey, one of Johannesburg's largest law firms.

The extraordinary story darkens the reputations of some of South Africa's most eminent professionals

Gerald Stein

Former senior partner in Werksmans, Johannesburg's largest law firm.

Sydney Kentridge and Sam Aaron

Yes, even these giants of the legal world played a part in the story.

Judge Willem Booysen

The senior judge of the Natal high court, who presided over the case of Frame's will, might have reason to reconsider his role in the affair.

BETRAYED

The dismemberment of the Frame business empire two decades ago has been portrayed as the righting of wrongs in the will of a vengeful and doddering old man. The truth is quite different and revolves around the greed and venality of a small group – including pillars of society such as Mervyn King and Sydney Kentridge – who applied themselves to subverting a trust set up to preserve tens of thousands of jobs.



◀ **page 7** war ended he used his profits to launch a massive expansion programme, building factories from the Eastern Cape to Malawi.

Frame was an old-style, brutal capitalist. He drove his workers hard and paid them little, adding the profits they generated to his ever-larger capital. At its peak in the 1970s, the Frame Group employed 30,000 workers. It was the biggest textile conglomerate in the southern hemisphere, and the biggest blanket producer in the world. Its factory at New Germany in the Natal Midlands extended over 25 acres – under one roof.

The group's assets were estimated at R1-billion, and it had next to no debt.

JABU Ngcobo, now working for the International Textiles and Garment Workers' Union once worked at Frame. He remembers the working conditions as less than optimal: "The highest position a black person could aspire to in Frame was that of working for Human Resources as a translator," he says, "translating into African languages notices to workers that they had been fired."

Ngcobo can remember that every Wednesday and Friday queues formed outside the human resources department of those waiting for their severance packages after being dismissed for any of a multitude of petty offences.

Frame was also a union basher. But if he drove his workers hard, he drove himself equally so. Ngcobo remembers Frame

Frame's own lifestyle was frugal.

Based on tax records for 1975 to 1979 – the last four years of his life – we have calculated that the equivalent today of his income (salary and dividends) would be less than R35,000 a month – as chief executive and majority shareholder of one of South Africa's largest companies.

He did build a home on Durban's prestigious Mentone Road. But the Frame home looked desperately modest compared to any other on the street. He also bought nice cars – but kept them for 10 years or more before trading them in.

He didn't approve of his top executives and shareholders using his profits to live the high life either. (This at least partly explains the unhappiness that was later to arise between Frame and his socially ambitious son-in-law Max Ulfane.)

Shares in Frame companies were hardly sought after on the JSE, where the share price remained a fraction of the asset value represented by each share. The reason was simple: Frame insisted that the companies he controlled should accumulate their profits to enlarge their capital, rather than paying them out as dividends. This undoubtedly caused unhappiness for the few shareholders who bought Frame shares ignorant of his vision.

In 1967 Frame drew up a will that documents a remarkable life and explains much that might otherwise have been misunderstood.

HE HAD reached 63, an age when many men take stock, look at what they have achieved and plan their retirement and estate. His

my daughters Elaine and Hazel and I am therefore not making any further bequests to my daughters under this my will." (Just how substantial those trusts were would emerge later.)

IT IS clause 10 of the will that stands out as Frame's monument. What the public has never been told is that, whatever the wrongs of Frame's labour policy, his will goes a long way toward explaining them – and toward putting things right with his 30,000 workers. They were to be the primary beneficiaries of the trust he created in his will.

"During my lifetime I can in all modesty claim to have played a major part in building up the textile industry in the Republic of South Africa. This has been achieved through the founding and developing of a large group of companies commonly known as the Frame Group."

"My estate will stand possessed of substantial shareholdings in [these] companies. Provided my trustees carry out the directions given to them ... my estate's holdings in the companies will not be diminished as a result of my death."

Now followed the explanation for those miserable dividends (and wages): "I have always been able to influence the boards of the main companies in the group to exercise a conservative dividend policy with the result that the group has been able to accumulate substantial reserve funds and finance its capital expansion programmes from its own resources and to purchase large quantities of raw materials when prices on world markets have been favourable.

"In recent years the group has completed a vast expansion and I believe that the time has come for the group to consolidate its interests. Any further expansion would cause difficulties in administration and control and may create financial problems.

It is accordingly my express wish and desire that for many years after my death my trustees should ensure that further expansion is curtailed and the group's resources are conserved so that it will be in a sound position to withstand any major setbacks caused by trade depressions, boycotts and other unforeseen eventualities.

"I am concerned to ensure the group will continue to provide a livelihood for all its personnel and labourers and be able to safeguard their employment dur-

The group's poorly paid workers could take some solace from the fact that Frame was himself frugal

as a hands-on manager. Every Saturday – after synagogue – every production line would be inspected.

As former Frame director Sydney Peimer put it (speaking of the 1960s): "Phillip Frame was often criticised for paying low wages. His standard retort was: 'What would you rather have me do? Employ 100 people at R20 a week, or 200 people at R10 a week? At least R10 a week feeds a person and his family.'"

The group's poorly paid workers could take some solace from the fact that

will did all that – and more.

It is a document we are happy to retrieve from the oblivion to which his family and the likes of Mervyn King so eagerly consigned it.

One of the most persistent myths about Frame's will is that he left his two poor daughters nothing. Sis, shame, even his granddaughters had to wait until they turned 50 to get anything!

But that was just a myth. Early in his will, Frame records: "I have established trusts some years ago for the benefit of

ing periods of trade depression.”

That was the primary purpose of the Frame Will Trust: to preserve the textile industry and keep putting food on his workers' tables.

It was to defeating that noble end that Messrs King, Stride, Friedman, Stein, Kentridge and Aaron would later apply their considerable professional influence and expertise – more about that anon.

IN HIS WILL Frame

appoint-ed his daughter and son-in-law, Elaine and Max Ulfane, and his old friends and trusted co-directors, Archie Berman, Selwyn Lurie and Sydney Peimer, as trustees. However, sometime around 1970, Elaine and Max were said to be having marital problems. The pair had always been socialites, but now a scandalised Frame heard that they were “socialising while not in each other's company”. There was an embarrassing public confrontation between Phillip and Max after shul one Friday evening.

Matters were not helped by the fact that Max had begun to demand more and more power – as well as money – from his father-in-law. Although he had been appointed CEO of one of the Frame companies, Max wanted it to be made clear that he was the heir apparent to the Frame empire.

After the row Max was relieved of his directorship, and the couple and their two daughters emigrated to England

Phillip Frame was frugal but not invariably mean or lacking in appreciation of friendship and loyalty – particularly when it came to those he believed shared his ideals: his co-directors of many years standing Archie Berman, Selwyn Lurie and Sydney Peimer.

On 22 March 1974 he gave the three and his attorney, Jonathan Cyril Norris, each a gift of R16,000 (worth close on R400,000 each today) – in recognition of their loyalty and friendship.

Four months later, Norris was summoned to assist him in drawing up a new will. It was identical to the earlier will, except in two respects. It excluded his two sons-in-law from ever being appointed trustees of his trust. And Elaine Ulfane was removed as a trustee and replaced by her sister Hazel Westbury.

Frame's three co-directors remained trustees of the trust that would control the Frame Group after his death. The pri-

mary purpose of the trust remained the maintenance of the Frame Group of companies for the benefit of its employees.

Philip Frame died on 18 January 1979. Shortly thereafter, the master of the high court registered his 1974 will and, in accordance with it, appointed his three co-directors, together with his widow Bertha Frame, and Hazel Westbury, as joint executors and trustees of

his estate.

Frame's habit of declaring very low dividends now paid off in a most unexpected way. In his estate the total value of Frame's South African assets, including his majority holding in the Frame Group of companies, was set at only R9.73-million.

This low value was arrived at only because it was practice to value listed shares on the basis of their price on the JSE. As a result, the estate paid just R3.37m in estate tax, when the assets were in reality worth closer to R500m.

All these assets now became the property of the Phillip Frame Will Trust, which the trustees proceeded to administer in terms of his wishes.

But, in 1980 Elaine Ulfane, wife of Phillip Frame's *bête noir* Max, issued summons against the trustees and the master of the high court. She had the support of her elderly mother Bertha Frame, who signed subsequent court documents with a very shaky hand. (In all subsequent press reports the mother and daughter are referred to as “representatives of the family”).

THEY WANTED Phillip Frame's 1974 will to be declared invalid and his 1967 will reinstated. (That, of course, would have reinstated Max Ulfane as a trustee and as CEO of the Frame Group.)

They advanced two reasons for having the 1974 will overturned: “The signature of the testator on the will was neither made nor acknowledged in the presence of the two witnesses present at the same time,” and, “Each of the witnesses did not sign each of the pages of the will in the presence of each other.”

They identified the witnesses as

P Rubinstein and R Katz – both accountants with Natal Canvas, a company in the Frame Group.

Neither Katz nor Rubinstein ever publicly admitted this negligence or gave evidence to that effect in court. Of course, had the pair of chartered accountants admitted under oath to the sort of misconduct alleged in the summons, the Public Accountants and Auditors Board

would have been after their blood.

In their plea to the summons, the trustees denied the allegation and for years nothing further happened in the case.

In November 1984, five years after Frame's death, the *Sunday Times* could still comment on the Frame Group's annual accounts: “The executive management trio continues to pursue the tycoon's policy of minimal dividends [They] maintain large profit retentions, building up the group's capital base and increasing each company's net asset value.”

BUT IN December 1984 Brian Zlotnick wrote in the *Financial Mail*: “The main attraction of the extremely low-yielding shares of the Frame Group, which stand at a large discount to [their true] net worth, remains the possibility that the group will eventually be taken over.”

It was clear that Mr Zlotnick had been told a thing or two about the still-pending case. He continued: “The unresolved issue is whether the family, which is disputing Frame's second will, can attain a bigger say in running the estate.

“Or, will Frame continue to influence the companies' affairs from the grave? The frequently postponed court hearing is now set for April 22.”

Asked recently by *noseweek* to comment on the will dispute, Mervyn King trotted out the old line: “He had two daughters and five granddaughters. Everything was left to the granddaughters, who were only to inherit when the youngest turned 50! At the time of his death, the youngest was two years old, [So] the two daughters contested the will.”

Although the events are, in all fairness, now 23 years old, it remains noteworthy that King failed

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There was an embarrassing public confrontation between Phillip and Max after shul one Friday evening



Photos: Jack Lundin

Photos: Jack Lundin

BURNT BY STANBIC

Jo'burg accountant Chris Crowther had to fend off gun-toting gangsters to survive. But they were nothing next to his three-year battle to get his insurers to cough up after his house was gutted by a firebomb.

It was arson all right. No doubt about it. But who did it? Nearly four years ago, caught in the midst of gang violence in the southern Johannesburg suburb of Turffontein, a firebomb gutted the house of accountant Chris Crowther. But Stanbic Insurance, the insurance arm of Standard Bank Group, refused to pay out on his claim, seemingly on the basis that the circumstances were “suspicious”.

Ever since, Crowther, 43, has been fighting to get Stanbic to document its reasons for repudiating his claim for R300,000. He now wants R20m compensation for his troubles.

It was in 1998 that Crowther, then

accountant for Edgars' distribution wing United Purchasing Company, moved into 10 Donnelly Street in what appeared to be a tranquil backwater of Turffontein, close to the famous racecourse. Charmed by its wraparound stoep and with the help of a 100% bond from Standard Bank, Crowther paid R125,000 for the old miner's house (built in 1909). Something of a loner, it suited him down to a T. “It was very peaceful, very relaxing, very restful,” he recalls.

Not for long. On the other side of the street is a large car park, serving a supermarket. And above the supermarket a night club called Sanciscos opened and within no time became a

weekend gathering place for 200-plus members of the notorious Majimbu gang, cousins of The Fast Guns. Every Friday and Saturday night – all night until 7am – the party spilled over from the jam-packed club into the car park

“It was just chaos, quite horrific,” says Crowther. “These guys would get drunk, shout and scream and do handbrake wheelies in their cars. They used to shoot at each other. Bullets went through the windows of Dorris Heights, a nearby block of flats.”

His elderly neighbours in number 12 abandoned their house. So did number 14. But Crowther decided to stay on – and shut down Sanciscos. He confronted the owner, one Godfrey Pillay, discovered that the club was unlicensed and complained to the police, the liquor board and the local MP. To no avail. The all-night wild times continued unabated.

Crowther says there was at least one murder in the car park. “The Majimbus shot a young guy through the head, execution style. He died instantly.”

The gangsters, incensed at this local resident’s efforts to spoil their fun, then turned on Crowther. “I got death threats. After that youngster was killed they came across the road and said, ‘You’re next’. They put little notes in my post box: ‘Get out or be killed.’” Crowther opened a police docket for eight such threats and attacks. All, he says, were closed without investigation.

Four months after moving into number 10, as his war with the Majimbus intensified, Crowther was retrenched by Edgars. He invested most of his R120,000 retrenchment package on improvements to the property.

But he got into arrears on his R2300 a month Standard Bank bond. “I phoned the bank asking them to bear with me. They said that if I’d been retrenched they were going to foreclose; they refused even to talk to me,” says Crowther. “So I stopped the monthly bond payments.”

“At this stage the Majimbus were shooting at me on a regular basis.

Sanciscos became a gathering place for 200-plus members of the notorious Majimbu gang



They threw bottles and rocks at the house, and if I came out they’d start shooting.”

The night of Saturday May 1, 1999 he was under siege more than usual. “Things were a bit rough, and I knew I had to get out.” So he bundled his four dogs into his car and spent the rest of the night at a motel in Edenvale.

Crowther returned home the following afternoon – to discover the house “completely gutted” and looted. A firebomb had apparently been tossed through the lounge window. “It was arson, there’s no doubt about that,” says Crowther. “Private investigators questioned all the witnesses. A lot of people saw what happened that night.”

The property was fully insured with Stanbic for R420,000, and Crowther duly filed a claim. There was some R120,000 outstanding on the Standard Bank bond, but Crowther expected to collect the balance of some R300,000.

Standard Bank later claimed it had sold the house in execution on June 10 1999 – six weeks after the fire – but no new owner ever materialised,

and Crowther plus dogs remained in occupation of what remained of the burnt-out house.

On July 12 1999 the then head of Standard Bank’s legal division, Anthony Arnold, wrote to him: “The circumstances surrounding the [destruction of the house] are very unfortunate. However, Stanbic has investigated the matter thoroughly and the final investigations reveal that the loss occurred in circumstances which amount to a breach of policy conditions.” The company, he said, was therefore precluded from honouring Crowther’s insurance claim.

In other words, Crowther would get nothing. He says: “My copy of the policy went up with the house. I asked Stanbic for a copy, and for them to highlight which condition I’d breached. They refused to give an answer.”

In July 1999, Crowther issued summons against Stanbic in Johannesburg high court seeking a reason why his claim had been repudiated. This never came to court, since deputy sheriff Esterhuizen never served the summons on Stanbic. Crowther claims that the deputy sheriff subsequently told him he had been instructed by an attorney retained by Stanbic not to serve the summons.

A board of sheriffs enquiry later reported that the instruction not to serve came in fact in a call from Crowther himself. Crowther denies this.

In any event, the unserved summons resulted in the collapse of Crowther’s fact-seeking application to the high court. And the following month Stanbic proposed a settlement whereby they would pay the outstanding balance (R120,000) on the bond to Standard Bank; Crowther would receive the title deeds and retain ownership of the property without any compensation; and he would retract all defamatory remarks made by him [widely distributed to the media] about Stanbic and Standard Bank. He would also be prohibited from making further defamatory remarks in future. This was duly signed by all parties on

August 11 1999.

“They gave me an ultimatum,” says Crowther. “I was in an extremely high-stress predicament. I’d graduated from living in the bathroom to the kitchen, but the gang war was still going on. Standard Bank was threatening to evict me; they said that unless I signed this agreement they were going to chuck me out. I had to weigh it up: either I settle or I land up on the street and still have to pay this enormous bond. I was totally destitute. I thought: let me sign this thing in order to fight another day. So I signed and they gave me the title deeds.”

Stanbic had the settlement made an order of court.

The gang war was indeed still going on. Within months of the settlement being signed, came the last battle of Donnelly Street: a bloody shoot-out between Crowther and the Majimbus. “I became more vulnerable to the attacks because I couldn’t secure the place – the doors were blown off,” says Crowther. “I’d written a letter to President Mbeki saying: ‘Next time somebody opens fire on me, I’m shooting back.’” In preparation he ordered non-lethal bullets – number 9 shotgun shells – for his trusty .357 Smith & Wesson Magnum.

The attack came at 2am on a Sunday morning. “There was a hell of a commotion: a mob of about 20 throwing rocks and bottles at the house. Only six were shooting at me. I fired a warning shot into the ground, and they kept on shooting. So I fired four more bullets and shot four of them, wounding them quite badly.”

One of the attacking gunmen was a white policeman named Kotze, who was moonlighting as a minder at Sanciscos. “He phoned his buddy cops from Ormonde. They arrived in three BMWs, jumped out with automatic

rifles and arrested me at gunpoint.”

Crowther was charged with attempted murder. This was later changed to discharging a firearm in a municipal area. Finally, a Commissioner’s Inquiry found that he had acted in self-defence. “The case just fell away,” he says. None of his attackers were arrested, let alone charged.

Back to the courtroom. If Stanbic or Standard Bank thought its settlement agreement was the end of tiresome Chris Crowther, they had another think coming. He was still baying for the R300,000 balance of his insurance policy.

In June 2002, he circulated a four page letter to the office of the president, plus 70 of SA’s top companies, accusing Stanbic of failing to honour his insurance claim; and telling how

he was “forced” to sign the settlement agreement. “I believe this saga highlights the ugly side of capitalism, namely greed,” he informed the recipients.

Stanbic has now applied to Johannesburg high court for Crowther’s committal to prison for 90 days for contempt of court, for being in breach of his settlement promise to stop defaming them or Standard Bank.

At its last hearing in January this year, their advocate gave a hint to the court why Stanbic had repudiated Crowther’s claim: “They concluded that the fire originated in very suspicious circumstances,” said advocate Williamson.

Which left Crowther no better illuminated than before as to why his claim had been denied.

The case was postponed indefinitely (it’s still pending) to allow Crowther time to get legal representation. In his counter-claim to this action Crowther is claiming R20m compensation for “pain, suffering and loss of dignity by virtue of me being forced to live in the ruins of a burnt-out house for more than three years because they [Stanbic] committed insurance fraud.”

He also seeks an order that “all Stanbic trading activities

be suspended pending a full judicial inquiry into all claims rejected or partly paid out over the past five years.” And he requests the court to commit Stanbic’s former technical claims manager Isabel Havenga to prison for perjury. (In an affidavit, Havenga had stated that the house was damaged by fire after it was sold in execution by the bank on June 10 1999. The fire had, of course, occurred on May 1.)

Stanbic Insurance’s MD Clifford Brooke deputed Lisa Maino, a legal assistant at Standard Bank, to speak



“There was a hell of a commotion: a mob of about 20 throwing rocks at the house. Only six were shooting at me”

– Chris Crowther

to *noseweek*. Her comments raise more questions than they provide answers.

In our first conversation, Maino said: "We had two forensic investigations done on the fire, and the reports concluded that it had been set by Mr Crowther himself. Both came to the same conclusion. But obviously we didn't have proof of that. There was no evidence of a break-in."

"There were things put underneath curtains that would catch alight and make sure that nothing would remain. The house was a shell afterwards. Obviously we couldn't prove anything beyond a reasonable doubt. That was just their conclusions. It was on those grounds that the Mr Crowther's claim was repudiated."

An hour or so later Maino called back with a different version. "There was only one forensic investigation, not two," she said. "And the insurance claim wasn't repudiated because of the report. It wasn't proved, so we couldn't repudiate on that basis."

"It was repudiated on the basis of the mortgage clause in the insurance policy, which states that the policy allows the bank to exercise its rights before the policy holder. So Stanbic settled the bond to the bank directly."

This last statement is a nonsense. Crowther's insurance cover was R420,000, and only R120,000, the amount of the outstanding bond, was paid by Stanbic to Standard Bank. And as Stanbic admits it can't prove its unlikely theory that Crowther torched the place himself (from his hotel room in Edenvale), surely he must be due the R300,000 balance?

That should, but may not be, the view of the generally toothless Financial Services Board, whose deputy executive director André Swanepoel says he's trying to decide whether to get involved on Crowther's behalf. If he doesn't, he should be fired, for the Short-Term Insurance Act of 1998 makes it quite clear that a creditor (in this instance Standard Bank) is entitled to any outstanding loan (here, the R120,000), after which the

Stanbic admits it can't prove Crowther torched the place himself



balance of any insurance payout must go to the insured (Crowther).

Policyholder protection rules linked to the act in any event cast doubts on

the validity of Stanbic's "settlement" with Crowther. The rules state that there can be no waiver of a policyholder's rights. In other words, settlements are a no-no, whether or not supported by an order of court.

Crowther says that as well as defending the contempt action and pursuing his R20m counter-claim with vigour, he will now seek to have the 1999 settlement and its accompanying order of court overturned.

As for his old sparring partners the Majimbus, all the fuss following the shoot-out finally achieved his original objective. Godfrey Pillay, his SANCISCO's night club, plus dubious clientele moved to pollute pastures new. Which sadly has not restored peace to battered Donnelly Street. "Any decent person got the hell out of here and the drug merchants and shebeens have moved in," says Crowther. "Today this neighbourhood has been totally destroyed." **Z**

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Everybody chill

March saw another setback for trademark attorneys in their campaign to take over the world. The United States supreme court confirmed a lower court ruling that the US First Amendment – which governs freedom of speech – trumps trademark law when an artistic work uses a trademark to poke fun at the product it identifies.

The dispute in question has remarkable similarities to the case reported in *noseweek* in which Justin Nurse and his Laugh It Off T-shirts mocked the ads of various South African corporations.

SABMiller has brought an application in the Cape high court to prevent Nurse from selling a T-shirt in the red and black colours of Carling Black Label with the slogan “Black Labour, White Guilt – Africa’s lusty lively exploitation since 1652,” on the grounds that the T-shirt infringes on their trademark. Nurse says that he has the freedom of speech right to comment on well-known cultural symbols, regardless of whether or not SAB or any other corporation likes the comment.

Judgement is pending, but the case has in the meantime generated far more publicity for Nurse’s little satire than he could ever otherwise have dreamed of.

In the US case, Mattel Inc, the makers of the notorious Barbie doll, sued MCA Records Inc over the 1997 top 40 hit “Barbie Girl” by the Danish pop group Aqua.

The song featured vocalists impersonating Barbie and her plastic partner Ken. “I’m a blonde bimbo in a fantasy world, dress me up, make it tight, I’m your dolly,” sings Barbie. “Come on Barbie let’s go party,” adds Ken.

Mattel claimed that the song tarnished Barbie’s image and diluted the value of the brand, and that MCA had tried to dupe pre-teen Barbie fans into buying the record by using the electric pink of Barbie’s packaging for their advertising and by advertising during Saturday morning cartoon programmes on TV.

MCA countered that the song was an

obvious parody and was protected by the First Amendment.

The dispute turned into a real dogfight when Mattel accused MCA of acting like bank robbers and MCA responded by suing Mattel for defamation.

Legitimate protection of valuable trademarks and brands is of course a serious issue. In his written judgement for the ninth circuit court, Judge Alex Kozinski brought some clarity. To constitute infringement in terms of US trademark law, wrote the judge, the title must have no artistic relevance to the underlying work (in other words it must be a simply gratuitous use of the brand name), or, if it has some artistic relevance, must explicitly mislead as to



the source or the content of the work (an example would be a counterfeit Gucci watch or pair of Nike trainers). Although the use of the Barbie trademark in the song had been for commercial purposes, wrote Kozinski, the use was non-commercial in the sense that it was constitutionally protected free speech.

One final crack from Judge Kozinski: “The parties are advised to chill,” he said. A joke considered worthy of repetition by Nurse’s counsel, Peter Hodes SC.

Hear, hear! **W**

A whiff of desperation

The enquiry into the liquidation of Midtown Building Systems by Investec bank (*nose43*) due to start on March 24, was postponed at the last minute when the bank, and chairman Hugh Herman, applied for an interdict to have it stopped.

The application was set down for the Cape high court on 31 March.

In the supporting affidavit to its application Investec alleges that Lewis has improperly influenced *noseweek* – and the liquidator of Midtown, the master of the high court and the presiding magistrate – into believing the liquidation wasn’t kosher.

For the record: *noseweek* first revealed questionable goings on in the Cape property division of Investec in October 1998, *four years* before we encountered Lewis’ case.

It would seem to us that Lewis’ devious and cunning plan has simply been to press for an open enquiry.

He believes that such an enquiry would reveal a systematic fraud by the bank against Midtown and many other Investec clients of the Cape property division. Is this perhaps what the bank is so desperate to prevent? **W**

Where there’s arms-deal muck

Lieutenant General Lambert Moloi of the SANDF is also a director of state-owned arms manufacturer Denel. He is chairman of Schabir Shaik’s controversial company African Defence Systems (ADS) as well, and, of course, brother-in-law of the late great Joe Modise, minister of defence at the time when everything that matters on the arms acquisition front was happening.

He is, on top of all that, owner and chairman of Futuristic Business Solutions, a company set to benefit handsomely from the arms procurement programme, thanks, among other things, to the company’s 20% shareholding in ADS.

Now General Moloi’s recently concluded deal with Denel to acquire premises for FBS has raised eyebrows.

FBS’s new offices were built by and purchased from Denel Properties and are ideally situated for an international arms dealer of Moloi’s stature – next to Denel’s offices and close to the state’s arms acquisition operation, Armscor.

The Public Service Accountability Monitor – an NGO based at Rhodes University – has asked the minister of public enterprises to investigate the deal. Repeated attempts to contact Moloi for comment failed. His personal assistant said he was tied up in meetings and could not be reached “by any means”.

No truck with fraudsters

Since our last report on the Stannic-Terrafin fraud saga, it has been action stations at Standard Bank. Dave Brown, Standard's MD of Business Banking, who sanctioned the coverup of Terrafin's fuel card fraud, has "elected to leave the bank", to quote the press release issued in response to our story.

But, please note, Mr Brown's departure had nothing to do with the scandal. It had to do with a "restructuring" of the Business Bank division which the group has for some time been aiming at.

The bank is still in the process of finalising details around the implementation of the proposed restructuring, but one thing the bank was certain of: the re-alignment would result in Mr Brown's post falling away.

Mr Brown was taking no calls from *noseweek*, and all enquiries about the Terrafin affair were referred to Standard's deputy CEO, Myles Ruck. We had hardly had our first round with Mr Ruck – as reported in our last issue – when he made a happy getaway, to become Liberty Life's new CEO. Congratulations, Mr Ruck!

Back in Pietermaritzburg, Terrafin's directors, out on bail and facing scores of criminal charges, applied to court to have the charges set aside. Not only did they fail, but the magistrate granted the director of public prosecutions a postponement until September to enable him to add more charges to the charge sheet, many of them relating to matters first

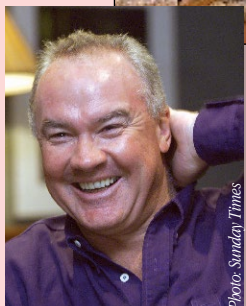


Photo: Sunday Times



Photo: Natal Witness

Left A relieved Myles Ruck, who escaped from Standard Bank in the nick of time; and above some of the the truck drivers ripped off in the Stannic scam, who came to court to hear the magistrate grant the prosecutor till September to prepare his rapidly growing charge sheet against Terrafin's directors. Back row (l-r): Robert Zakwe, Derek Sibiya, Christopher Ngcobo, Mr Zondi; Middle row: Patrick Stiya, Muzi Langa, Petrus Zondi; Front row: Mr Chamane, Lukas Mbutho, Siphon Ngcobo, Mandla Chamane, Simon Zondi.

revealed in *noseweek*.

A dozen of the truck drivers (pictured above), who lost their trucks and their jobs as a result of the frauds, came to court and were obviously pleased with the outcome.

The next installment of the Terrafin saga will appear in our next issue. Terrafin's attorney, Andrew Power, who drafted many of the documents central to the frauds, will star, with attorneys Deneys Reitz and BOE in major supporting roles. **[Z]**

there's bound to be top brass

Jacob Kriel, executive manager of finance and human resources at Denel Properties, seemed surprised that *noseweek* had the papers relating to the sale, and insisted Moloi would have paid the normal market price for the property. Kriel told *noseweek* that Denel Properties always dealt through an estate agent when conducting property transactions, and that its internal audit process would pick up irregularities.

The deed of sale shows that the property in Castle Park was sold to Moloi's company for R2,973,000. No estate agent was involved. General Moloi sits on Denel's internal audit committee.

FBS lies at the heart of investigations

into alleged arms deal corruption involving Deputy President Jacob Zuma.

Late last year, FBS accountant and shareholder Ian Pierce was arrested and charged after failing to hand over documents relating to shareholding in FBS.

Pierce claimed the documents had simply been lost and was found not guilty by the Pretoria commercial crimes court. However, the Scorpions suspected Pierce of secretly holding shares by proxy for Zuma.

In secret court papers filed in August 2001 the Scorpions alleged that Zuma had tried to secure a R500,000 annual payment from a Shaik company – "until such time as dividends are paid." The

Scorpions suspected that Zuma secretly held shares in one of Shaik's companies and, on this basis, obtained warrants to search ADS and FBS offices.

Zuma has repeatedly protested his innocence, and President Mbeki has declined to institute a formal enquiry.

Dr Gavin Woods, who at the time of the property deal was chairman of parliament's standing committee on public accounts, said: "These latest revelations simply add another few pieces to the big story of the arms deal – which was about how people in high places used the deal to enrich themselves at the expense of the South African public. I have a growing confidence that the fuller extents of this truth will emerge in time." **[Z]**

THE TRADITIONAL LEADER

Patekile Holomisa

Bantu comes from the right-hand house of my grandfather – he’s my uncle, basically. I first met him in 1975 when I was about 15. I just liked this person. I had faintly heard of him, but I never thought I would meet him. I had lived in exile since I was just two. I had to be hidden away from my relatives. Generally, successors to traditional leaders are taken away so that they are safe from the evil machinations of their relatives.

I met him in Pondoland. He was with friends, and he came to see me. He took me to the general dealer’s store and bought me sweet things. It was very nice.

We came to be close when I was completing my studies, and he understood my situation and my lack of funds. When I was doing my pupilage in Durban he sent me money. Later, I lived in his house while I was opening up an office as an advocate in Umtata.

He was the military ruler of the Transkei from 1988. It was a bloodless coup. He toppled Stella Sigcau, the current minister of public works. I don’t think those two will ever like each other, but their families continue to relate to each other around them. I don’t think Bantu himself dislikes Stella. All he dislikes is her involvement in an act that he regarded as corruption.

The military was not Bantu’s first choice, but he joined the Transkei army when the time came. He was a natural because he is a practical person. And in the army, you look at what is possible, and do accordingly.

While he was the ruler of the Transkei, a lot of people who came to see him from our home came out disappointed, because they presumed he would do them favours. He would go out of his way to help them, but he wouldn’t do things for them that he wouldn’t do for other people. He would say: “I am not here representing our clan. I am here representing all of the people of the Transkei.”

“He tends to be so independent-minded, he annoys even the people who support him”

As we entered into politics, we silently decided to give each other space. Now and again, we talked briefly, but we would never go deeply into what was going on. Before the advent of the new South Africa, I acted as a link between him and the ANC. I sent messages from the leadership, so in that regard we were quite close. I would even look at some of his speeches and offer him advice.

After we got into government, many people expected that he would get a better post than he did because he was so popular. He had created space for the ANC and the PAC to operate in the Transkei. The PAC also claimed him as one of their own, more so because he didn’t care for the white rulers of the time. He didn’t have the problem of inferiority, which affected a number of other people.

He tends to be so independent-minded that he annoys even people that support him. I remember one uncle of mine would say: “This man borders on being arrogant. You come to his office and start to talk to him, and even before you have completed it, he’s finished the story” **page 16 ►**



Marion Edmunds speaks to Bantu Holomisa about their family relationship and the political upheavals of their careers – more than damaged – the

The leader of the United Democratic Movement, Bantu Holomisa (above right), and the head of the Congress of Traditional Leaders of South Africa (Contralesa), Nkosi Patekile Holomisa, sit on opposing benches in parliament. While Bantu heads a small, relatively new opposition party, fiercely critical of the government, his “brother-cousin”, Patekile sits on the ANC benches, lobbying the party from within to recognise and develop traditional leadership.

Sometimes referred to in government circles as “those troublesome Holomisas”, they are of the amaGebe tribe, near Umtata in the Eastern Cape. The amaGebe fall under the Thembu Royal House.

In 1999, Patekile was installed as nkosi of the amaGebe, succeeding his father, Nkosi Mathathisa Moses Holomisa,



the 'Troublesome Holomisas', their friendship and how the careers have sustained – rather their mutual respect.

who died in 1973 when Pathekile was still a small child. (The colonialists translated nkosi as “chief”, but Pathekile prefers the translation “lord”.)

Bantu rose to prominence in 1987 when he led a group of young army officers in an anti-corruption coup which unseated the Matanzima brothers as leaders of the Transkei and installed Stella Sigcau of the Pondo royal house, in their place. Three months later she was deposed when it was revealed she had shared in casino corruption spoils. Bantu became military dictator – his phrase – of the Transkei until the territory was re-incorporated into South Africa.

The Matanzimas are from the right-hand house of the Thembu royal family which locates Kaiser Mantanzima in status somewhere between “Lord” Holomisa and the Thembu king, although his position is controversial.

THE FORMER MILITARY DICTATOR Bantu Holomisa

Patekile is my cousin-brother. I'm about five years older than him. He is the son to my brother, who comes from the Great Kraal of the Hegebe tribe in Mqanduli, near Umtata, in the Eastern Cape. Patekile didn't grow up at home. He was staying with relatives, in a place called Ngqeleni, near Idutywa.

My first thoughts when I met him were that he had a good sense of humour, he was a good listener and a thinker. When he was a student, he stayed in my house in Umtata. And I began to understand that he was also a political animal. He was one of the underground people. I used him to communicate with the ANC, particularly those in exile.

I trusted him. He came at the right time. We started to compare notes on a number of issues. But if there were functions at home, the protocol changed. Once I got home, I would put the cap of head of government aside and assume the position of counselor. He would consult us to give him direction. This was where I began to notice his leadership. He showed us good qualities at an early age.

From the start, he had a strong personality. Even if he was not speaking, you'd feel his personality in the house. He would remind people of his position if they weren't showing enough respect. Jokingly he'd say: "I think these people should be reminded that there is only one chief in this area." But he'd say it politely. Patekile likes to make sure people don't forget where they come from traditionally. Everybody would laugh, but it would be a serious message.

"I think these people should be reminded that there is only one chief in this area"

I think that circumstances dictated that we took different routes politically. But we don't differ that much. Both of us want the development of this country, but we differ on the methods. I arrived before him in politics, and I didn't concentrate much on traditional leadership issues. I've been in a position of power from an early age. I was 32 in 1987 when I became the head of the Transkei government. Then, I embraced the bigger picture of how to do things and run a government.

When I was expelled from the ANC, we discussed my departure. I explained to him briefly what had happened. He didn't want to take sides. But he felt the punishment was a bit harsh, given what I had done for the ANC. But I didn't want him to be stuck by that. Both of us were dubbed "real, troublesome Holomisas" because he was checking the government on traditional leadership. I guess Madiba was a bit annoyed with both of us, during those years, 96 and 97.

What I like about him is that he has

page 16 ►

The pair of us...

Patekile Holomisa

◀ from page 16 for you and offered you a solution.” So he tends to be impatient and his mind runs rather too fast.

He was kicked out of the ANC for having alleged that a leading cabinet minister, Stella Sigau, was involved in corruption. It became a political campaign against him. The ANC had to justify its actions against him, and the party then gave the impression that merely because he had been in a Bantustan establishment, he was a natural collaborator with the enemy. But even Nelson Mandela himself said that his case could have been handled differently.

People often ask me about how we relate from different parties. But we differentiate between family relations and political work. I enjoy sitting there, watching the banter and the heckling of the parliamentary debate. Obviously some people whisper to me: “Bantu is telling the truth...” but they have to howl at him. Sometimes he goes off on a tangent, and of course he has to politick himself.

He has to defer to me wherever. I’m his senior; I’m his nkosi. It can give rise to a tenuous situation. For instance, I’m deployed [by the ANC] at his home. So when we campaign, I have to speak out against his party and speak in favour of mine, but I am careful not to attack him as a person. I never interested myself in the UDM because I wouldn’t want to be drawn in.

He is never quiet. Even when he’s in a corner, a lot of people congregate around him, and he enjoys talking, telling them his points of view. I suspect he has to be the leader of his party, it’s in his nature. Even if he were to be a deputy, he would be telling you what to do all the time, and you would end up either deferring to him or breaking up with him.

When I was appointed to my position, for my formal inauguration in 1999 we issued a number of invitations, and Bantu was the person to whom people had to respond. And a number of people from the ANC were annoyed that the person was Bantu because he was a UDM person. They didn’t say it directly, but I heard about it and I felt indignant. This was a family matter and a clan matter. I didn’t know that people who were in the UDM, your political opponents, were meant to become your enemies.

I liked him when I first set eyes on him and, yes, after all these years I like him still. z

Bantu Holomisa

◀ from page 17 an African identity. He’s not emotional, or biased. Patient. Maybe somebody else would have surrendered the fight for traditional leadership, but I think he has done well to market Contralesa and lobby government to recognize traditional institutions.

Patekile is not conservative on the issue of women’s equality, but I think he’s selling a Contralesa approach because the people he leads, the majority of them, come from the old school. So Patekile has to go slow and accommodate everybody. He has married a strict and a strong woman. If you marry a woman who comes from a royal family, you can expect that.

He has not shown that he is ambitious for higher positions in the ANC. But I thought by now he would have been elevated, maybe to the level of cabinet or deputy minister. The government seems to have other clever guys in his place. Maybe there are internal politics that bar him from a better position. I think Patekile would like to see that the institution of traditional leaders is developed and that future kings and chiefs are sent to school. I am impressed with the way he is working with the sons of chiefs. He is nurturing them and the princesses for future leadership roles in the community. And he is not blind to the fact that traditional leaders must not be seen to be inhibiting development.

At home, traditionally, he controls me. But politically, where he comes from, I’m the boss in that area.

If anything, Patekile is not decisive enough. He has to improve on that. He takes time to take decisions. Sometimes I feel he is too nice. I think he should be less diplomatic. When he says, “When do we think we can get electricity?”, he should be saying, “You are in charge of this area, see to it we get electricity and clean water, finish”.

He’s good at partying. We used to go to parties together. But when you marry, you scale down your activities [chuckle]. During his university days, Patekile established a network of friends who were not traditional leaders, and they would go and party. He can’t wish away those friends. But people should judge him on his work. Every Friday he returns home from parliament for public meetings. There are very few chiefs in this house who do that. z



In case of emergency, twiddle your toes

What do you do when you're stuck in London and your insurance company won't take your calls?



In the event of an emergency, call.... There's nothing like preparing and planning for a holiday. The decisions on where to go, where to stay, and who to take: the wife, mistress, or girlfriend. One decision that's easy is the purchase of travel insurance.

For 15 years, Mr Emptor (not his real name) had been purchasing travel insurance through Europ Assistance South Africa, now owned by Travel Insurance Consultants (TIC) of Sandown. You'll find Europ Assistance sold through Rennie's Travel, Thompson Tours, Club Travel and most other travel agents. For Mr Emptor, travel insurance was essential because he knew that the insurance you automatically get when paying with your credit card is about as useful as a rosary in Mecca.

All it cost was R24 a day. In his little welcome pack from Europ

Assist he received a card. The front clearly states Mr Emptor's, name, and certificate number as well as the expiry date of the policy. On the reverse were the emergency contact numbers for Europ Assist around the world.

The journey went well, apart from a small medical problem in the final few days before returning home. His travel-weary feet began to play up. But this was nothing compared to what Mr Emptor was about to endure.

He knew he needed a prescription – and knew what it was – to alleviate the pain. So Mr Emptor found a doctor and a pharmacist. Next, he tried to call Europ Assist to check on what he had to do to claim against the policy. He reached for his wallet and retrieved the handy card with all the important telephone numbers. He called the London number. The efficient little answering service on the other end told him that the number he had just dialed

did not exist. He tried it again, just to make sure he had dialed correctly. The number still did not exist.

So he dialed the Johannesburg number, reverse charges. Europ Assist South Africa refused the call. Mr Emptor had now been blocked twice. Lucky this was not an emergency.

The trip to the doctor was successful, as was the one to the pharmacist. He paid cash for both and kept the receipts. On returning to SA, he went to the trusty broker who had sold him the cover and lodged his claim with Europ Assist.

Some nine weeks, several phone calls and a few letters later, Mr Emptor was finally paid his R1524.81, less R1000

excess.

The correspondence that followed between Mr Emptor and his broker on the one hand, and George Novis, MD, and Noel Joseph, both of TIC on the other,

confused Mr Emptor, his broker, and *noseweek* too.

In his letter, Noel Joseph tells the broker: "As a consequence of the 24th operations division [*Please translate into English – Ed*], all calls made are only reimbursed if an insured is charged to call one of our operations centres etc". This appears to refer to another tiny claim by Mr Emptor against the policy for a call made to his GP in SA to gain some clarity on the foot matter. Europ Assist clearly felt they were not liable for that. But as for the "24th operations" and their "consequences", well we really don't know who they are or what they have done to have had any consequences.

In the same letter Mr Joseph tells the broker that because "TIC is assisted by ISOS and EA are assisted by Care-Assistance/EA", it is quite clear why their numbers would differ.

Noel, who are all these people? And

why are the numbers not correct, that's all anyone wants to know? Nobody cares who's in bed with whom. The letter also states that the kind Mr Joseph would like the broker to be reassured that his "status as an agent of EA products has not changed".

And why should it? Has he done something wrong here? Did we miss something?

Finally, the letter is signed by Noel Joseph, noelj@tic.co.za. We want to know Mr Joseph: is this a new job title, or are you an employee without portfolio, but with email address?

George Novis didn't do much better. He told Mr Emptor that TIC bought Europ Assistance SA and they've all shackled up together in Sandton, but there are some marital problems which aren't of TIC's making (classic case of denial found in any marriage).

The administration moved to Auckland Park. We're not sure where they fit into the ménage, but they also seem to be sleeping together. Georgie goes on to say, "I understand your frustration and sincerely apologise for any inconvenience caused." But he seems to have missed the most salient point in this whole saga: the numbers were not correct, people!

Quite frankly, all the correspondence became too confusing for us, never mind Mr Emptor. What was apparent, though, was that Mr Emptor doesn't know what goes on with TIC, TIC doesn't know what goes on at Auckland Park, the broker gets to keep his title, and thankfully Mr Emptor did not have an emergency.

Ultimately, what concerns *noseweek*, is that TIC and Europ Assist have got you by the balls, if you'll excuse the phrase, as they have very little competition on the SA market and you might be forced to use them. Just hope there's no emergency. **W**

He called Europ Assist's London number. The answering service told him the number he had just dialed did not exist



Photos: Brenton Geach

Close to the wind

Yachting has been described as “a nasty experience between two great parties”. Which may help explain why sailors felt so let down by the Cape to Rio prize-giving in February.

Yachties, and specifically those of the Royal Cape Yacht Club, haven't exactly covered themselves in glory when it comes to sponsorships – one reason why their showpiece regatta, Table Bay Week, was unsponsored this year and attracted only 25 entries, the smallest fleet in decades.

Plattner had little option. His yacht, *Morning Glory* was already being shipped to SA

But it was in Brazil, in the lee of Sugar Loaf, at the exclusive Clube de Rio de Janeiro, that competitors first really felt the pinch. Traditionally the biggest party on the South African sailing calendar – a dazzling mini-carnival featuring feathers, samba dancers and plenty of rum – had become so frugal that the budget didn't make any provision for dinner, let alone a rousing party for those who had sailed the 3200 mile blue water classic.

The previous race, in 2000, had attracted 86 entries and was sponsored by MTN. They did not take up the option of renewing their association with the event this time around.

Only 32 boats sailed the seventh edition of the race – easily the smallest fleet ever – and skippers had reason to grumble over how the race committee had run the flagship event on a shoestring budget – particularly as European software giant SAP were the race sponsors.

It could be taken as a snub: conspicuous by his absence at the prize-

giving was the boss of SAP, German software magnate Hasso Plattner. So, too, were the entire crew of his 80-foot maxi, *Morning Glory*.

Plattner was also absent from the 1993 race prize-giving, but on that occasion a message of apology was read out on his behalf and it was explained that events on the German

Cape to Rio fundraisers touch German businessman for F

stockmarket had required his immediate return to Europe. Several of his crew were, moreover, in attendance to collect the South Atlantic Trophy they had won.

This time Plattner, one of the richest men in the world, had stepped in at the last minute to save the race with a \$150,000 (R1.2m) sponsorship. Royal Cape Commodore and self-appointed race chairman Craig Middleton had failed dismally in his efforts to find a financial backer for the race, and it was left to Dave Abromowitz, the club's former Commodore, to call

Bruce Parker-Forsythe) – intended taking a cut of the sponsorship and that most of the funds were not to be spent on the race.

When Boating Partners had been given the rights to market the race, it had been agreed that R500,000 would be handed over to Royal Cape, who co-host the event with the Rio yacht club. Cash-strapped SA Sailing quickly got in on the act, managing to force an agreement that 50% of this would go to them.

Abromowitz's Boating Partners also took their cut, before whatever

saying, "That's none of your business." He claimed that everyone, including Plattner, would be happy with the arrangement.

At the time of going to press, Plattner had not responded to *noseweek's* request for comment. And Wells, pressed on how sailors and skippers might be able to verify how the Rio race funds were spent, said they could ask these questions at the Royal Cape AGM in June.

Sailing in South Africa is an amateur sport, leading one to expect that all sponsorship funds would have been spent directly on the race. And with a sponsor like Plattner (his wife Sabine owns the upmarket Fancourt Hotel in George) having put his company name to the event, one would have presumed that every effort would have been made to ensure his continued support, with increased funds, in years to come.

Evidently Plattner is not the first man to fall victim to Royal Cape's penchant for diverting sponsorship money.

Chris Armstrong, director of Anchor Marine and sponsor and founding member of the St Helena Race, said he had taken the bi-annual

event to False Bay after running foul of the Royal Cape hierarchy for daring to question how his money had been spent.

"It does not surprise me when I hear talk about the Rio race sponsorship and how they [Royal Cape] spent the money," he said. "I had paid R20,000 of a R30,000 sponsorship over to the



Plattner, the sponsor, above, was not told that most of the funds were not to be spent on the race

Plattner and explain that the whole event would be shipwrecked without his backing. Plattner had little option. His yacht was already being shipped to South Africa for the race, a crack international crew of professional sailors had been assembled to sail it – and he is not the kind of man to cancel at the 11th hour.

Considering that Plattner – a sponsor of New Zealand's America's Cup team, of Ernie Els, the German Golf Open and the US Formula 1 Grand Prix – spends

was left of the carcass was directed to race funding. This best explains why sailors went hungry at the Rio prize-giving and why, when hard-working race publicists asked why they weren't being flown over to Rio, as was the case in previous years, they were told there were no funds available.

When asked for comment on the R500,000 deflected into Royal Cape and SA Sailing's coffers and on the

R1.2m, then pocket most of the dosh

about \$40m (R320m) a year in financing major international sports events, \$150,000 may have seemed little enough to ask for.

What Plattner was not told, however, was that three entities – Royal Cape, SA Sailing and Boating Partners (the latter comprising Abromowitz, David Gant, Bruce Tedder and

profit-generating focus of the whole initiative, Abromowitz stressed that people who had lobbied for sponsorships had to be reimbursed. "There are salaries, telephone accounts and running costs involved," he said.

Rio race secretary Eric Wells refused to reveal details of exactly how Plattner's money had been spent,

club on the specific understanding that the money would be spent on reducing yachtsmen's expenses for the race.

"Through a well-informed source it got back to me that the money was not being spent as I had intended – principally on mooring and berthing fees – but that it was [next page](#) ►

◀ from previous page instead being blown on entertainment, lunches and drinks and, incredibly, even a gift for [club treasurer] Lindsay Birch's wife.

"It was ridiculous. When I asked how the money was being spent I was told it was none of my business. Then I received a letter saying I was banned from the club for life. These people spent a lot of time trying to blacken our name, and as long as the current management of Craig Middleton and Lindsay Birch are running that club I want nothing to do with them.

"So I took the [2002] race to False Bay. I'm very happy with them. They did a good job, and when I asked for accounts, they said, 'No problem.'

" When I made queries at Royal Cape, they demanded a further R10,000 from me, insisting I owed

Vodacom [a one-off sponsor of Table Bay Week in 2001], and right now a lot of companies are giving Royal Cape a wide berth."

Unsavory details are also beginning to emerge over the LoveLife sponsorship, an initiative which took a crew of black teenagers on the Rio race and was hailed as an overwhelming success in Royal Cape's newsletter.

loveLife handed the club R600,000 in sponsorship for the race, but what the newsletter didn't mention was that there were no funds for the youngsters in Rio, where they all abandoned ship in a virtual mutiny and demanded to be flown back to South Africa.

The plan had been for them to continue around Cape Horn and later circumnavigate Africa as part of a two-year programme.

Stories were also circulating that during the voyage only the boat's owner, Keith Mackenzie, skipper Marion Cole and two paid crew were allowed to drink bottled mineral water. The rest were made to drink from rusty water tanks and had to disguise the copper tinge to the water with Energade concentrate.

When asked to explain this, Cole told one loveLife representative in Rio that bottled water had been in short supply on the boat.

In what was meant to be a development programme, there were also complaints that youths didn't learn much about sailing as they were not allowed to be involved in navigation and were warned to keep their paws off any computers on board.

As part of the sponsorship deal, budgeted for in the proposals, the youths were to have been given R3000 each for expenses in Rio. But on their arrival, they were told there were no funds in the account. LoveLife then had to transfer additional cash to Rio to enable them to fly back to South Africa and to pay for hotel expenses when they refused to stay on the boat.

LoveLife information officer Angela

Stewart-Buchanan confirmed that there had been "a transfer of funds" to Rio to meet expenses, but said she was "not aware of any misappropriation of funds".

"But we will be asking for a full reconciliation of donor funds on the yacht's return from Rio," she said.

Top young sailors like George Amoils, Chris King (a former yachtsman of the year), Chris Hathaway and Martin Lamprecht have all left the club, which was rocked in 2000 when its popular general manager Anthony Stewart resigned both his employment and his membership.

Even after Cape club Zeekoevlei won the Lipton Cup in Table Bay last year, all the Cape sailors – apart from Royal Cape – voted to take this year's event to Durban. For an event that has been hosted in Cape waters for over a decade, this scenario would have been regarded as treason not so long ago.

This was after the defenders Cape club Theewaterskloof, proposed nominating Royal Cape as the venue, only to be told they would have to pay Royal Cape a R40,000 "hosting fee". This was the first time that a charge had been levied in the 96-year history of SA sailing's premier offshore regatta.

A club which in 1990 was rated by *Fair Lady* as number three on the list of "top places to be seen at in SA", has resorted to desperate measures to stay afloat in recent times.

In a bid to shore up flagging membership, RCYC agreed to waive entry fees for new members – in breach of their own constitution.

At a committee meeting in July 2002 Birch expressed concern that there were now only 339 yachts moored at RCYC, compared to 445 the year before.

Numbers at the Wednesday evening summer twilight sailing series, previously a highlight of the Cape social calendar, are down significantly.

Regattas that used to feature 70-odd boats are now down to 20 or 30.

The issue of class has even raised its ugly head: Cape sailing has split into two, with half the fleet on Wednesday evenings preferring to sail from moorings of the exclusive Cape Grace hotel – where a beer costs around R15 (as opposed to R7 at RCYC).

What is the world coming to? **7**



Unsavory details are also beginning to emerge over the Lovelife sponsorship

them the money. I was prepared to go to court over this and told them so, but eventually one of the other trustees managed to smooth

things over and persuaded me to pay the money. The money was never the issue – it's the principle that was at stake. Today I'm sorry I paid the R10,000 and didn't go to court.

"Lindsay Birch is walking proof there's no such a thing as a free lunch. When he invited me to discuss the race with him over lunch, he paid for the meals and drinks, which I thought was very generous. But later all those expenses appeared on the sponsor's account, so I was paying for his meals.

"The club is being run by a bunch who have brought the place to its knees. What they don't realise is that when sponsors have been burnt they talk to one another. MTN speaks to



Photo: Harris Steinman

Big cat adventure

My American parents penciled Cape Town and me in for just three and a half days of their second trip to Africa. They spent the first 12 days in Tanzania this time, and when I picked them up at Cape Town airport, they were obnoxious. I pointed out a Muslim woman exotically covered except for an eye slit, but my mother only sniffed, “We’ve seen lots of that.”

“We saw everything,” my father said, settling a colourful drum into the car boot between the drum-tight suitcases full of other classy pillage and assorted wilderness gear. “We saw maybe half a million wildebeest – they were calving – and leopard and cheetah and rhino and lots of elephants.”

Then the stories started. The lioness trying to hide a kill that her naughty cubs kept uncovering. The lions hunting a zebra while the elephants

No matter how large
– or engaging –
your mog is, it won’t
cut the mustard with
your folks if they’ve
just arrived from
watching lion kills
in Tanzania, **Sarah
Ruden** discovers.

cleared out of there with their calves. The elephants mating three metres from the Land Rover. Someone had locked my parents up, injected them with mind-altering drugs and shown wildlife documentaries on all four walls. Or so I speculated, remember-



Photo: Ruth Schurr

ing how, last time, I had taken Mom and Dad to a nature reserve outside Stellenbosch to glimpse the backs of captive cheetahs in a brushy fenced enclosure.

“We were on a boat at some stage,” my father babbled, “but they had primitive sails and they couldn’t steer much, so we couldn’t turn **next page ▶**



knew everything – natural history, environmental studies, three or four languages, and they could take the Land Rovers completely apart and put them straight back together. We almost didn't make it here: we were in the wrong airport and about to miss our flight, but the guides found out and came barreling in all the way from their base and took us to the right airport – and we weren't even their responsibility any more. The name of the company is Unique Safaris – can you mention that in *noseweek*?"

Last time, I had taken my parents in a minibus taxi in the Southern Suburbs. They declared the ride cheap and convenient. But a minibus taxi was not an option any more. These days, I knew, the conductor might grab you and drag you in, and I didn't think Mom and Dad would enjoy that. A township tour? But I didn't want to lie about what the watchful young guy in the back of the van is there for: riding shotgun. Black South Africans are not as poor as Tanzanians, but they are in a much fouler mood. They

the world-class city that has been achieved in spite of the violence and the writing off of half the population. In a few minutes, my mother's fake excitement at the B&B ("Oooh, towels") put me in a downright frenzy of competitiveness.

The next morning, I took them to Kirstenbosch Botanical Gardens, and we had one of the new guided cart tours. The guide was good – knew the place upside-down, romanced my mother the gardener, and let my father and my boyfriend bond at the back of the cart. We didn't see the owls, but you can't have everything. My mother grooved to the African sculptures, which hadn't been there before, or not nearly as many. We ate yummy muffins at one of the new cafés.

In the afternoon, we went up Table Mountain on the new cable car. "What did you call those?" my mother asked. "Dossies? The nearest evolutionary relative of the elephant? That's fascinating! I would never have guessed it!"

The varmints approached us with their beady eyes, begging assiduously. "My! Look!" she added. She was clearly struggling to think up

"A lion roamed through the camp and scared the crap out of us," my father recited happily

◀ from previous page back and ended up mooring somewhere else. We saw boats being made, all by hand. Did you know that in Tanzania they even make nails by hand? They had some kind of bellows arrangement this one guy was working. Oh, and there were Masai herders all over."

I had been planning an excursion to Century City, which was built since my parents' last visit in 1996. Mentally, I now scratched that.

"The Tanzanians are poor – they really try. We would get back to the camp and the people would run to help us. The guides had gone through a special training course, and they

were told they were going to get opportunity, and instead they got 20% more unemployment and a million disconnected phones.

"We were right out there in the bush in tents – but they hauled

in water for us to take showers – and at night a lion roamed through the camp and scared the crap out of us," my father recited happily.

I could feel my eyes narrowing as I stared ahead at the highway. It was a clean, spiffy job, but somebody had to do it. I was going to show my parents the best of the New Cape Town,

something to say besides, "Actually, I'd rather see an elephant than a massive rat." But she loved the views over the peninsula.

The evening was a definite setback. We drove past many begging street children (there wasn't

much begging in Tanzania, I heard). They were plainly not doing as well as the dassies. We went to the city centre restaurant with the hour wait for food and the waiter who explained the cook's temperament to us in lieu of bringing food. But pretension, I thought, is an inescapable disadvantage of a city full of whites.



Photo: Ruth Schurr

And the beggars too? I shooed the question out of my mind. The food, when it came, was great.

The next morning I took my mother for a walk on Milnerton Beach, and much impressed she was with the sparse crowd and the large number of dogs. But maybe she was again just being polite about the wildlife that was available, because an hour later she chased the all-time champion beggar, my cat Fox, through the house with a camera. "He's so wide!" she exclaimed, and she promised to show the photos to my sister.

I didn't succeed in flogging a tour of Robben Island Museum, but that afternoon I got my parents as far as the Waterfront, and we visited the

An hour later my mother chased my cat Fox through the house with a camera. "He's so wide!" she exclaimed

aquarium. Yea! And ate delicious seafood served by an efficient waiter with a discrete sense of humour about Americans. Yea! Cape Town seemed to be pulling ahead until my father got the trots. Which he hadn't had on the trip up to now.

The next day, he sat on a bench near the restrooms as we others went through the World of Birds. My mother's oft-repeated "Oh, we saw those" was starting to really peeve me when we came into that triumph of Capetorian civilization, the enclosure with the hand-reared owls and the sign entreating you not to feed or handle the hand-reared owls.

I was leaning on the railing and felt a whoosh. There was a large owl sitting between my forearms, inches from my chest. He looked up and murmured, "Won't you feed and handle me?" His eyes were huge and deep orange. His voice was low and sweet. He had a pleasant, dusty smell, and he looked very soft. My hand hovered



over him as I tried to explain. My mother took a bunch of pictures. Eat my owls, Serengeti National Park! The next morning, I did take my mother to Century City, where I had bought a style of dress that she wanted a crack at. She gazed up at the phony frescoes. "It's all so new in Cape Town.... Nothing is like it was when we came in – was it 1997?" But that's all she said. And my father presented me, for incorporation into this article, with an essay entitled "Tanzania Is Doing It Properly."

I was steamed. But I'd had the wrong idea the whole time, as I realised when I heard about my parents' return home. They flew back to a March snowstorm. (In a later e-mail, my mother reported an

expedition to sit in a neighbour's greenhouse and pretend not to be a North American.) At Detroit Airport, a Middle Eastern man was noisily removed from their plane, and the security checks had to start all over again. Though they live in rural Pennsylvania, my parents are still worried about retaliatory attacks following the invasion of Iraq. They sigh over the economy, which may have peaked out for all time. They felt so sorry for me when I set off for Africa nearly 10 years ago. The fools.

So who the hell cares whether tourists like East Africa or Southern African better? This is a time for solidarity, a time for all of the privileged on this continent to yell "SUCKAS!" at the rest of the world. Even an African renaissance isn't pure fantasy any more. The cause would be the folly of the West and certainly not any merit on our own leaders' part – but still: this could someday be the new better place. **W**

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◀ page 9 to mention that Frame had in fact made very generous provision for his daughters – before he died. King also made no mention of Frame’s concern to ensure that

his companies remained intact and under his trustees’ control – so that they would continue to provide a livelihood for all its workers.

But Phillip Frame’s chosen trustees certainly understood their brief. Their spokesman Selwyn Lurie explained it in a reply that was published as a footnote to Zlotnick’s piece in the *Financial Mail*: “The policy of ploughing back profits for productive purposes has led to the growth of an industrial group operating throughout SA, creating employment for tens of thousands of workers.

“The present severe recessionary conditions have proved the policy followed by the group to be the correct one, particularly because of the critical employment situation in the country.”

WHEN APRIL came the *Sunday Times* took up the story. By then the price of Frame shares had increased five-fold on the JSE. “Speculators have taken the view that resolution of the squabble ... will result in the sale of the Frame factories at large premiums.” And then the punchline: “Mr Ulfane and Mr Frame’s two daughters live in London and are believed not to be interested in running the group.”

This was, of course, exactly what Phillip Frame had feared and suspected, and why he had changed his will.

all accounts it was a routine procedure. Isn’t it nice when disputing parties find a way to settle their differences?

THE AGREEMENT dealt with a number of issues. As regards the alleged invalidity of Frame’s 1974 will, the plaintiffs now agreed to accept it as his only valid will. Well, you might say, that should have been that.

But, of course, that wasn’t the real issue. The five years that had past since the case was first brought had clearly not been spent on determining whether the will had been lawfully witnessed or not. They were spent on negotiating what it would take to persuade the three trustees to help “beach the whale”.

Time was also needed to plan how best to cover up the dastardly deed. A “legal” dispute had to be contrived which could be settled by “agreement” and sanctioned by a court.

To maintain the appearance of legality, on the day before the settlement agreement was made an order of court, the three old trustees met one last time as the board of trustees of the Frame Will Trust. As was their right in terms of the will, they proceeded to appoint or “assume” four new “additional” trustees. (In terms of the deal, the original three trustees proposed to resign thereafter.)

The men they appointed to “join” them as trustees were Mervyn King, Charles Friedman, Gerald Stein and Charles Stride.

When we asked King what role he’d played in the case, he told us, “The daughters had their own counsel and attorneys – and I did not act for them at

wished them to betray their trust. Worse still, they personally stood to receive substantial financial rewards for doing so, as we shall see.

As part of the deal the Ulfanes and Westburys each nominated two of the new trustees. The family and their new pet trustees apparently assumed – wrongly, we believe – that, having got control of the trust, they had the right (power?) not only to decide how the Frame Group’s profits were to be distributed, but in fact to sell off the companies or their assets.

When, two days later, Friedman, King, Stein and Stride formally accepted their appointment as trustees, they declared in writing and before witnesses: “We undertake to carry out our duties and obligations and exercise our rights as stipulated in the will as fully and effectually as if we had been appointed as trustees of the trust, originally.”

They all had to have known that to be false, since the only reason they had been appointed was to defeat the stipulations of Phillip Frame’s will.

Which is all the more remarkable and shocking if one considers their professional status. (See box page 7.) Ex-judge Mervyn King told the *Financial Mail*: “I’ve known the Frames for years. It’s partly a friendly thing.” But mostly, of course, a money thing.

It should come as no surprise that King and his illustrious colleagues were willing to ignore the provisions of the trust deed: they had helped devise the strategy to induce the trustees appointed by Frame into betraying his trust, and, ultimately, to dismember, liquidate and sell off the Frame Group companies, in the process robbing tens of thousands of employees of their jobs.

And all of it made to appear kosher as a “legal settlement” to a legal “dispute”.

The preamble to Judge Willem Booyesen’s order endorsing the “settlement” reads: “Having read the summons and the documents filed of record, it is ordered...”

HE COULDN’T have read them very closely. Or it should have occurred to Judge Booyesen that the deal offered a large financial inducement to the trustees to cop out. And that the argument originally advanced in support of the plaintiffs’ case had simply been abandoned, raising the possibility that it was an opportunistic invention.

Time was also needed to plan how best to cover up the dastardly deed

On April 24, 1985, the case was finally called before Judge Willem Booyesen in the Pietermaritzburg high court. Sydney Kentridge SC and Sam Aaron SC, senior counsel representing the warring parties, informed the judge that the case had been settled. They handed the judge the written agreement of settlement and asked him to make it an order of court. Without further ado, the judge granted Frame’s appointed trustees leave to resign, and made the agreement an order of court. By

this time.” He did confirm, however, that, over and above their legal team, the family had legal advisers.

Said King: “The advisers to the family were Charles Friedman, Gerald Steyn, Charles Stride and me.”

In assuming the family’s legal advisers as additional trustees, the three original trustees were not exercising an independent judgement in the interests of the trust: they were acting in terms of an agreement with third parties who

He would also have observed that the primary brief to the trustees, in terms of the will, was to preserve the Frame Group of companies, both in the wider public interest and in the interests of the group's nearly 30,000 employees. Such "modal" clauses have been known since Roman times. They create both rights for the public at large and fiduciary obligations for the trustees. Yet the Frame Group employees had not been cited in the case, had not been informed or consulted, were not represented in court and were not party to the settlement. And they did not get a mention from Judge Booysen either.

OTHER elements might also have alerted the judge to something untoward.

Contrary to legal procedure, in the settlement an issue was raised that was not contained in the pleadings. The settlement agreement records that the Frame family contended (apparently in private conversation, since it appears nowhere in the pleadings), that the fact that the original trustees were also directors of the Frame companies constituted an unacceptable conflict of interest which could only be resolved by their resignation. Odd. Frame had specified in his will that the trustees must also be directors of his companies. And, of course, if the main purpose of the trust was to maintain the Frame companies, then there was no conflict of interest.

The three old trustees – quite properly – denied that their directorships of the Frame companies created a conflict of interest. And "the family" hastened to state that "they did not allege that the trustees had done anything improper". But, curiously, they all proceeded to use this "conflict" as justification for the resignation of the three men anyway.

Ironically, the settlement agreement proceeds to stipulate that Frame's daughters Elaine Ulfane and Hazel Westbury will nominate both the new trustees and the new majority directors of the Frame Group. That undoubtedly created a very real conflict of interest: between the family's interest in getting their hands on as much money as possible, as quickly as possible, and the trustees' obligation, in terms of the will, to preserve the companies and the jobs of their employees.

Might this "issue" have been raised to provide a cover – if a very flimsy one

– for the real, but unlawful, reason for the trustees' resignation: the offer of a large financial inducement to resign?

Peimer, Berman and Lurie undertook to resign as trustees the next day – whereupon they would each immediately be paid R2-million in terms of a "restraint of trade" settlement. They would also be given five-year employment contracts – with lucrative retrenchment clauses – with Frame Group companies. (These were withheld from the court record.)

The two we have tracked down declined to mention the figures attached to the latter part of the deal – citing confidentiality agreements.

Jabu Ngcobo, however, does remember a figure. He claims it was well known in union circles and within Frame: R5m went to Lurie, Berman and Peimer for ditching the misty-eyed Phillip Frame's ideal of providing employment to all.

The three trustees clearly understood they risked being challenged at some future date. In the agreement "the members of the Frame family" are required to indemnify the three "against any claims of whatsoever nature which may be made against them, which arise from their having entered into this agreement and the service contracts referred to"

FOR JUDGE Booysen it can be said in mitigation that he might have been taken off his guard by the eminence of the lawyers endorsing the deal. The applicants were represented by top Cape Town counsel Sam Aaron, SC (shortly thereafter to take up residence in London), while the three old trustees whose acquiescence had been paid for were represented by Sydney Kentridge, SC (also shortly thereafter to take up residence in London and now a British judge).

In the trust's accounts it is recorded that an extraordinary R2.16-million (R12.85-million in today's money) was paid out of the capital of the trust for "legal fees relating to will".

The day after the "settlement" was made an order of court, Graham Fiford reported in the *Financial Mail*: "Frame's son-in-law, Max Ulfane told me after the hearing in Pietermaritzburg that the family had 'no intention of selling'."

No-one believed him – but a small mound in Durban's Jewish cemetery heaved and cracked.

Next issue *Part 2: What happened to the Frame Group, its employees – and the money.* [\[2\]](#)

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The history lesson

Well there was this tyrant, you see, who totally destabilised his part of the world with a vast standing army and a corps of highly motivated special service troops closely clustered around his person, dedicated to himself, so no assassin nor any malevolent person could come even within sight of him.

His advanced weapons systems and battle tactics were such that neighbouring peoples trembled at the mere mention of his name

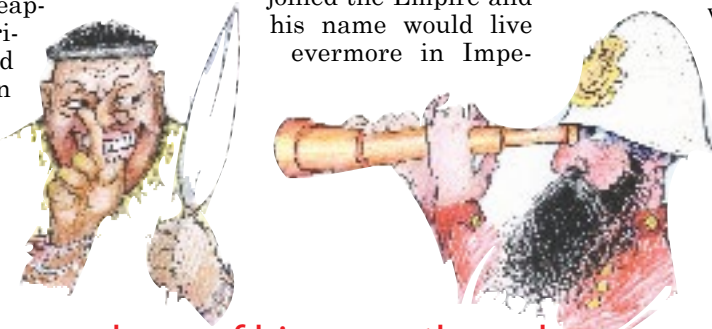
Furthermore, his unspeakable brutality to his own subjects made sure that no political dissident ever raised his head. Indeed it was dangerous even to be ethnically a little different from him, for he would butcher you in a most unnatural fashion. Indeed you should not have any ideosyncratic mode of life whatever, for if he so chose he could cause you to disappear at the merest whim. All this was his idea of lawfulness.

Also there was this superpower armed with righteousness. Plus a number of even more advanced weapons systems, of course. Plus a curious problem: this superpower had actually established the tyrant in power, crowned him king of his castle, as it were, when it had been to their earlier advantage.

Well, now. What they did was mass a super-experienced, supertech army on the border of

Many primitive peoples just don't understand why they need to be liberated, says Harold Strachan

sion, where certain Boere had been encroaching on Cetshwayo's ancestral land. He hadn't been appointed to wage war. But the commission had got it all wrong and awarded the land to the Zulus, and that dismayed ol' Bartle, because he surmised that Her Majesty was about to annex the republic whence said Boere came and, if they'd been given the award, considerable real estate would soon have joined the Empire and his name would live evermore in Impe-



When he gazed on the wreckage of his army, the only words he could utter were: 'But what went wrong?'

this tyrant's land and lay a sequence of highly improbable righteous demands on him, like entirely disarming himself, and whenever he said, But hang on, explain what's going on here, I was your buddy, remember! they would say Yah! you're just playing for time. And after a bit they said, Right! Time's up. Now complain to our army C-in-C.

And time actually was up. You see, Bartle Frere's problem was that he'd been appointed by Queen Victoria only to supervise a boundary commis-

rial annals.

Of course they didn't have copiers in 1878, nor even carbon paper, so what Bartle did was stick the commission's award papers in his desk drawer and lock it up and put the key in his pocket and prohibit his underlings ever to mention the document's existence. It took a ship 12 weeks to sail to London and back with dispatches, plus a bit for pondering, so he had a fair spell to get the army in position and shoot off the starting pistol.

It's all in the *Natal Witness* if you

happen to have a copy of 14 February 1879 lying around on your coffee table. There's no space here. And anyway the battle of Isandlwana doesn't bear thinking about. Unless it's for a bloody good laugh at General Frederic Thesiger Lord Chelmsford, who got it all wrong. He's the comic part of the tragicomedy. When General Ntshingwayo had totally out-generalled him in every detail and he gazed on the wreckage of his army through a distant telescope, the only words he could utter were: But what went wrong? Querulously, as if he'd just been done a great injustice.

But he set about his misfortune with true blue Brit grit, blaming it all on a certain fellow officer who was conveniently dead, then getting on with the benevolent business of liberating the populace whose lives were so miserable that it didn't matter if a couple of hundred thousand got blown to bits along the road to membership of the Empire, indeed they were grateful for it.

Well he liberated them entirely, the women became liberated kitchen girls and the men liberated garden boys. I mean those boys who were not engaged in herding the cattle which used to belong to them on land which used to belong to their king. And so much for their vaunted malehood: they hadn't enough of it even to join in the spirit of Empire and hammer and blast about for gold at 5,000 feet. I don't mean gold for themselves, of course, but they could spend all Sunday drinking sorghum beer and dancing in the sealed-off compound.

Nor had they the spirit to cut sugar cane. I don't mean for themselves, of course, but they could buy sugar very cheaply at the farm store out of the five shillings a month which was given them in addition to the healthy exercise. As soon as they'd earned the first ten bob they would go off and buy a concertina and walk away singing into the sunset and never be seen again. Many primitive peoples don't understand liberty. ■



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Berman, Saul and Karin (nee Barnard): Congratulations on the birth of your daughter on March 10, 2003. From Mr and Mrs A Friend.

Happy Birthday Hilary, from your loving husband and daughter – carry on further!

Happy Birthday Trish! Hope you have a wonderful year. Lots of love Bridget and Family.

Pat Hayes, CAN Durban in the mid 1960s. Are U out there? Bruce Mackenzie, dbmacke@attglobal.net

Scrumpy Jack, Obs cider of life. Thanks Judy & Staffs.

Thanks Mark – great Magazine! Ruth.

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