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JULY 2005



BRETT KEBBLE AND SARS: IS THERE A POLITICAL AGENDA?

Mosiua Lekota: used ammo salesman? **St John's school tries to avoid criminal case**
Well and truly stuffed by Brian Kahn Blonde babe Varenka wants her Mandelas back



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noseweek

JULY 2005

ISSUE 69



Cover illustration: Dr Jack

BRETT KEBBLE AND SARS

Is there a political agenda?

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Makgoba talks shirt

Having put the world right on the subject of Mandela art, maybe you'd like to clear up another Mandela misconception: a misconception that has reached as far as the office of Professor Makgoba, the vice-chancellor of the University of KwaZulu-Natal.

Recently Makgoba wrote in the *Mail & Guardian* exhorting white males to be more African. One of the good professor's

reaffirm his African identity, may I suggest that he rather buy a gift subscription to *noseweek!* (That way you can learn about these things!)

David P Kramer
Killarney

Paraffin solution

The South African Bureau of Standards seems to be another SA organisation that does not regard itself as accountable to the public.

if this is found to be the case. The academics, as individual taxpayers? The university? The directors of this Section 21 company? Or all three?

Why has there been no comment about the failure of the directors to carry out their fiduciary duties in terms of the Company's Act?

Why has the university allowed Prof John Ford, the previous director of executive education at WBS, to continue

but it would be very interesting to know whether any of that money ever found its way back into any IDC personnel bank accounts. Also, what value did D&T Trust get for selling off those assets?

Tired of games
Sandton

Indeed! Meanwhile, see page 22. - Ed.

Woodbridge Island

In the late 1970s the Milnerston Town Council and the Provincial authorities daftly gave developer Harry Fuchs permission to build houses on Woodbridge Island. Everybody knew the island's shoreline was being steadily eroded. I was a reporter on the *Cape Times* at the time. We ran many stories on the subject and the informed consensus was that development should not be permitted, for a host of sound environmental reasons. Just why it was approved would have made a good subject for a *noseweek* investigation.

Anyway, it didn't do Harry much good; his development company went into liquidation. He moved on to build a health club at Green Point - which was (guess what) also liquidated.

One can understand why the Woodbridgers' reading of the latest environmental impact assessment [commissioned by the National Ports Authority from the CSIR] has been informed by sheer panic. The situation now is that Woodbridge Island is doomed to be the first South African victim of global warming, unless a tsunami gets it first. Whether or not the container terminal is extended will not make a jot of difference.

Tony Robinson
Cape Town

PS: Harry Fuchs did one thing that is certain to meet with *noseweek* approval: he bought the Huguenot Chambers which accommodated most of the city's advocates and sold it back to them on a sectional title basis, making him one of the few to have made a lot of money out of the legal fraternity.

Wrong Rundle

As a regular *noseweek* reader - precisely because it is one of the few fearless media outlets left in South Africa - may I point out a potential pitfall?

Recently you have started publishing material from *Africa Confidential*. You are making

The biggest villain with the largest selection of dangerous 'indigenous aliens' is Kirstenbosch

ingredients to make one more African is to wear the famous Madiba shirts.

Well, I've got news for him: the shirts are not African! They're Asian. Indonesian to be precise.

Nelson Mandela was introduced to them by the Indonesian dictator Suharto (see Anthony Sampson's *Mandela - The Authorised Biography*; page 477) and wears them not out of some profound sense of African identity but because "You must remember I was in jail for 27 years. I want to feel freedom" (Sampson's biography again). In other words he wears them out of personal preference. As Freud said: "Sometimes a cigar is just a cigar".

So if any jaded art collector needs to buy something to

George Long, inventor of the leak-proof paraffin stove ("The R21 solution....", *nose68*), should be on the President's Honour Roll, not neutralised by the SABS's low standards.

Pam Herr
Fish Hoek

Wits Business School

The goings-on at the Wits Business School (*noses66&68*) with regard to the secret Section 21 company InCo, established by its academics, and the SARS audit of the company raises a number of further questions:

Arguably the SARS audit will extend beyond the audit of individual academic taxpayers (*nose68*) to an audit of the whole company. One wonders who will be liable for outstanding payments to SARS

to teach? Surely this makes a mockery of the disciplinary inquiry that was held and its outcome (*nose66*).

Finally, what could the implications be for Pretoria University that is now home to two of the errant InCo directors, who head up their two business schools (Prof Mike Ward at Pretoria Business School and Prof Nick Binedell at GIBS)?

Perhaps these questions could be set in an examination on corporate governance at Wits!

Shawn Belluigi

Shared Services Chief Engineer
Sun International Management Ltd

Cavalier plantings

Your article "Frankenflora" (*nose68*) makes for interesting reading. I expect that the biggest villain with the largest selection of potentially dangerous "indigenous aliens" with hybridisation potential is the National Botanic Garden at Kirstenbosch.

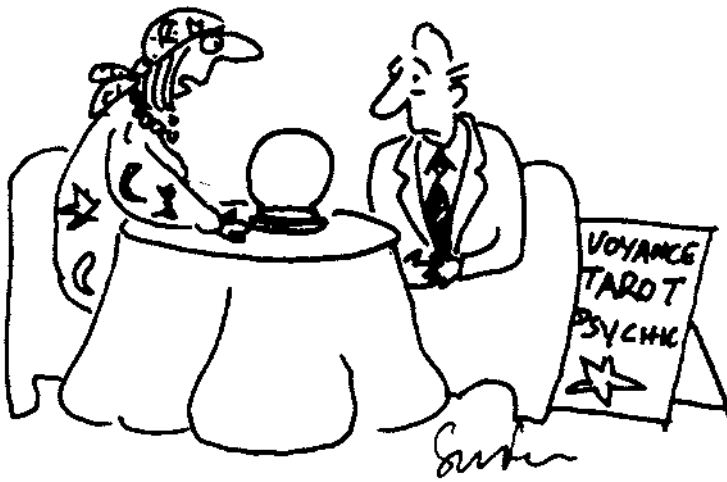
In addition, it can hardly be closer to the Table Mountain National Park, which the article suggests is under threat from such cavalier plantings. Perhaps Kortbroek and his merry men in the department could mount a dawn raid with WMD-class flame throwers and annihilate this threat to our common heritage before it is too late.

Eric Wellor
Cape Town

White magic

I have read with great interest your article on Glenrand's sale of Protector Health in a supposed black empowerment deal ("White mischief", *nose68*). It looks like it was difficult to trace all the money movements,

Gus



"I am getting nothing from you, but some interesting things from your tapeworm."

a grave error by accepting anything they say as Gospel! I know.

In the *Africa Confidential* issue of 5 February 1999, the following appeared under the tantalising headline "Frequent flyers":

The frequent visits of convicted fraudster Nico Shefer and Fred Rundle, former Afrikaner Weerstandsbeweging spokesman, to President Charles Taylor in Monrovia have attracted the attention of officials monitoring the UN arms embargo against the rebel Revolutionary United Front (RUF) in Sierra Leone. American, Ghanaian and Nigerian officials have all accused Taylor of training and supplying arms to the RUF. Particular interest is focused on Rundle, a former colonel in the South African Defence Force who worked as a liaison officer for the rebel Unita movement in Angola, and was responsible for coordinating SADF special forces support for Unita in the late 1980s. Rundle is an accomplished commander of guerrilla operations and stayed on with Unita on a freelance basis (he was paid with diamonds) after the SADF withdrew from Angola.

Rundle also became the most public face – after its leader Eugene Terre'Blanche – of the far-right AWB. Rundle also knows Taylor and Liberia well. He was a leading shareholder in the South African-based Amalia mining company that went into liquidation in April 1998, after it was revealed that its offshore branch, Commonwealth Gold, had come to grief in Liberia.

A director of Amalia, Nico Shefer was blamed for its problems and those of Commonwealth Gold. Before that he had been sentenced to 14 years gaol in 1990 for stealing R47m from South Africa's Trust bank. On parole since 1995 (having been described as a "model prisoner") Shefer now faces charges that he defrauded

another bank of R116m in foreign exchange. However, he played a key role in Taylor's campaign in Liberia's 1997 elections.

Shefer coordinated the despatch of thousands of T-shirts with Charles Gankay Taylor's image on them to be handed out to voters; similarly thousands of bags of rice with Taylor's picture were also sent to Monrovia in mid-1997, bankrolled by Shefer and Rundle. Once Taylor was elected they were to be rewarded with mineral concessions. Shefer has opened up a branch of the Florida-based and controversial Greater Ministry Africa Foundation in Liberia. They have operations near the border with Sierra Leone.

Ecuador-born Shefer's commercial style is highly effective. A one-time business partner with Columbia's Pablo Escobar, Shefer has an extensive network of contacts in the banking and diamond trading sectors. Currently, Shefer says he is concentrating his interests under the Tandon group of companies in Rosebank in Johannesburg. Yet we hear, he has made several trips, with Col. Rundle, to see Taylor in Monrovia in recent weeks.

Am I the "Fred Rundle" referred to in this article? Well, yes and no: firstly it is true that I helped Eugene Terre'Blanche with some of his press releases – although I stress I was never a member of the AWB. As for the rest, the answer is no!

I have never been in any army, anywhere; never been a colonel, never been a mercenary, never been a guerrilla leader, never been in Angola, never been in Liberia, never been a liaison officer for Unita etc! *Africa Confidential* simply confused two people with the same surname and, without bothering to check on their facts, went ahead and published!

There was just an embarrassed silence from them when I pointed

out their cock-up – no apology or correction.

So you have been warned: they do get their facts wrong, although they like to pretend otherwise. Although I left it at that, you just might want to double check everything they say before they land you in court.

Fred Rundle

By email

Africa Confidential was wrong. We are happy to publish the correction. We don't expect anyone to accept anything we publish as Gospel, but Africa Confidential is still rated the best available source of information about Africa. Whatever has become of Nico Shefer? – Ed.

Insane ideas

We've gone from the proper HIV/Aids treatment being olive oil, garlic, beetroot and other nutrients – mostly unaffordable to the poor – to it not being necessary to learn English in schools to secure a good position in the market place internationally.

Perhaps we should be putting hormone replacement therapy in the drinking water at parliament before any more insane ideas come out of it.

Cilla Webster (Mrs)

Umkomaas

Is your own state of sanity attributable to HRT? – Ed.

Son shines out of...

Thanks for a great magazine and for not being scared to tackle even the "untouchables". I have a problem with the "untouchable" media giant, Media24 (formerly Nasionale Pers and Naspers), where I was a loyal employee for 16 long years. Lately they have disappointed me (and many of my friends and colleagues) in their choice of publications. For a century they have taken pride in building Afrikaans into a language that today is acknowledged as one of our country's official languages. And

then came *Die Son!* What utterly disgusting and sensational smut! I am offended not only by the newspaper, but even more by the posters on every second lamppost, advertising moral decay and bad taste in language to innocent passers by. How does this media giant expect me to explain their "teasers" to my teenage children?

As a supporter of freedom of expression, I wrote a letter expressing my dismay to *Die Burger* on two occasions. They chose not to publish either of them. If you own the monopoly of the printed and electronic media in the country, you can probably do whatever you like, even suppress the views of your critics.

Keep up the good work.

Detlev Meyer

Welgedacht

DA's blood lust

I note that James Selfe MP believes that the DA's pro-death penalty stance is in some way justified by the fact that John Stuart Mill and Bill Clinton both supported state murder (Editorial, *nose68*). Mill, of course, was knocking on about liberty more than 150 years ago, whereas Clinton like any Democrat governor would have been unelectable unless he had ordered people's deaths. (Michael Dukakis was knocked out of the 1992 presidential race when he was rated "soft on crime" for commuting a death sentence.) With that in mind, Clinton, as governor of Arkansas, allowed the execution to proceed of Rickey Ray Rector, a brain-damaged murderer who, when given his final meal, chose to leave a portion of apple pie for later. Hardly reliable precedents – but then perhaps the DA is not interested in rational argument, preferring a visceral blood lust.

James Sanders

Birmingham, England

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We told you so

We know it's not polite to say "we told you so" – but, as usual, that's not going to stop us.

For starters: in parliament on June 21, Patricia de Lille called for an investigation of a new list of characters connected to the – by now justly notorious – arms deals. One of those she named was Ron Haywood, former chairman of Armscor.

Haywood first featured in *noseweek* four years ago in an article entitled "The questions Selby [then Public Protector Selby Baqwa] won't be asking". In it we pointed out that the Armscor chairman was also a director of Conlog, a significant beneficiary of the arms deals.

In December 2003 we revealed how Haywood and friends made a quick profit of R90m by buying Conlog for R34m, and then, three months later, selling it – without disclosing their interest in the deal – to JSE-listed Log-Tek, of which he was a director, for R124m. The shareholders of Conlog included a trust of which Haywood was a beneficiary – as well as the Letaba Trust whose beneficiary was then Minister of Defence Joe Modise. Trustee of the Letaba Trust was Major-General Ian Deetleefs, then head of Denel, another indirect shareholder in Conlog and director of Log-Tek!

Clearly, we said, Hayward and Deetleefs were introducing the big boys of the new era to all the corrupt tricks of the old.

De Lille is correct. Haywood's activities should be investigated as thoroughly as were Schabir Shaik's.

And then there's Mandela art. In August 2003 we wrote: "When Ross Calder and Ismail Ayob devised a scheme that set former president Nelson Mandela up as something of a circus act, if not actually a con artist, in the hope of pocketing the odd R100m from the sale of 'Mandela art'... did they appreciate the damage they were likely to cause to the image of Mr Mandela, and the implied insult to all the people who have invested their hope and faith in his integrity?"

"And it wasn't even in aid of the Children's Fund! At the very least, Mr Ayob, you owe the public an accounting of what you've done with the money." It's most gratifying, even if it is two years later, that Mr Mandela has now himself demanded just such an accounting. (For the latest update, see page 25.)

Finally, may we recall how seriously offended FirstRand Bank was – also in August 2003 – by our article "For whom

the Road Tolls" in *nose47*? ("Which is reassuring. At least they care," we replied.) In it we had described the close and seriously lucrative relationship that had developed between the banking group and Mac Maharaj, both while he was minister of transport and afterwards. These issues were brought to a head by troubling bits of information about Maharaj that were then being uncovered by the Scorpions in their Shaik enquiry.

We noted that both Maharaj and his director general had left the department to take senior, lucrative positions at FirstRand; that at least three FirstRand directors were, in the period that the department of transport became the banking group's single largest client, also directors of various agencies of the department; and that Schabir Shaik's father-in-law, Vahed, was a director on the FirstRand Holdings board.

"We don't know what goes on in the minds of FirstRand's directors – they might be pure as driven snow," we said in our editorial at the time, "but what we do know is that all that traffic through the swing door between a government department and the FirstRand group looks bad." We went on to suggest that the investigation into the allegedly improper payments by [Shaik's] Nkobi Holdings to Maharaj should be extended to an investigation of all the dealings between Maharaj, Schabir Shaik and FirstRand itself. "Such an investigation is suggested by the extent of the apparent conflicts of interest and the huge sums of public money involved," we said.

"That is but one of the reasons why we believe FirstRand's [own, private] investigation of the allegations concerning Mac Maharaj was ill-advised, no matter what the outcome. [It exonerated him.] It all smacked of a panicky attempt to control a process that might otherwise go in directions the bank would not welcome. "Watch this space," we concluded. Now that it has been announced that charges are to be brought against Maharaj, to our dear friends at FirstRand: you can't say we didn't warn you.

The Editor

PS: *Business Day* columnist Christine Qunta has recently had occasion to compliment us as "about the only publication that avoids racial profiling." Thank you! We do kick-ass on an equal opportunity basis.

noseweek

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Mr Nose puts it about



Rag tradesman

Following our exposé of the Mandela-Ayob drama in *nose66*, Mr Nose understands that Shaun Johnson, head of the Mandela-Rhodes Foundation, told colleagues that “a damage limitation operation” might be necessary. But then again, he thought it might not be needed as *noseweek* was just a “rag” which published “bullshit which nobody believes”. Perhaps, he has adjusted his contradictory impulses now that the matter has reached the courts?

Amateur scribblings

Mr Nose strongly resents suggestions that his admiration for Mr Mandela’s artistic talent might be connected with the Nose Family Trust’s substantial collection of signed Madiba originals. So, Mr Nose’s heart leapt when he stumbled on this fine paean to Mr Madiba’s painterly gifts on the Internet, written by Charles Shields, director of the Everard Read Gallery in Cape Town. Mr Nose didn’t entirely follow Mr Shields’ drift, but he was hopeful that his jottings might nevertheless keep the Madiba Art market buoyant long enough for the Nose Family Trust to reluctantly dispose of its much-loved investments. Mr Shields writes:

Only Madiba could have rendered Robben Island in delightful amateur squiggles and then decided to colour them brightly, since, as he writes in his motivation for the drawings ... “In these sketches... I have tried to colour the island... in ways that reflect the positive light in which I view it.”

It seems those of us who live in the light, and take it for granted, pursue “the new” and often the macabre because we have become calloused towards simplicity. The art of the well-fed dare not be exuberant, nor cheerful.... And yet the art of one from whom life has taken much is generous enough to transcend the subject; to allow the audience to feel good about themselves despite a wee journey of self-examination through Robben Island. Some say painting is dead; others even that ART is dead. Mandela says he loves colour and remembers being struck by the “yellowness” of the first banana he saw in Pollsmoor after some 20 years. I say Viva ART; Viva Simplicity; Viva Madiba.

Mr Nose says Viva Mr Shields, Viva, for these delightful amateur scribblings.

Pulped Fiction

Mr Nose always hungers for news of the dodgy don, Professor RW Johnson (no relation of Shaun as far as we know), as indeed do all self-respecting South African intellectuals. At Oxford he lectured on French politics but dabbled in investigative polemic. In SA, from the early 1990s, he wrote for almost every domestic and international newspaper one can imagine. In 1977, he published the entertaining *How Long Will South Africa Survive*.

In his latest book, *South Africa – The First Man, the Last Nation*, launched last year, Johnson said (wrongly) that Bob Hepple (ex-Rivonia arrestee, lawyer and exile who is now Sir Robert Hepple) “agreed to testify for the prosecution [at the Rivonia trial]”, but that this somehow “did not prevent him from being elected as head of a Cambridge college.”

Hepple appears only to have discovered the libel a month or two ago. Within no time Johnson’s publishers Weidenfeld & Nicolson were talking about an out-of-court settlement. It’s come about: all copies of the book were withdrawn from bookshops in May and have been pulped. The Canon Collins Educational Trust for Southern Africa has received an unsolicited £5000 donation “from a certain publisher”. Johnson has all the while been away – in Moscow with his Russian wife, Irina Filatova, an historian who has been known to complain that “Bill never checks his facts”.

Green with envy

Mr Nose notes with interest that the South African National Roads Agency (Sanral) has been given a coveted *Mail & Guardian* Greening the Future Award.

In its Greening Award supplement the paper was over the moon about Sanral’s programme to replant giant Baobabs that were in the way of a new road in Limpopo. (Mr Nose has seen those pretty pics of Baobabs being sledged out of harm’s way in a couple of places over the years. Sanral should be commended for extending its recycling policy to PR photos.)

The drinks at the award party certainly helped all present to forget Sanral’s extensive punting of the ecologically-destructive N2 toll road through Pondoland.

And nobody mentioned the ongoing process of clearing the roadside vegetation on all the country’s N and R roads that Sanral has overseen under the guise of poverty alleviation – during which several endangered species have been illegally destroyed despite the protests of biological scientists. In a more sober moment, the judges might have recalled that road reserves have until now been an important refuge for many endangered plants, as they are often the only place they can survive in intensively-farmed areas.

Mr Nose is considering instituting his own Green Awards. They’re clearly a good thing: Sanral has since taken out weekly full-page greenwash ads in the M&G (ad rate for a page: R30,773). Perhaps that’s what they were celebrating.

SARS and Kebble: is there a political agenda?

WHAT do Judge Willem Heath, columnist David Gleason and the ANC Youth League have in common? Answer: gratitude for Brett Kebble's largess.

All were among the more enthusiastic promoters of what wits are now calling South Africa's Jacobite Rebellion. Only a week before Jacob Zuma's political demise, ex-judge Willem Heath (he's now on Kebble's payroll) issued a press statement in which he made a passionate defence of Zuma's position. Gleason waxed similarly enthusiastic in his column in *Business Day* – so enthusiastic that he got himself fired. The boys in the ANC Youth League ranted and wore 100% Zuma T-shirts – and were not

were telling their boss, Mr Pillay, that the revenue service would be perfectly entitled to issue an income tax assessment against Brett Kebble for R50m! Instead, in June 2003 Pillay put a "temporary hold" on the investigation – and removed all the senior investigators off the project. Two years later still no assessment has been issued. By now he has so scrambled the investigation that he faces a legal nightmare should he now wish to confront Kebble in court.

In recent years Mr Pillay has become famous in tax circles for his "settlement deals", so that such a deal with Kebble and his father has been widely anticipated. Such deals (rather like plea bargains) have become really popular

deals could be divided roughly into two competing groups.

And that, while both were equally anxious to maintain their grip on power and their cut of the arms deal profits, the difference between them could just influence who would be sacrificed and who would be saved in the arms-deal investigations.

In the 1980s, then-ANC intelligence boss Jacob Zuma recruited the Shaik brothers to his network; Maharaj headed up the intelligence wing's most famous assignment, Operation Vula. The Vula Boys are the collection of communists and (mostly KwaZulu-Natal) ANC intelligence operatives who set up the secret pre-1990 programme to develop

SARS Special Investigations chief Ivan Pillay is the plucked peacock sitting on Brett Kebble's lap

available to pose for our picture.

But, dear reader, you will notice there is another character in our cover illustration: SA Revenue Service Special Investigations chief Ivan Pillay. You don't see him? He's the plucked peacock sitting on Kebble's lap. Without Pillay's help, it could be said, Kebble might not have had the money to sponsor all the others as generously as he has done in recent years.

The simple explanation for Pillay's inclusion is that since January 2002 he has presided over and seriously mismanaged an investigation of Kebble's failure to render proper income tax returns for a decade – with the result that he has not paid any income tax since 1993. In May 2003 SARS investigators

amongst serious tax evaders: you agree to an assessment for a large sum (although nothing like as large as the amount of tax you should be paying) and, as part of the deal, agree to pay it off in monthly instalments. Mr Pillay proudly reports success, often in press statements – and then everyone, including Pillay and the taxpayer, simply forgets about it all – including those instalment payments, that is. We shall be reporting on a number of such cases in due course.

Even in terms of the "simple" explanation, Pillay should immediately be fired for gross incompetence.

There could, of course, be another explanation for Mr Pillay's poor performance. The headline of our story, published way back in November 2001, told it all: "Thabo's Boys vs Vula's Boys".

It told how arms-deal investigators would quickly have discovered that those within the ANC most interested in the

the leadership and financial networks inside SA needed to launch a violent revolution.

Vula was controversial because it was secret even inside the ANC: the wider ANC leadership – including Thabo Mbeki – knew nothing about it. That gap between the groups appears to have persisted.

The Vula operatives included Siphwe Nyanda (former defence force chief), Ronnie Kasrils (moved by Mbeki from defence to water affairs), Mo Shaik (demoted from national intelligence co-ordinator to ambassador in Morocco), and Shaik's brother Schabir (who, recent events suggest, lost the protection he once might have expected).

(Until his sacking, Jacob Zuma was widely seen as the closest the group had to a protector in government.)

Operation Vula set itself up in opposition to another

To page 28



Kebble publicist's fit of pique-cock over dress



Picture: Trace Images

to have had some problem with paying Hip Hop's bill because of the dress incident. (It had not been returned to Hip Hop.) By June 6 Page Wood was fed-up with waiting. She called Barritt's accounts department and told the accountant in charge that if her bill was not paid forthwith, she intended going to the press with the story. Imagine her surprise when the accountant laughingly told her that even from his point of view, that could be a good idea. [*On legal advice we have omitted his defamatory explanation.* –Ed.]

In view of the verbal lashing *noseweek* received from Barritt on CapeTalk in February (see *nose66*) for not allowing him the opportunity to refuse to respond to allegations in our report on his client Mr Kebble's tax affairs, we called him for comment. Before brass tacks and sewing thread could be discussed, Barritt felt we should know that he considered us "not honourable" and "untrustworthy". "All you want is a stick to beat Kebble with," he said. That out of the way, Barritt confirmed that as far as Malan was concerned, there was "a dispute about the quality of his work... [but] the matter is high on the agenda to be resolved." Our second call to Malan was seconds too late: Barritt's dialling fingers were faster than ours and he got to Malan first, telling him not to worry, the money would be paid, and he should tell *noseweek* the matter had been settled. A reluctant Malan confirmed that Barritt had promised to pay.

Back to our discussion with Barritt: when asked about Hip Hop's bill, Barritt recalled that Petronel had –in error –taken the dress and all it's peacock feathers back to the US, and the payment dispute had something to do with that. He couldn't quite remember the details as it involved the previous coordinator of the show. He did, however, say he'd recently instructed his accounts department to pay Hip Hop. A quick call to Kathy Page Wood revealed that Barritt had, in fact, paid Hip Hop shortly before we called him. As for the six-metre peacock dress having left the continent, Page Wood says: "Petronel would never have done that, she has manners. The dress is with Jan Malan." Malan confirmed he had it stored in a cupboard.

Barritt on Page Wood: "I can't understand this. We have a good relationship with Hip Hop. In fact, the Kebble Foundation funds her township project."

Page Wood confirms: "They gave us R20 000-odd for the project – enough to set it up. Hopefully, it will be self-sustaining from here on." ■

Train smash: Petronel Malan models the peacock dress that caused all the clucking

EIGHT months after the Brett Kebble Art Awards ceremony at the Cape Town Convention Centre last October, there was apparently still some argument about two bills related to the fabulously glitzy event. Neither was shattering as Kebble debts go and, within days of starting our enquiry, they were settled. But as all things Kebble tend to be, the story attached to them is interesting.

Brett Kebble personality stylist Dave Barritt spent nearly R500,000 setting up the spectacular do. Two weeks ago we were told he still owed event producer Jan Malan a small outstanding balance of R70,000. And Hip Hop designer Kathy Page Wood called to tell us she was still owed (a modest) R8,500.

Three thousand rand of the Hip Hop bill was for two white fairy dresses ordered by Barritt's wife, Lesley. (One for the child who presented flowers at the show; who the other was for, no-one can recall.) The remaining R5,500 was for what had been intended to be the piece de résistance of the show: a peacock dress with real peacock feathers and a six-metre train – made for international pianist and Grammy nominee Petronel Malan, who was flown in from the US to perform at the event.

There was some logic to the extraordinary garment: art cognoscenti will know that Brett Kebble chose the peacock feather as logo for his Art Awards. Peacocks were "part of life" in the gardens at the former headquarters of the BKAA – Monterey in Bishops court. He explains it all on the art awards website:

"Peacocks are famed for their spectacular, iridescent plumage. In different cultures the peacock symbolises immortality, royalty, dignity, authority and compassion. Generally, peacocks are a symbol of openness and acceptance.

"In 1634, Sir Theodore de Mayerne commented that the eyes of peacock feathers 'shine curiously like stars, and do cast about them sparks of the colour of the rainbow.'

"I hope Sir Theodore's view of the peacock is reflected in the art awards and that they, too, shine like stars."

But fellow Elizabethan T Draxe had a different view: "The peacock," he said, "hath fair feathers but foul feet." And then, of course, there's the well-known idiom "proud as a peacock", which appears with "proud as Lucifer" in the *Everyman Dictionary of Quotations and Proverbs*. Not all good, it seems.

At any rate, according to Page Wood, when on rehearsal night Barritt saw Petronel in the dress – with its train draped all the way around the grand piano – he was horrified. At midnight she received a call from Malan's assistant, Greg, explaining the traumas unfolding in downtown Cape Town, and Barritt's demand (she could hear him screaming in the background) that she produce something else by morning. Next day she delivered eight new dresses for him to choose from. Barritt chose the little orange satin number that Petronel wore for her performance that night, opening night.

After all that, Barritt, or rather his company, Revolutionary Events, appears



The 9mm parabellum used to kill Bill Sabido (below right) also fired the shot that ended the life of tycoon Ahmed Mahomed (left). Now the detective who investigated both murders has been arrested and charged with corruption

SHOT with the same gun



THE GUN that killed Durban insurance broker Bill Sabido (*nose64*) in 2002 has been linked to an earlier unsolved murder, the 2000 contract killing of tycoon Ahmed (“AC”) Mahomed.

Both cases have been re-opened on the orders of Director Johan Booyen, commander of Durban’s Serious and Violent Crime unit, following the arrest on 18 May of the unit’s veteran Detective Inspector Sagren (“Sagie”) Govender on charges of corruption, extortion, intimidation and defeating the ends of justice.

Govender was the investigating officer in both the Sabido and Mahomed murder cases.

In *nose64* we told how Claud Samuel, a 31-year-old debt collector and Durban underworld character, confessed to having been an accessory to Sabido’s murder. In a statement to police he described how he and two other men, Lloyd Hill and Martin Rivits, were hired to kill 78-year-old Sabido by wealthy Durban businessman Osman (“Ossie”) Aboo and his attorney son-in-law Ahmed Amod.

Samuel’s statement told in graphic detail how Sabido was snatched from the steps of the Durban High Court as he prepared to give evidence that could have weakened Aboo’s multi-million rand fire insurance claim against SA Eagle. Samuel described how Bill Sabido was strangled, shot and his body dumped at the Bluff.

Hill and Rivits, along with Aboo and Amod, were arrested and charged with Sabido’s murder. But Samuel subsequently retracted his confession state-

ment. He lost his status as key state witness and joined Hill and Rivits as a remand prisoner in Westville prison, where shortly afterwards he was found strangled in a communal cell. State advocate Dave Demerell then withdrew all charges against the other four men.

When *noseweek* was investigating Sabido’s murder last year we were told by police that the gun used to administer the *coup de grace* in Sabido’s murder had never been found.

Nabbed: Shortly after his arrest for corruption, extortion, intimidation and defeating the ends of justice, Detective Inspector Sagren Govender (right) is led away by Director Johan Booyen



Picture: Daily News

Picture: Daily News

It now emerges that a 9mm parabelum pistol was in fact found shortly after Sabido's murder, in a back garden in the residential suburb of Glenwood, about 10km from the Bluff but close to Sabido's office. It proved to be the murder weapon.

That pistol, we are told, once belonged to 57-year-old tycoon Ahmed ("AC") Mahomedy, a respected Durban property owner and former non-executive director of failed New Republic Bank. Mahomedy was owed millions by local businessmen when hired hitmen snatched him on 17 May 2000. After three days his body was found floating in the Umhlanga river, near Umhlanga Rocks.

GOVENDER, as we've said, was the investigating officer in the Mahomedy case. No one was ever brought to justice, but private investigator Norman Reeves says he knows the identity of the alleged killers. He identifies them to *noseweek*: among those he names is Lloyd Hill – the same Lloyd Hill fingered by Claud Samuel as one of the killers of Bill Sabido.

Reeves was hired by Mahomedy's cousin, clothing magnate AC Paruk, to establish what had happened to Mahomedy after he went missing.

"When AC [Mahomedy] was last seen he was being driven away in a car with Selwyn Clark, Errol Hughes and Hill," says Reeves, owner of security firm Combat Force. "When the car came back AC was not in it."

Adds Reeves: "AC was killed with his own 9mm parabelum. Police ballistics tests have confirmed that it was this same gun that was used in Sabido's killing."

At the investigating officer Govender's bail application in Durban regional court, Director Johan Booyens made an oblique reference to the Sabido case when he told the court that a witness [Claud Samuel] had been murdered in Westville prison.

Booyens, who is now studying more than 40 dockets in cases where Govender was the investigating officer, told the packed court that he had received a death threat after launching an investigation into the detective's alleged corruption. He said an informer had told him there was a "hit" out on him and his fellow investigators.

Magistrate Melanie de Jager refused Govender's application for bail, ordering that he be held on remand at Pietermaritzburg New Prison, rather than at Westville Prison. On 10 June,

Shortly afterwards [Samuel] was found strangled in a communal cell

however, Judge Noel Hurt granted an urgent interim order for his transfer to the holding cells at Westville police station, putting him back on his home turf amongst friends.

One man that director Booyens would doubtless like to talk to is Govender's co-investigating officer on the Bill Sabido case, Captain Russell

Langley. Langley subsequently left the force to take a security job at Teazers, an upmarket Durban strip joint (slogan: "Tease without Sleeze") frequented by top local businessmen (such as Schabir Shaik). But Langley is no longer to be found at Teazers. We were unable to establish his whereabouts.

As for Lloyd Hill, the feared gang leader named in both the Bill Sabido and Mahomedy murder cases, he continues to walk the night streets of Durban, despite a setback in 2003 when he was gunned down outside a club called Zoom by two wannabes aged 19 and 20. In that incident, Hill took four shots from a .45 revolver, leaving him in a serious condition in hospital. **W**

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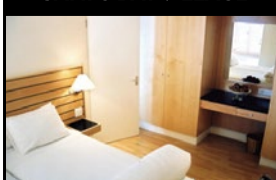


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IT'S MY ROUND

SA's second-hand arms salesman

After nearly four months of suspension, the Armscor board reinstated its CEO Sipho Thomo and two other top executives on 9 June – offering a transparently ridiculous explanation. Government-appointed forensic investigators from First Consulting were furious – they hadn't even completed their investigation into alleged irregularities at the agency. Had they, too, *noseweek* wonders, stumbled across the 'Opportunity' letter which Thomo wrote to Defence Minister Mosuioa Lekota in defiance of a classified cabinet memorandum? And is this what has prompted Armscor's latest desperate attempt at a cover-up?



Picture: The Sunday Times

Sign of the times: Defence Minister Mosuioa Lekota

THERE has been much speculation about the recent top-level suspensions at state armaments agency Armscor – CEO Sipho Thomo, Boet Van Staden (in charge of surplus military sales at Armscor Business) and his general manager Jan de Necker.

No explanation was given at the time of the suspensions, but last month the Armscor board suddenly reinstated all three, with an explanation that had to make the purported reason for the suspension of such senior staff members look completely ludicrous – if it were true.

In its press statement, Armscor claimed that the three men had been

reinstated because a report by Gobodo Forensic & Investigative Accounting had cleared them of alleged irregularities over the “temporary export” of a Ratel infantry assault vehicle to Jordan.

But that was not the issue. The three were suspended on 24 February after Defence Secretary January Masilela sent forensic investigators First Consulting into Armscor with a wide-ranging remit to probe much more than the export of one solitary Ratel.

In March Armscor chairman Popo Molefe countered the arrival of First Consulting by bringing in his own investigators, the Johannesburg firm of Gobodo Forensic & Investigative

Accounting. Molefe had used the firm when he was North-West premier and was confident he could rely on it not to deliver any nasty shocks.

First Consulting's investigators are furious that Molefe and his Armscor board rushed to reinstate its CEO and the other two suspended executives on Gobodo's recommendation, while its own wider investigation was still under way.

What unwelcome skeletons could First Consulting unearth? Well, for one there's Defence Minister Mosuioa Lekota's secret approval of a controversial proposal regarding the continued disposal of surplus military ammunition.

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One legacy of South Africa's jack-boot-stomping past is a number of huge military arsenals across the country, in which an enormous array of ageing apartheid-era weaponry is stored: dangerously leaking bombs, infantry assault vehicles, guns galore – and, until recently, more than one billion rounds of ammunition.

While South Africa remains an enthusiastic global exporter of new

of the threat posed by South Africa's mothballed weaponry that it decreed that money should no longer be a consideration. "There is no financial implication pertaining to the destruction of ammunition," says Memorandum No 4. In other words: forget what government could get by flogging the stuff; it must be destroyed.

However, *noseweek* can reveal that two years ago there was a startling

is a process in which the copper jacket and lead is melted down to make raw materials for new stock. The explosive can be used as fertilizer or rock-busting explosive in the mining industry.)

More about Spreewald later. In his letter to Lekota, Thomo then makes his proposal: an American company called Century International Arms Corp was "very interested" to buy 5.56mm and 7.62mm surplus ammunition from Armscor, to use for "practicing and hunting". "The price offered is much more than the German offer and could substantially influence the amount of money earned by stock sales," wrote Thomo.

Thomo was proposing selling surplus ammunition in a useable state – a clear breach of cabinet Memorandum No. 4.

Outlining what he describes as The Opportunity, Thomo went on to inform Lekota that Armscor Business had been tasked by the defence department with selling [an additional] 250 million rounds of surplus 7.62mm and 5.56mm ammunition – with another 700 million

A secret cabinet memorandum decrees that all surplus arms and ammunition smaller than 12.7mm must be destroyed

small arms and ammunition – a very different and enlightened policy was in place for surplus military stock.

Military surplus ammunition sold cheap on the world market has become the stock-in-trade of every revolutionary bad and murderous warlord in the third world, and gangsters everywhere. In 1997 a UN secretary-general's report on small arms recommended that member states should consider the destruction of all surplus stock. Just three years into freedom, the government of the Rainbow Nation gave this proposal an enthusiastic rubber stamp.

A still-in-force secret cabinet memorandum (No 4 of 1997) decrees that all surplus arms and ammunition smaller than – and including – 12.7mm must henceforth be destroyed and not put up for auction or sale by Armscor, as had been the previous practice. It was left to the National Conventional Arms Control Committee (NCACC) and its chairman (until April last year, Kader Asmal) to enforce the new policy.

So strongly did the Nelson Mandela-led cabinet feel about ridding the world

about-face sanctioned at the highest level. This emerges from a letter, dated 17 July 2003 and now in the possession of *noseweek*, from Armscor's CEO Siphon Thomo, to Defence Minister Mosuioa Lekota.

It starts off by stating that Armscor Business had been selling surplus 7.62mm ammunition to an arms company in Germany called Industriepark Spreewald Lubben, which had "a responsible means of disposing of surplus small arms ammunition". In accordance with the requirements of the NCACC, R32m worth of ammunition had already been sold to Spreewald, wrote Thomo. More, valued at R12m, was still to be delivered.

(There is an enormous global demand for surplus but still useable military ammunition; not only in areas of conflict, but for hunting and target-shooting in gun-crazy America. Since selling useable ammunition would be a contravention of Memorandum No 4, the inference in Thomo's letter was that the R32m worth sold to Spreewald was for destruction by "dismantling". This

rounds to follow "in the near future".

If these 950 million rounds were to be dismantled or destroyed, revenue would be just R12m, says Thomo. But if Armscor Business was in a position to sell the ammunition [as useable] it



Misunderstanding?: Armscor CEO Siphon Thomo

Picture: The Sunday Times

would generate revenue in the vicinity of R104.5m!

In his letter, the Armscor boss then presents what he describes as a “Problem Statement”. “The NCACC has informed us that due to cabinet Memorandum No 4 of 1997, as well as the current revision thereof, they would not favourably consider the approval of either the contracting permit or an export permit for the sale of 5.56mm and 7.62mm ammunition to the USA and Germany.”

Thomo draws Minister Lekota’s attention to Memorandum No 4’s statement that there was no financial implication pertaining to the destruction of ammunition. Clearly misreading – intentionally or otherwise – what the cabinet had meant, Thomo adds: “The contrary is addressed in our analysis set out above.”

The letter ends: “We request that the possibility to continue with the sale of small arms ammunition to the USA and Germany be reconsidered as a

destruction, ie, reuseable ammunition that could be sold for a handsome profit to global trouble spots and the hunters and target-poppers of America. Which, of course, is precisely what the cabinet in 1997 had been so anxious to prevent.

Lekota hadn’t been a part of that Mandela-inspired bunch, however – he was not to join the cabinet as minister of defence until 17 July 1999.

Kader Asmal, who now heads the parliamentary defence committee, relinquished his position as chairman of the NCACC in April 2004, when he stepped down as a cabinet Minister. He is apparently unaware of Lekota’s approval to sell the 950m rounds as useable ammunition the previous year. “To the best of my knowledge, no export in my time took place in breach of cabinet or NCACC policy decision,” he says. The whole racket, *noseweek* can



Whistleblower: Ivan Monsieur, MD of New Generation Ammunition

Pretoria Metal Pressings, the ammunition manufacturing division of parastatal Denel, has a production capacity of a million rounds a day. Monsieur claims that PMP exported 5m to 10m surplus rounds in its “original state (mixed to disguise with new production)”, to Century Arms in Florida.

Seven years ago, wrote Monsieur,

The most obvious reading is that **Lekota was giving his ministerial go-ahead for the sale of useable surplus ammunition**

method of disposal.”

At the bottom of this document, Lekota appended his signature of approval to this proposal. The whole letter is ambiguously worded, but the most obvious reading is that Lekota was giving the ministerial go-ahead for the sale of useable surplus ammunition in order to secure extra profits for the Department of Defence.

Lekota legalized the whole thing the following year, when on 28 May 2004 he issued new National Conventional Arms Control Regulations. The relevant one reads: “An export permit may not be issued for any conventional arms of a calibre of 12.7mm (.50 inch) or smaller, including the ammunition for such arms, that is surplus to state or parastatal stock *and have been designated by the committee for destruction*. The words in italics are Lekota’s addition to the old regulation.

This ambiguously-worded addition would seem to have given the NCACC a loophole to approve exports of surplus ammunition it had not designated for

reveal, was officially brought to the attention of the department of defence last year by Ivan Monsieur, managing director of a Pretoria arms and ammunition manufacturer, New Generation Ammunition.

In a letter to Bruce Ramfola, the department’s chief of acquisition and procurement dated 8 April 2004 – seven weeks before Lekota issued his new regulations – Monsieur told how the US commercial market was flooded “and has been for the past eight years” with surplus military ammunition originating from the SANDF.

“Most ammunition is available in its original packing with seals intact,” wrote Monsieur. “Four calibres are involved: 5.56mm (R4 and R5 ammunition); 7.62mm (R1 ammunition); .303 (Lee Enfield) and 7.62mm (AK47 ammunition).

He points out: “The condition of sale of military surplus is that all ammunition must be demilitarized by the buyer and cannot be re-sold in its original state and/or packaging.”

his company was approached by an American importer regarding the possible sale of surplus AK47 ammunition (16m rounds were thought to be lying in Defence Department arsenals).

“Then all of a sudden the existence of “the German” became apparent who had gained access to all the munition depots in SA months before and was busy buying up large quantities of AK47 ammunition.”

The German was later identified as Wolfard Fritze, of Swiss-registered company FGS Frex. “In no time tens of millions of rounds of AK47 ammunition were exported, at very low cost to Fritze (US\$25/1000 rounds, including shipping).”

Mostly of Chinese origin, this old ammunition had armour-piercing bullets (imports of which are forbidden in the US). “Fritze transported substantial quantities of this ammunition in its original state to the US, defying the [US] import ban on steel core ammunition.”

Monsieur claims in his letter to the Defence Department that Fritze had bought over 400m rounds of surplus

army ammunition. "The last lot left South Africa as recent as mid-February 2004 (80 containers with 60m rounds of 7.62mm ammunition."

He names the man who organized these sales as Armscor's Boet van Staden.

Monsieur says that on several occasions he informed Armscor's then second-in-command Ken Jones and Captain Fred Marais (who ran the Directorate Conventional Arms Control, secretariat of the NCACC), that "vast quantities of SA surplus were available in the US. We showed publicity from US magazines offering the commodity with pictures, on some of which even the lot numbers were visible."

Finally, said Monsieur in his letter, Armscor's Ken Jones decided to investigate, dispatching Boet Van Staden to America to inspect "these famous lots" in the warehouse of PW Arms, in Seattle, Washington. "Van Staden met with PW Arms representative Mr Dan Tobin, but declined to take the 45-minute trip to his warehouse, stating that he had had enough with the lot numbers. This obviously defeated the purpose of the trip," wrote Monsieur.

He says (on his return to SA) Van Staden claimed to Jones that Tobin was two hours late and he had no time to go to the warehouse, as he had to fly back to Texas. "This was a lie," wrote Monsieur. "We suspect that he clearly did not want to be seen together with the compromising goods."

Weeks after this fruitless trip, says Monsieur, Ken Jones was moved from his number two position at Armscor and shifted to an end-of-career function in

special projects. He subsequently left the agency.

As for those 60m rounds of 7.62mm surplus, Monsieur tracked their route for supposed dismantling in Germany by Fritze's business partners, Industriepark Spreewald Lubben.

He says in his letter that early last year 80 empty containers were shipped by Laser Logistics from Cape Town to the army's weapons depot at De Aar. There they were loaded with the 60m rounds and shipped to Hamburg. From there Fritze's FGS Frex company supposedly trucked them to Lubben, for dismantling by Spreewald. Monsieur claims that instead most were shipped to Classic Arms Inc in North Carolina.

There are court records to rely on here. For although PW Arms had made an exclusive supply agreement with Fritze, he had diverted six containers of .223 (5.56mm) and .308 (7.62mm) ammunition, which was part of a 50 million-round consignment he sold to one of PW Arms competitors in the US.

On 24 October 2003 Stuttgart Regional Court's commercial division ordered Fritze and Spreewald to deliver this ammunition to PW Arms within seven days, or pay the company Euro 2.1m in compensation.

Monsieur's letter concluded: "The above trail of events contradicts every compliance report in hand with the NCACC regarding the disposal of surplus ammunition by means of dismantling."

He still believes that Marais's suspension, and those of Boet Van Staden, Jan de Necker and Siphon Thomo, were connected to this bombshell letter to the Defence Department. Monsieur says

that, following his revelations, export sales of re-useable surplus ammunition have stopped, while his allegations (he hopes) are probed by First Consulting.

"Look at the whole line," says Monsieur. "Van Staden is the main guy at Armscor Business in charge of sales of surplus military goods. His boss is De Necker, CEO of Armscor Business. His boss is Siphon Thomo, the CEO of Armscor. Fred Marais recommended approval of the export permits."

We couldn't speak to DCAC boss Fred Marais, who was responsible for the issue of surplus ammunition export permits. For more than six months he has been suspended.

Meanwhile, the Internet is alive with evidence of intact SA surplus ammunition in the US. Tap "surplus ammunition" into Google and it's detailed by the metre.

One chat room discusses bulk supplies of .223 (5.56mm) good quality, reliable practice ammunition. "Sundance" reports: "I have found .223 M193 South African; non corrosive, Berdan primed, 55gr FMJBT, late 80s manufacture, \$119/900 rounds or \$335/2700 rounds."

"Christopher" comments: "The 55 grain South African stuff is supposed to be quite good. Ammoman has it for \$149/k, so your price looks right."

"Sisalve" joins in: "I use the SA stuff in my ar-15 and it works great. My dad used some in his mini-14 this weekend and it worked flawlessly."

"Gino": "Yep, I really like the South African stuff."

"Chris Orndorff": "I get mine [South African] from AIM Surplus. Depending on quantity, \$33-\$34 p/300 round battle pack." ■

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ASSET MANAGEMENT – THE WAY IT OUGHT TO BE.

The Star's editor narrowly escapes Six of the Best

ANGLO AMERICAN'S until recently head of corporate affairs Michael Spicer is involved in delicate and potentially controversial negotiations with the state for the withdrawal of criminal charges against four boys accused of grievously assaulting former St Stithian's pupil Wade Baker.

Baker, 18, had every bone in his face broken when he was set upon at a drunken party at the Houghton home of a St John's boy three months ago. Three 17-year-olds from St John's and one from Edenvale High School face assault charges.

The controversial plan is that when the boys next appear at Hillbrow Magistrate's Court on 8 July, the prosecutor will agree to a form of criminal justice hitherto unknown in South Africa – that the state will relinquish

the prosecution and allow the distasteful matter to be settled speedily and discreetly at what is being described as an "internal hearing" at St John's.

The state prosecutor will be invited to be part of this revolutionary process, the other members of this exclusive private "court" being senior members of the St John's college council, of which 52-year-old Old Johannian Michael Spicer is chairman. (Spicer stepped down from the Anglo board in January to become executive director of the South Africa Foundation).

St John's headmaster Roger Cameron confirms that an internal process is the hope. "The boys that were involved need to take responsibility for their actions, but being involved in the police or legal process could mean a delay of several months and have huge consequences in their personal lives," he says.

The idea is that the internal inquiry will allocate responsibility and decide which parents should compensate Wade Baker for the substantial medical cost of getting his face rebuilt. An attorney with a leading Johannesburg law firm, who sits on the college council, is busy quietly setting the whole thing up. Cameron refuses to name him (but we can: it's Tim Gordon-Grant of Bowman Gilfillan).

Says the headmaster: "If the prosecutor agrees, the charges will be withdrawn and the matter dealt with internally. Parents may be seen as buying out the Bakers, but that's not the case. We're trying to do what is right

I don't have any interest whatsoever in the misbehaviour of spoilt, selfish brats from Jo'burg's northern suburbs. I do, however, love getting under the skin of Johannesburg's elite, because most of them are a sorry, scrofulous bunch blinded by pride, greed, fear and money.

Star journalist Alameen Templeton



Picture: Sunday Times



Picture: Sunday Times

School for scrofula: Anglo-American's former head of corporate affairs Michael Spicer (above) and headmaster of St John's school Roger Cameron (right)

in this situation, for the boys and for Wade Baker. To get to a sense of completeness.”

There’s been nothing in the media, of course, about all this. For *The Star’s* initial lively coverage of the Wade Baker beating has become markedly contrite since reporter Alameen Templeton was taken off the story.


A St John’s boy emailed Templeton that he was “perturbed and annoyed” by the quality of the journalism in *The Star’s* coverage of the affair.

Templeton replied: “Coming as I do from Springs – a dying mining town stuck in a swamp – I don’t have any interest whatsoever in the misbehaviour of spoilt, selfish brats from Jo’burg’s northern suburbs. However such tripe occasionally finds itself on my daily news radar screen...I do, however, love getting under the skin of Johannesburg’s elite, because most of them are a sorry, scrofu-

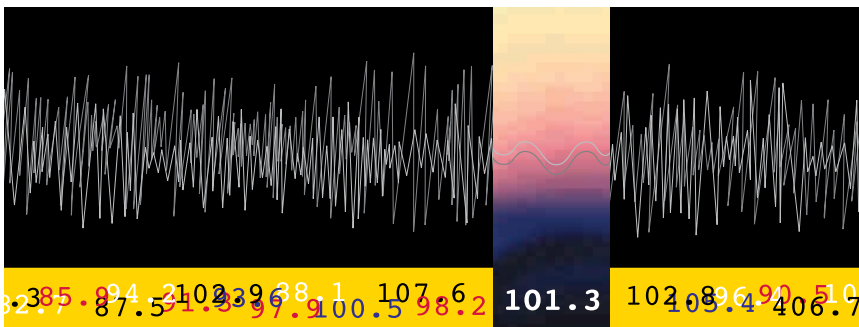
lous bunch blinded by pride, greed, fear and money.”

In another missive Templeton wrote: “As for the ‘men’ these institutions are turning out, they hit like girls and they cry like girls – and so do their daddies.”

One might have expected an honourable schoolboy from St John’s to have respected this exchange as private if provocative correspondence between the two of them. But the scrofulous crybaby who received these responses ran tell-tale to headmaster Cameron.

The *Star’s* editor Moegsien Williams was summoned before the head, and only escaped Six of the Best after making a crawling apology for Templeton’s vivid prose. “We have warned our staff that if anyone should bring the paper into disrepute again that we will bring our full forces against them,” the creepy-crawly editor told *Marketingweb*. 

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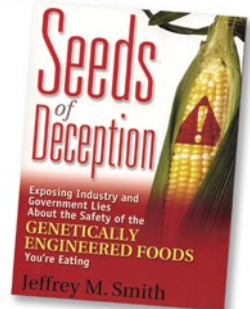
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Stuffed by Brian Kahn for R45,120

GEOERGE Hardie, former head of Sarral, the South African Recording Rights Association, had a nasty shock after Johannesburg attorney Brian Kahn offered the services of his law firm to stuff 3400 circulars into 3400 envelopes for him. The great lawyer's bill for this humble chore: a staggering R45,120!

Sarral is the author's society that looks after composers' rights, particularly in the recording field. Hardie was its managing director and CEO for 30 years until he stepped down in 2001, when he turned 60. The new MD and chairman was Mothobi Mutloatse, the anthologist and author. Hardie, however, remained on the board and was given a consultancy contract, with a remit to ease Mutloatse into his new job.

But friction developed between the two men. Hardie complained that structures he had created over the years were dismantled behind his back; the unaudited results for 2002 showed a loss of R750,000; the cash resources had shrunk by R4.9m...

His comments were not welcomed by Mutloatse and other board members, who responded by accusing Hardie of channeling Sarral funds into foreign bank accounts; raiding the reserves; receiving commissions from banks...(All these accusations were shown to be unfounded).

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his name Hardie engaged the services of attorney Brian Kahn.

Things came to a head in mid 2003, when Sarral advised Hardie that a members' meeting would be called that June to seek his removal as a director.

Hardie decided to send a circular to all Sarral's 3400 members, asking them to vote against his removal. "I drafted the circular, I got it duplicated, I did everything – including paying for the postage," says Hardie. "I'd lined up some friends and students to help me stuff the circulars into the envelopes, when Brian Kahn suggested his firm do the job.

"I expected him to charge what a professional mailing company would." (Hardie subsequently obtained a quote from one such company; it came to R2,159). "When his bill came in for R45,100 I was flabbergasted."



In subsequent court papers Kahn stated that the stuffing took 12 members of his (all female) staff a total of 96 hours to complete. Three candidate attorneys had been assigned to the task at an hourly rate of R800, plus nine "non professional staff" at an hourly rate of R360.

This computes to Kahn's candidate attorneys billing R6,400 each for an eight-hour stuffing day, and non-pro-

fessional staff (ie secretaries) R2,880!

Hardie, by now based in the Eastern Cape with his wife Sandra, who renovates old farm houses there, finally faced a total R450,000 bill from Kahn over his brawl with Sarral. He paid R119,000, but resisted Kahn's claim for the R315,000 balance.

Readers will recall the case of Dr Colin Nates, who got hit by a R299,641 bill from Kahn for handling his divorce (*nose60*). Nates had refused to sign Kahn's famous "Letter of Engagement" agreeing to his firm's exorbitant charges. Nates paid R120,773 and Kahn took him to court for the R178,867 balance. Judge Seretta Snyders dismissed Kahn's application with costs, ordering the attorney to draw a detailed bill and tax it.

Hardie didn't sign Kahn's Letter of Engagement either. "I kept asking Kahn for a breakdown of the amounts he charged, but never got one," he says.

Kahn issued a high court claim against Hardie and his company, Khayyam Holdings, for the R315,000 fees balance. But during out of court negotiations his demand gradually dropped: he would accept R280,000; then R181,000, then R120,000. Hardie finally gave the attorney R90,000 to settle the case.

"We were able to reduce the entire bill by an enormous amount," says Hardie. "Effectively the fees that he'd charged for stuffing envelopes were taken out altogether."

With no funds to continue the legal battle with Sarral, Hardie didn't oppose the cancellation of his consultancy agreement and his firing as a director. The members never had a chance to rally round in response to his circular.

Mutloatse has stepped down as Sarral's chairman and MD and is now just a non executive director. "I had to return to my first love, which is writing and publishing," he says.

Despite their differences, on the subject of attorney Kahn's fees Mthobhi Mutloatse and George Hardie are as one. "How does Brian Kahn get away with this flamboyancy?" wonders Mutloatse. "He is a maverick." **W**

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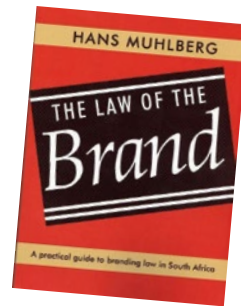
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Law finally sees Laugh it Off's Black humour

Johannesburg trademark attorney **Hans Muhlberg** looks at the recent Constitutional Court ruling in the case between Laugh it Off and SA Breweries. The cover of Muhlberg's recently published book (pictured) was clearly inspired by the case



ON FRIDAY 27 May 2005 some sanity returned to the world of branding law. As the Constitutional Court has now made clear, brand owners must grow up and learn to accept a bit of satire and criticism like everyone else in the public eye has to. Trademark law, believe it or not, was never intended to stifle humour and free speech.

As everyone knows, the issue in the T-shirt case was whether or not Laugh It Off's spoof of the Black Label logo on a T-shirt infringed SA Breweries' trademark. Laugh It Off's defence was one of parody. Section 16 of the Constitution protects freedom of expression, subject to certain exceptions like speech that advocates racial hatred and incites harm.

Judge Roger Botha Cleaver of the Cape High Court [*in a totally humourless judgment that managed to transform a laugh into a multi-million rand legal roller coaster – Ed.*] held that the T-shirt did infringe the trademark, firstly because it was part of a commercial enterprise (Laugh it Off

had sold 200 T-shirts), and secondly because the wording, in the judge's view, amounted to hate speech. The case then went to the Supreme Court of Appeal (SCA). This equally humourless court held that the T-shirt clearly infringed the trademark and that freedom of expression was not impinged because there were many other ways Laugh It Off could have got its message across without using the brand. [*Long before already – see noses 6 and 7 – noseweek was prompted to ask: “Has the lack of a cultural and intellectual component in the training of lawyers finally reached our Appeal Court?”*] The case then went on to the highest court in the land, the Constitutional Court.

The judgment of the Constitutional Court was given by Judge Moseneke, who looked closely at the “dilution section” of the Trade Marks Act. In addition to the protection against confusion which is given to all registered trademarks, this section gives well known registered trademarks protection against, amongst other things, any use



Be happy: One of a series of slogans that appear on the boundary walls of the Constitutional Court

of a similar brand which is likely to be detrimental to the distinctive character or repute of the registered trade mark, be it in the form of blurring or tarnishment. This, the judge said, is intended to protect the commercial or economic value attaching to the reputation or selling power of a brand. He went on to say that the Supreme Court of Appeal had approached the matter in the wrong way. It should have looked first at whether or not the words on the T-shirt were protected by the Constitution and then decided if it was detrimental under the Trade Marks Act. In other words, the trademark infringement section must be construed in the context of the entrenched right to freedom of expression.

The trademark dilution section must therefore be interpreted in a way that is least destructive of the right to free expression. The brand owner must be able to illustrate a real likelihood of substantial harm or detriment in a commercial sense: The judge was not prepared to simply accept the argument that, because of the unsavoury association created in the minds of the consumer by the T-shirts, there would be a negative impact on the selling power of the brand. On the contrary, there was absolutely no evidence that the sales of a few hundred T-shirts had had any impact on Carling Black Label's sales. There was therefore no trademark infringement. In the light of this finding, it was not necessary to consider the defence of parody.

The really interesting part was yet to come. Judge Albie Sachs, who concurred in Judge Moseneke's judgment,

gave a separate judgment dealing with the parody defence. He prefaced this with the intriguing question: "Does the law have a sense of humour?" He felt obliged to make it clear to brand owners that even if they are able to establish a real likelihood of economic harm, they might still be faced with a successful parody defence.

The judge discussed what he described as the paradox of parody, which involves both copying and creativity, and which requires deliberate dislocation. Whereas a plagiarist sets out to deceive, a parodist very much relies on his audience's knowledge of the target, the dislocation of the target being what causes the reaction. Parody is not a defence in its own right, but simply a factor that forms part of the overall analysis. The issue is whether or not the parody causes confusion or detriment which is unfair. The question here was whether an independent observer would feel that the harm done

magazines, TV satires and even T-shirts worn by irreverent young people will normally enjoy a large measure of protection.

The question of whether or not the merit of the parody should play a role is a tricky one. Although unsavoury material is less likely to be worthy of protection than meritorious work, it is dangerous for a judge to presume to determine the worth of a work.

Applying these principles to the case, Judge Sachs said that Carling Black Label is clearly aimed at the 'man's man'. Laugh if Off did not compete for a share of the beer market so the T-shirt did not confuse. Its parody also did not attack the quality of the product. What it possibly did do is impute past racist labour practices, and there was no proof that this in any way affected sales, especially as virtually every enterprise operating in South Africa during the apartheid era also benefited from cheap black labour. It

far less effective if the brand hadn't been used, because the message related to the power of branding in general. The parody was "a take-off, not a rip off" and it was therefore lawful.

Judge Sachs ended with two general points worth noting. The first was a warning that big business should not use trademark law indiscriminately to stifle public debate. The second was that laughter does indeed have a place in society. Judges should protect the

Humour is one of the great solvents of democracy... It is an elixir of constitutional health

– Judge Albie Sachs

by the parody to SAB's intellectual property interests outweighs the free expression interests involved. It's a question of balancing competing rights rather than limiting rights.

A number of different issues should be considered. The mere fact that the parody is commercial does not necessarily exclude it from free expression protection, nor does an element of social comment save what is an inherently commercial activity from a charge of causing unfair detriment. The mere fact that the same message could have been conveyed in another way should not be decisive, because if that were the case there would be absolutely no scope for brand parody. In a society dominated by brands, there must be scope for criticism of a particular brand, or the influence of branding in general, or the overzealous use of trademark law to stifle public debate, through the use of the brand itself. The more arbitrary the use of the brand, the less justifiable it will be. The context of the use will also be relevant. Parodic use in newspapers,

is highly unlikely that SAB's customers would have taken the lampoon seriously or regarded it as constituting hate speech. As regards the more sophisticated purchasers of the T-shirt, they bought it because of its word play and because it poked fun at companies who take themselves too seriously. In the words of the judge, "it got them to laugh, not hate; and laugh, it appears is what they did." Everybody concerned with the T-shirts knew that they were intended to poke fun at the dominance of brands and that it was all about irreverence. The use of the SAB brand was in no way exploitative or gratuitous. If any harm was caused to SAB, it didn't relate to the marketability of the beer.

The balancing of interests was therefore easy. On the one hand, there was virtually no harm caused to SAB. On the other hand, the fact that the T-shirts were sold was irrelevant because the objective was to get a message across. This was not a case of a commercial activity masquerading as free speech. The message would have been

Just joking: Laugh It Off's Justin Nurse after his Constitutional Court victory

rights of enterprises like Laugh It Off to advance subversive humour even if they don't appreciate the humour themselves. His final words are worth quoting in full:

"A society that takes itself too seriously risks bottling up its tensions and treating every example of irreverence as a threat to its existence. Humour is one of the great solvents of democracy. It permits the ambiguities and contradictions of public life to be articulated in non-violent forms. It promotes diversity. It enables a multitude of discontents to be expressed in a myriad of spontaneous ways. It is an elixir of constitutional health." **W**



Picture: Tony Beaminsh

Now Rose can stand on her own two feet

NOSEWEEK'S favourite lady, Rose Banda, was in an apprehensive mood when she was fitted for a sparkling new pair of legs (right) last month.

Rose, elderly resident of Casa Mia old folks home in Johannesburg's Berea, lost both of her own legs on 11 November 2003, when an out-of-control car mounted the pavement and mowed her down as she walked home from church (*noses62/63*).

The big news is that the Road Accident Fund has conceded liability and awarded Rose R500,484 in a negotiated settlement. What is more, the fund has agreed to pay all Rose's medical expenses resulting from the accident – for the rest of her life.

Until *noseweek* took up the cudgels for Rose, the RAF had rejected the 58-year-old's claim. Its attorney, Abednigo Duma of Borman-Raphela, filed a court plea that her claim for R2.9m should be dismissed because Rose had "failed to keep a proper look-out", had "put herself under a situation of sudden emergency without a reason to", that she had "moved into a path of travel of the said motor vehicles" and – most ludicrous of all – she had "disregarded the rights of other road users by causing the collision."

When we presented the true facts – how Rose and fellow Casa Mia resident Dina Manana were walking along the pavement in Soper Street when an oncoming Mazda started zig-zagging, crossed to the wrong side of the road, mounted the pavement and drove straight into them – the RAF's executive board ordered its top management to investigate.

Result of this "investigation" was a statement reiterating that the fund had "valid, lawful defences" to Rose's claim and that the article in *nose62* was "factually incorrect".

Fortunately, saner counsel prevailed. Rose's attorney, Anthony Millar, says: "Within days of your follow-up in *nose63* appearing last December I got a call from the RAF. I was told unofficially that it was all a misunderstanding and that they were going to concede liability."

When the claim of Rose's companion Dina Manana came up for hearing on 9 January this year at Johannesburg Magistrate's Court, attorney Duma was



there, in contrite mode. "Before the case started Duma came and apologized to the ladies for what they had been put through by the RAF," says Millar. "Duma informed the magistrate that the RAF was conceding in both cases."

Dina received R27,500, which included R3000 for physiotherapy for a fractured fibia.

Rose's R500,484 payout was formally approved on May 5 on the steps of Johannesburg High Court.

Although the RAF agreed to pay Rose's legal costs, she will still have to fork out up to R100,000 of her settlement to her attorneys, Norman Burger & Partners. Millar explains that this is to make up the difference between court tariff costs and his own fee. "The tariff allows R600 an hour for attorneys; I'd have to work out of a shack to do it for that." (His hourly rate is R1500.)

Rose, who still lives at Casa Mia with her 75-year-old husband Elias, plans to use part of her settlement to buy a small house in Johannesburg. "First I need a house, then I can think of a car."

Attorney Millar says: "By highlighting Rose's plight, *noseweek* has put Rose in a position to get artificial limbs and restore her dignity and her life."

Says Rose: "Thanks a lot; you've done a good job." ■

Protector health faces competition investigation

THE Competition Commission has launched an investigation into Glenrand MIB's much-vaunted R50m sale in 2003 of its controlling stake in the Protector health care group to fledgling black empowerment company, Tradeworx.

This follows publication of our story "White mischief" in *nose68*, in which we revealed that far from a trail-blazing empowerment deal as claimed by JSE-listed Glenrand, its 65% shareholding in Protector wound up not with Tradeworx but a company called Freefall, owned by former Protector executives Leon van Rensburg and Marc Seelenbinder.

Tradeworx's Clarence Mini, Pat Manana and Kevin Wotshela, who fondly imagined they held 51% of fresh entity New Protector Group, discovered to their dismay that they held precisely – nothing.

The Competition Commission's enforcement and compliance division is examining documentation previously submitted for its approval by Seelenbinder and Van Rensburg. If it finds there was misrepresentation, the matter will be passed to the Commission Tribunal to unravel the whole chain of events – a highly embarrassing prospect for Glenrand MIB and its distinguished board of directors (Allan Mansfield, Mduduzi Kunene, Richard Cottrell et al).

After the Industrial Development Corporation forced New Protector into provisional liquidation last September, the liquidator sold four hospitals off the carcass to Medi-Clinic for R120m. An adverse finding by the Competition Tribunal could see this deal set aside.

■ In a reshuffle at Glenrand MIB, David Harpur will step down as CEO from 7 September to be replaced by Steve von Roretz. Harpur, 56, has been in the insurance broking industry for 35 years and is to take a less stressful role as a non-executive director. Of our "White mischief" article in the last issue, he says: "I don't want to get drawn on any comments, other than to say it was slanted and not completely factual." ■

Whetstone: battle looms over Berco's Xmas turkey

CHRISTMAS 1999 held no glad tidings for the directors of venture capital company Whetstone. Papers presented to the Cape High Court in December reveal panic and disarray among a group of anxious men short of funds and desperate to sustain a crumbling business venture.

Readers may recall from "Whetstone limited: the lawyer in the woodpile" (*nose37*) the ugly mud-slinging match between two Whetstone rogues – the company's attorney Craig Delpert, and Simon Ferguson, the man who claimed to have brought Whetstone's flagship product Olpex (the "wonder additive" that would make cars go further on less fuel) to South Africa. Ferguson alleged he was the victim of Delpert's vindictive personality, as Delpert – Ferguson's one-time attorney, wrested control of Whetstone from him. Delpert, in turn, would claim Olpex was a fraud, and Ferguson a fugitive from British police – but only after Whetstone's creditors applied for Whetstone's liquidation in mid-2001.

Recent court records reveal what Delpert and the Whetstone directors were up to before the company creditors shut them down. And, quite frankly, no one appears as innocent as they've claimed.

In the nine months between Whetstone's JSE listing and Ferguson being

shunted out, only one buyer had shown interest in purchasing Olpex (a Nigerian company that paid \$100,000 for the rights). In those same months the directors had blown R15 million raised in the listing and a cash-flow panic gripped the company. Peter Willig was brought in as the "turnaround man" to solve the cash crisis.

Buyers for Olpex still failed to appear, and the directors agreed they needed to peddle more Whetstone shares. While most people enjoyed the Christmas holidays, directors Willig, Delpert, Donald Benning and ex-Protea cricketer Stephan Palframan spent their festive season knocking on doors trying to sell worthless shares. But there were no takers, the company had not paid any dividends and there were questions in the market place surrounding Olpex's credibility.


To ease the strain Willig suggested they sell Expressit, Whetstone's air-courier business. It is this transaction that now enjoys the attention of liquidators who claim the directors of Whetstone and Expressit seduced Berco, a leading courier company, into buying their fledgling air-courier business with grand promises and false assurances.

In meetings with Berco's CEO Bernard Cox and chairman Stuart Maxwell, Whetstone

To page 32

Any information?

On 4 May a young white man named Brian hobbled into the Wits dental clinic at Johannesburg hospital. He wore a metal spinal support; his face was a mass of deep scars; his teeth loose and broken. Brian told fellow patients

that he had been beaten up by police, whom he was suing for R2.5m. Would Brian or anyone who knows about his mishap please contact Nick Dudley at *noseweek*: tel 021 686 0570; or email jknoise@iafrica.com 

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PFC293

Blonde pinup Varenka tries to pin down her Mandela originals

ACCORDING to usually reliable sources, the original author of the Robben Island series of “Mandela” artworks, Varenka Paschke, is outraged by what she has recently learned in the press about who profited from the sale of her artworks. In a statement said to have been handed to Mandela’s lawyers in the past month, she claims to have drawn the pictures – without payment because she had been misled into believing that they were to be sold for the benefit of the Nelson Mandela Children’s Fund. Now she wants her pictures back.

In his own affidavit handed into court in support of his action against his former attorney, Ismail Ayob, Nelson Mandela has himself accused Ayob and dealer Ross Calder of “relying on the false and misleading representation that the proceeds, or portion of the proceeds of sales of such objects of art ... are for the benefit of the Mandela Foundation or the Children’s Fund.”

In May last year Calder allegedly admitted to Mr Mandela’s London attorney, Iqbal Meer, that he had sold Mandela artworks for R33 million in the previous 14 months, and that he had taken one third of this amount as his commission. The balance he had

paid to Ayob. Calder also told Meer that he had further stock on hand worth R18 million.

Mandela contends that all the trading under the banner “A Touch of Mandela” constitutes “unlawful competition and passing off”.

There is now also clear evidence that a signature machine was, in fact, used to apply an imitation of Mandela’s signature to many of the artworks that have been sold as “original”. On the signed, leather-bound copies of his autobiography being sold by Calder through various galleries around the world (for R33,000 a copy), Mandela says the signatures in them that purport to be his were “imposed by other means that are unlawful.”

Mandela’s own account of his art career hardly contradicts Varenka’s angry claims. He recounts how, during 2001, Ayob suggested to him that he should “develop” certain artwork, to be sold at a profit. Mandela agreed, provided part of the proceeds went to his two charitable trusts: the Mandela Foundation and the Children’s Fund.

He then asked Ayob to “attend to the commercial arrangements relating to the development of the artwork.” Subsequently he “received art lessons” arranged by Ross Calder (who was to sell the artworks) and “completed” (note: not “did”) the works titled: Window; Cell with Belongings; Lighthouse; Harbour; Church; and Motivation – the first Robben Island series.

References elsewhere in the court papers to the drawings that were, in fact, materially produced by Paschke, are even more cautious. For example, Mandela also refers to the “artworks which bear my name or reputation, or which reflect my life experiences” and “the limited series of artwork that I associated myself with”. ■



For sale: Despite that somewhat distasteful business (dare we mention it?) of her involvement with the Touch of Mandela project, artist by appointment to lawyers and presidents, Varenka Paschke, doesn’t appear to have suffered unduly from the experience.

There, at a branch of Woolworths, as Mr Nose was browsing through the lingerie section (on behalf of Mrs Nose, of course) he spotted Varenka on a poster appropriately behind a ‘Just Arrived’ sign (bottom left). The image, one of several of the painter looking pretty as a Madiba picture, is part of a series in the fine goods chain featuring young South African artists, accompanied by meaningful quotes. Varenka’s unforgettable words read: ‘To understand South Africa’s chaotic harmony, explore it through the universe inside yourself’.

A case of lost in space?



Mozambique's born-again Stalinism

President Guebuza combines liberal economics with hard-line politics

TREADING the boards at the World Economic Forum in Cape Town last month, President Armando Guebuza, impressed the delegates as a witty and thoroughly modern business-minded reformer. Odd then that one of Guebuza's old comrades described him as "Joseph Stalin meets Deng Tsao Ping", adding that few African leaders have taken the Deng era slogan – "to get rich is glorious" – more to heart than Guebuza.

After his election in December, Guebuza is putting his own stamp on government, and realigning his ruling Frente de Libertação de Moçambique

(Frelimo) in his interest. His cabinet is a reminder of the former one-party state, and includes old-guard figures ditched by ex-President Joaquim Chissano to soften Frelimo's image when multiparty democracy was introduced in the 1990s. The inexperienced Minister of Foreign Affairs, Alcinda Abreu, headed Frelimo's lifeless single-party "mass organisation". Feliciano Gundana, a guerrilla leader in the independence war which ended in 1992, is in charge of veterans' affairs.

Although associated with hardline policies and past abuses, Guebuza is pragmatic and wealthy. He signals his commitment to the policies agreed by

Chissano's government with Western donors, focused on poverty reduction and liberal economics. Chissano's style was moderate and consensual but Guebuza has a tough, top-down approach to getting things done and ending the drift and corruption of recent years. His calls for discipline and sacrifice appeal to Frelimo's revolutionary origins.

Law, order and justice (all of them weak) are his priorities. The rising political star José Pacheco, a former provincial governor, takes over the corruption-prone ministry of the interior, aiming to clean up the police

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and advance law and order. The new Minister of Justice, Esperança Machavela, is meant to shake up the court system, now in near paralysis with a backlog of over 100,000 cases. With his vast business holdings in almost every economic sector, Guebuza knows the importance of contract enforcement and the quagmire of Mozambique's bureaucracy.

Chissano and his allies have been sidelined more quickly and brutally than anticipated. Only four ministers were reappointed, one of whom, the uninspiring Minister of Defence, Tobias Dai, is Guebuza's brother-in-law. The previous Foreign Minister Leonardo Simão, and Finance Minister, Tomaz Salomão, are out. Salomão was respected, competent and successful; he spearheaded the market reforms that

bly continue to focus on South Africa, to which it is closely linked in trade, investment, politics, travel and culture. That will involve a political alignment with President Thabo Mbeki, tested by some key votes in the Southern African Development Community.

With Portugal Guebuza takes a tougher line, believing that he can get leverage by exploiting the old anti-colonial strain. First, he wants Portugal to hand over majority ownership of the gigantic Cahora Bassa hydroelectric dam; in March he said he wanted it in three months. Portugal has persistently refused this claim, at least until the dam company's US\$2 billion debt is paid off; Mozambique is asking for majority ownership without paying or assuming liability for the debt. The issue was not resolved by a

Chissano and his allies have been sidelined more quickly and brutally than anticipated

underlay the economic successes of the last decade – but faced resistance from Frelimo's statist old guard and was demoted to transport minister in 2000.

Chissano had been expected to carry on as party president, safeguarding its liberal aspirations, but on 4 March he announced his resignation. Guebuza, who had wanted his predecessor out, has since headed off resistance from Chissano's supporters. With his usual pragmatism Chissano chose to withdraw rather than fight, hoping to preserve his influence by other means. Guebuza offers assurances that Chissano's allies will not be targeted, but they feel abandoned.

Guebuza will work for closer relations with traditional allies Zimbabwe and Angola. Relations had become strained under Chissano, whose moderate, multilateral inclination, backed by Foreign Minister Simão, led him to support negotiated settlements. He annoyed the neighbours by refusing to back military intervention by Angola, Zimbabwe and Namibia in Congo-Kinshasa's civil war in 1998, and by publicly urging negotiations between the Movimento Popular de Libertação de Angola (MPLA) and the União Nacional para a Independência Total de Angola (Unita) to end Angola's civil war. Relations have recently improved, and Guebuza will wish to make them better still through his new Foreign Minister, Abreu. Mozambique's regional policy priorities will inevitably

telephone call between Guebuza and Portugal's newly elected Socialist Prime Minister José Socrates on 6 March. The Portuguese are relieved that the negotiations will no longer be led by the intransigent Manuel Chang, now Maputo's Minister of Finance.

Guebuza wants to shed his image as the Soviet-style leader responsible for previous disastrous economic and political decisions. Pragmatic realism, technocratic continuity and party cohesion are his watch-words. But it may turn out that the economic and political success of Chissano's rule was inseparable from the liberal politics, including national reconciliation and some respect for opposition, that underpinned them. Guebuza's robust assertion of political and economic hegemony could unravel a decade of success with growth rates of more than 7 per cent. His vision offers little space for anyone outside Frelimo; political pluralism, independent institutions, and good relations with the opposition, could all suffer. The largest opposition group, the Resistência Nacional de Moçambique (Renamo), is restive after the electoral fraud that Frelimo inflicted on it at the recent election. Stalinist politics and market economics have powered record breaking growth in China but may prove more problematic in an economy as small as Mozambique's. ■

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Scramble from Africa

OPPPOSITION is mounting to the British government's plans to close its embassy in Madagascar – just as the country is on the brink of securing major new mining and oil investments and its economy is growing at nearly 7%. Madagascar's President Marc Ravalomanana is reportedly perplexed at the British exit just months after his government awarded Britain's Geological Survey group a US\$7m contract amid growing optimism about the country's economic prospects. Questions are to be asked in both chambers of Britain's parliament.

South Africa, Norway, Thailand and Senegal are all opening embassies in Antananarivo and the US is increasing its presence on the island after concluding a \$110m Millennium Challenge Corporation project agreement with Ravalomanana's government.

A former British diplomat described the Madagascar closure as "a major blunder" by Whitehall. It is part of a pruning of embassies and high commissions following the diversion of resources from Africa to finance the security needs of British missions in Afghanistan and Iraq. The timing of the closure is particularly awkward for Prime Minister Tony Blair's "big push in Africa". Britain is closing eight embassies and high commissions of which three will be in Africa: Madagascar, Lesotho and Swaziland. To forestall opposition, Whitehall mandarins have brought forward the closure date to August from December. ■

Kebble and SARS: what's the agenda?

From page 8 initiative within the ANC, the Mbeki-led efforts at dialogue with the apartheid state.

In the midst of negotiations, Mbeki was confronted by the Nationalist Party negotiators with evidence of a secret ANC unit, Vula, of which he had been unaware. FW de Klerk sanctimoniously charged the ANC with secretly plotting insurrection while negotiating a settlement.

Some sources believe Mbeki was so angry that, in effect, he allowed the Vula network to be hung out to dry. Maharaj and others were arrested and released on bail only after the Pretoria agreement with De Klerk had already been signed.

(In the same issue of *noseweek*, we reported on a group called Congress Consultants that had been formed in the early 1990s as a kind of guerrilla intelligence network to give Thabo Mbeki independent intelligence on what was happening in the country and in his rivals' camps. It ensured that Mbeki was well informed about the activities of his opponents and their allies – and many were subsequently sidelined, among them Mac Maharaj, Pravin Gordhan, Jay Naidoo, Tokyo Sexwale, Mathews Phosa.)

Where are the Vula Boys now? They are positioned strategically throughout state structures. The Shaik brothers' mentor, that stalwart communist academic Pravin Gordhan, like Maharaj, was unlikely to be welcomed into Mbeki's political structures; instead he heads the SA Revenue Service, where he has been joined by old comrades Vuso

Shabalala (customs), Ivan Pillay (special investigations) and Sirish Soni. (We shall have more to report about Soni, too, in due course.)

There are clearly ideological issues involved in the conflict. Maharaj, Gordhan and company were associated with the ANC's left wing.

At least two of the Shaik brothers have privately expressed concern at the "crude Africanism" espoused by some of Mbeki's acolytes.

noseweek reported in 2001 that, in the course of their arms-deal inquiry, the Scorpions had taken an interest in the relationship between Maharaj, Gordhan, Zuma and the Shaiks.

We now know that they have investigated Maharaj, Zuma and the Shaiks – but what of Gordhan? And why would they have been investigating him?

We do know, thanks to *Rapport*, that, at the request of Shaik, SARS Commissioner Gordhan solved a tax problem for the billionaire AM Moola group. This personal service, explained a spokesman for SARS, was part of Revenue's open-door policy. But then *Rapport* also told us that Gordhan's brother-in-law worked for Schabir Shaik – and we know that Shaik's father-in-law, Ahmed Vahed, was an AM Moola director. Maybe all that tells us is that the relationships have remained close.

So, back to Mr Kebble and SARS: is the revenue service's failure to tax Mr Kebble due to the proverbial cock-up factor, or is it simply a quid pro quo for his support of the Vula Boys? ■

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Picture: Louise Cubb/Corbis

Motswana lawyer Duma Boko, right, discusses with his Bushman client, Jumanda, left, a judge's court order, while leading Bushman plaintiff Roy Sesana looks on

Bushmen fight for their lives

BOTSWANA has deported Professor Ken Good, an Australian who has taught political science at Botswana University for 15 years. The professor has long been a critic of the government's "repressive" policy of forcibly driving clans of Bushmen from the Central Kalahari Game Reserve, where they have lived throughout recorded history.

President Festus Mogae issued a decree ordering Good's deportation. The professor appealed, but on May 31 three appeal judges confirmed the president's right to decree his deportation. Plainclothes police then took him from the court to his home, where he was given 10 minutes to pack. From there he was taken directly to Gaborone airport and put on the first flight to Johannesburg.

The International Press Institute and Ditshwanelo (The Botswana Centre for Human Rights) issued statements criticising Good's deportation.

Mogae then explained that he regarded Good as a "threat to national security" because of his "links" with Survival International, a London-based NGO whose stated aim is to "help tribal peoples defend their lives, protect their lands and determine their own futures."

Survival International has been funding a court application by the Bushmen – based on their rights under the Botswana constitution – to be allowed to return to the Kalahari, from which they were forcibly expelled (coinciden-

tally, the government claims) after the discovery of major diamond deposits and a rush by diamond companies, including De Beers, to stake claims in the territory. [See *noses*39&42.]

Survival has also run an international media campaign to raise international awareness of the human rights issues involved.

Mogae described the international concern over the professor's deportation as a "big hullabaloo over the deportation of a single, solitary white man".

He also accused Good and Survival director Stephen Cory of having "written numerous documents in which they described Botswana's diamonds as blood diamonds." Both men deny it.

Professor Good had his two computers stolen in separate incidents within 10 days of each other. The Botswana newspaper *Mmegi* reported that Mogae ended a recent press conference by "volunteering information on a question nobody had asked, by denying that his operatives might have broken into Good's house and stolen his computer."

Good's response: "I have never described Botswana's diamonds as 'blood diamonds', nor have I ever 'teamed up' with Survival International to sabotage Botswana's 'diamonds for development' campaign. I have corresponded with Survival, as I have with a huge number of academics, journalists, and other NGOs. The only way Mr Mogae would know of my email cor-

respondence is if the government had seen the contents of my computers."

Meanwhile, in June a government witness in the Bushmen court case admitted that there was in fact no evidence that Bushmen living in the Central Kalahari Game Reserve had been hunting using guns and vehicles, or hunting too many animals.

The government has repeatedly justified the evictions by claiming that the Bushmen had "radically changed their traditional lifestyles" and regularly hunted animals with high-powered rifles from four-wheel drive vehicles. De Beers has followed suit.

The witness, Joseph Matlhare, former Director of Wildlife, also failed to support his claim that Bushmen had a serious negative impact on the ecology of the reserve before they were evicted in 2002.

Asked whether mining for diamonds in the reserve would not cause an unacceptable disturbance from an ecological point of view, Matlhare answered, "If you're going to mine anyway, you would have to accept the disturbance."

■ In an interview on US National Public Radio, investigative journalist Tom Price has reported that "Aids is destroying what was a very healthy and vibrant community" of Bushmen who lived in the Kalahari Desert but in 2002 were relocated by the government of Botswana to resettlement camps.

According to Price, before the resettlement, the approximately 2000 Kalahari Bushmen had "largely avoided" exposure to HIV because of their isolation in the desert. Now the alcoholism, rape and sexual abuse that occur "regularly" in the resettlement camps contribute to "startling" rates of HIV/Aids among them. "The government doesn't want to do a survey and find out just how bad it's getting," he added.

And in a high-profile article published in April, the BBC's World Affairs editor John Simpson also tells how shocked he was by his visit to the Bushmen now living in a resettlement camp called New Xade. "When the Botswana government takes foreign guests to New Xade on fact-finding trips, it shows them the showcase schools and clinics that have been built. [The guides] take a detour in order to miss the shebeens."

Simpson highlights the Botswana government's attempt to remove from Botswana's constitution the clause that protected the Kalahari Bushmen. The UK's *Independent* newspaper has noted: "The [likely] scrapping of the clause, halfway through the Bushmen's court case, appears designed to ensure that the Bushmen cannot win." ■

Proudly South African weeds for the world



Dodgy seeds are being spread around the planet by respectable organisations, such as Kirstenbosch, that should know better

in or native to that place, but marketing imperatives lead respected organisations to overstretch this simple word. Artificial hybrids are not naturally found anywhere. If they are native to anywhere, it is the greenhouse in which they were made. Although this might be in South Africa, the use of the word “indigenous” implies that they are wild species, which they plainly are not.

species to heel. Normally, the biological agent used is a natural enemy from the plant’s native region that didn’t travel along with it, and whose absence helped allow the plant to become invasive.

Australian scientists trying to kill off the *Lantana camara* that covers four million hectares of their country have trialled over 30 different species of insects on it with little success. This is because *Lantana camara* is not a wild species, but a hybrid between various *Lantana* species from Latin America developed in European greenhouses in the 1800s. Being a variety that had not evolved in the wild, there are no insects that have developed along with it that specifically feed on it. Australia will probably never be rid of it, and neither will we.

Some hybrids, like the Proteas referred to last issue, form accidentally. Others are the creations of horticulturists, who spend their lives artificially hybridising our species in greenhouses.

These are often promoted as “indigenous to South Africa” by nursery companies like Starke Ayres and organisations like the Botanical Society of South Africa (BotSoc) and the South African National Biodiversity Institute (SANBI, formerly known as the Botanical Institute of SA).

If something is “indigenous” to somewhere, it means it is naturally found

The Kirstenbosch National Botanical Gardens is developing a new section called “Weeds South Africa gave the world”. Right on the doorstep of BotSoc’s offices in the Gardens, it is presumably intended to educate us about the dangers of unthinkingly spreading plants around the planet, and that in terms of alien invasives, we can give as good as we can take. Signage in the section draws visitors’ attention to the Sour Fig, *Carpobrotus edulis*, which has become a hated weed in the USA, UK, Mediterranean Europe, Australia and New Zealand, and various Watsonias that have a bad reputation in Australia, New Zealand and the USA.

Oddly though, no one running Kirstenbosch seems particularly serious about not further spreading these plants. Nose Ark bought a packet of Sour Fig seed under the brand Sower’s Seed at a Kirstenbosch gift shop, where many kinds of seed including many hybrid varieties are sold to all comers. The Kirstenbosch Seed Catalogue for 2005, endorsed by BotSoc and SANBI, and from which anyone can order nationally and internationally, contains 10 varieties of *Watsonia*. If you don’t want to buy them individually you can get a pack of “*Watsonia* mixed species and hybrids”.

In nose68 we looked at how the blanket assumption that indigenous plants are good to grow can cause serious problems for our wild species (“Frakenflora”, p30-31). Plants taken from outside their natural area of distribution can either become weeds (“invasive aliens”), or hybridise close relatives out of existence by “polluting” their gene pools.

Humans have been hybridising and moving plants around for as long as we’ve been civilised, and of course not all hybrids or introduced species are bad. But hybrids, too, can become weeds, and hybrid weeds can be more difficult to control than “pure” types

An example of this is *Lantana camara*, a pretty and very poisonous plant that has escaped the garden and become extraordinarily troublesome globally, including in South Africa.

One of the better methods of controlling plants that have become weeds outside their area of origin is via biological control: biological agents like insects or diseases are used to bring a rampant

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Kirstenbosch has stumbled upon an extremely effective means of conserving South African plants. If they become weeds in half the nations of the world we can be sure they'll never go extinct. (We wonder if it's not overly cynical to think

This might work someplace like Australia where they actually have alien species legislation, assuming that importers follow the law.

But there is no effective control of plant material over much of the globe.

Australia will probably never be rid of Lantana, and neither will we

this is also a brilliant income strategy for conservation organisations. Profit by selling weeds, then rake in grants to eradicate them. Win both ways!

To be fair, the catalogue has a fine-print warning about the dangers of alien species (although we could find no similar signage in the gift shops), and advises growers outside SA to consult their local authorities on which species are invasive or illegal to import.

Some countries, including China, don't even require a basic permit to import foreign species.

On a recent visit to the Kirstenbosch gift shop, the Ark observed a busload of tourists snapping up tens of packets of seed, while chatting excitedly in Mandarin Chinese.

** This is because they make more money doing this than propagating "pure" wild species, but more about that another time. ☑*

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Berco and the Whetstone Xmas turkey

From page 23 directors Willig, Delpert and Benning claimed that Olpex was generating “millions” for Whetstone so it did not actually need cash – while Expressit would make R10 million pre-tax profit by June 2001. They emphasised that they had the support of the majority of the shareholders for the sale of Whetstone’s major (and probably only real) asset.

Berco’s interest was pricked and a sale agreement was signed in May, giving the Whetstone directors until 30 June 2000 to get JSE approval for the sale. In the meantime R10 million was transferred from an overly trusting Berco to Expressit in order to pay creditors.

But it was not only creditors who were paid. Instead, Willig, Delpert and Palframan transferred R3 million to Whetstone. With that, they paid the Expressit directors’ outstanding salaries and bought their shares in Expressit. The bill came to R1.3 million. Willig and Benning were among those lucky Expressit directors.

Willig and Delpert continued to appease Cox and Maxwells’ concerns over the fact that the JSE approval for the sale had not been obtained by the end of June. They even managed to persuade them to agree to wait another year for the JSE approval.

Over those next 12 months, Berco was

persuaded to lend Expressit still more money: first another R7.8 million, and then a further R8.5 million to pay more anxious creditors. The air-courier company did manage to repay Berco R6.6 million, which left its overall debt to Berco at R19.7 million.

By mid 2001 the JSE approval had still not been granted. The truth of the matter, hidden from Cox and Maxwell, was that Willig, Delpert, Benning and Palframan did not enjoy the support of the majority of their shareholders, a prerequisite for JSE approval. And Olpex was worthless – in fact in their dispute with their former co-director Simon Ferguson, they had themselves contended as much. And by now Whetstone’s own creditors were threatening to apply for its liquidation.

The sale fell through and Expressit was put into liquidation in September 2001. Now, after an extended enquiry, the liquidators are holding all the directors of Expressit and Whetstone responsible for misleading Berco and are suing them personally for the return of the R19.7 million. In response the directors contend that, since the company is insolvent, they should not be required to defend the court action unless the liquidators put up R1 million as security for each directors’ legal costs. The application for security for costs has been set down for hearing in August. ■

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Distell holds court

AM I ALWAYS bashing Distell? Someone recently wrote into the Grape website (which I edit) suggesting this – whether the writer was complaining or complimenting was not entirely clear. If I am, it would be because Distell (producer of Nederburg wines, the good Fleur du Cap range, and a slew of alcoholic stuff of which Amarula Cream is by far the most profitable and the most deliciously ghastrly) is the biggest and richest force in the SA wine industry, and has shown that it needs close watching – and occasional bashing.

In fact, ever broadminded, I have often praised some Distell wines, including fine-value Tassenberg in this very column. But let's do some bashing where it's due – though a more appropriately modest image would be of a mouse kicking at an elephant.

Months ago in this column I discussed the sad official situation of riesling in South Africa. Here, alone in the world, the noblest of white grapes must perforce be encumbered with the prefix 'weisser' or 'Rhine'. Meanwhile a rather inferior variety, properly called cruchen blanc, may misleadingly offer its lacklustre fermented juice as riesling, with regulatory blessing – a shameful misappropriation of name and reputation that you'd expect a proud industry would want to bring into line with international practice. (They wouldn't be allowed to export to Europe the stuff they call riesling here.)

There have been attempts over the years to do just that – always thwarted by entrenched interests. Another try was made recently, with an investigative working group set up by the Wine and Spirit Board. One of the representatives on this body was, of course, Distell. Why of course? Because Distell always seems to be represented, especially when its interests might be challenged.

Not surprisingly, the company vigorously opposed any change: it sells much more spurious 'riesling' than it does the real thing, and also distributes

Tim James hits the bottle



the Theuniskraal version. Nonetheless, the group majority supported bringing cruchen blanc's masquerade to an end, over a reasonable period; so Distell pushed a minority report.

The Board, charged with enforcing the authenticity of Cape wine, went with the minority, claiming, inter alia, that change 'could infringe constitutional and trademark rights'. Presumably Distell had indicated that it might sue if it didn't get its way (though a successful lawsuit seems doubtful, given precedents), or else it just exercised its winning charm....

This is not the first time the Wine and Spirit Board has shown itself amenable to Distell's arguments and perhaps sympathetic to Distell's profits. Another sorry tale concerns Distell's River Dew range of 'coolers'. For years these concoctions of water, wine, sugar and flavourants bore names on their labels like 'Blackcurrant Cabernet', supplemented by 'A classic cabernet infused with blackcurrant'.

Such misleading reference to grape varieties on this sort of beverage is expressly forbidden by law. Yet the normally vigilant labelling authorities allowed Distell (and a few other big-business producers) to get away with

it. The Wine and Spirit Board had even been persuaded to propose changing the law to accommodate them. Naturally, Distell was on that working group too, though there were no representatives of the cultivar-grouped associations of producers whose interest in building the reputation of their wines would be damaged by this association with flashy, trashy beverages.

Once this had all been noticed, a lot of lobbying eventually led to the Board backing down, and Distell was obliged to acquiesce. Just so that they wouldn't be too inconvenienced by obeying the law, they were given a year in which to change their illegal labels. Now at last (somewhat later than expected) a new River Dew label is appearing. The varietal names have gone, and instead we have 'Blackcurrant cooler: A classic red wine infused with blackcurrant'. The 'classic' bit is mere nonsense, of course; but certainly this sweetly insipid beverage (half water) is not 'wine' by any definition. The authorities have once again allowed through a Distell label which would appear to conflict with the law.

This is not a company unserved by lawyers (as is well known by anyone who comes within a breath of infringing one of its own multitude of registered trademarks). Chief of Corporate Affairs, Andre Steyn, is himself a lawyer. Can they not somehow manage to read the simplest parts of the Liquor Products Act, where wine is defined? Or do they think they can get away with ignoring it?

Trouble is, they've got away with it in the past. If those who watch over the Cape wine industry wish, like the more farsighted and ambitious producers, to build an industry based on quality and integrity, it's time to think more about the prevailing balance of power and influence. The Wine and Spirit Board earned credit recently for the forthright way in which it handled the so-called 'flavourants' scandal – surprising some observers with its willingness to finger the mighty KWV. It would be nice if it always showed that sort of resolution. **W**

Boeries roll

by HAROLD STRACHAN

I T OCCURRED to me in Durban Central that one spent all one's time either vertical or horizontal, either standing about or lying flat on the concrete floor on a felt mat. I mean we didn't have chairs and tables and beds and things, Lord love you no, just this centimetre of felt, on which one could sit, of course, if one didn't mind having an arse like underneath a rhino's foot after a month, also haemorrhoids, though on balance it was easier just to get used to a horizon running from forehead to feet and converse across the floor whilst migrating herds of roaches roamed hither and thither over hill and dale, the hill being one's person.

It also made for relaxed conversation, of course, even desultory, in fact one would often drift off into full REM sleep whilst talking. Ja, seg ou Spoekie van der Geest, shortly before drifting off, I sometimes think I could of been a properly employed person earning a proper wage, laaik, had I but been given a chance in this world. Ja, ou Spoekie, dis 'n bogger, jong, I reply, nodding off, what sort of job do you have in mind, hey? No, seg ou Spoekie, I thought maybe with the Durban Municipality, laaik. You know, watching coons digging holes and things....and he's gone!

And here this very day nogal is one such a ou! Leaning against a post while his impi of pickaxe warriors thump in unison at the asphalt road. How has his species survived since 94? Is he as the last lonely Neanderthal under onslaught by the Cro-Magnons? He yawns. He picks his nose. Lunchtime, he declares. All drop tools and make for the plastic sandwich-boxes.

A bloody huge Zulu constructed on the anatomical pattern of Cetshwayo hauls from somewhere a bloody huge boerewors roll constructed on the degustational pattern of a Mark 9 torpedo. Stick a cow entire through a bloody huge mincing machine hooves horns and all and squeeze it into an edible plastic tube and cut it up into lengths of 30 cms and paint it all over with hellish chilli mustard and stick it in a bloody huge 14-inch roll and *voila!* *Saucisson au fermier sur petit pain bucolique!*

He aims to eat this thing neath the shade of a tree over there on the traffic island. He joins me at the robot, waiting for the green man. So does a really chic chick with a small whiff of good



Cetshwayo is transfixed, entirely consumed with lust and hopeless hunger

perfume about her; none of that heavy Click's scent my charlady uses. She spent hours getting her hair done, it's clear, in that way that looks like crop circles. Her earrings are real jasper. Nothing flashy about this lady. This is elegance.

Oh man!

Mrs Cetshwayo, you can bet your life on it, is one of those bloody huge traditional phutu mamas; make a tiny slit in her skin, anywhere, and you will see she is full of mealie-meal, lots of it, three times a day. You are

what you eat. Make a small slit in Crop-circle's skin, anywhere but boob and bum, and you will find she is full of lettuce. Lean, there's no subcutaneous fat anywhere but at breast and buttock, and plenty there; important aspects of Zulu culture endure.

She eyes Cetshwayo's boeries roll. Here, says he at an impulse, have a bite. She slowly bares her teeth, long, slightly irregular, no piano keys here, white, wet, slightly translucent in the bright sunlight. The sun shines into her mouth a bit, pink and moist. She slowly sinks her teeth into the sausage, you can hear the skin quietly pop. Mustard squirts round her lips. Cetshwayo is transfixed, entirely consumed with lust and hopeless hunger. She daintily swallows, and slowly licks round her mouth with a dainty pink tongue. Cetshwayo points to a spot of residual tomato sauce and she licks that too. He wishes he could do it. Come to think of it, so do I. She sucks the sauce off her fingers, one by one. He watches every finger getting done; so do I. Even that would do.

She checks Cetshwayo straight. Thank you, father, she says with some spite, and sways off to the Green Man. No tarty high-heels to unbalance one, this is all poise. The Green Man goes red again, we have forgotten to cross the road. How old are you? I say to him. Forty, says he, how old are you? Eighty, say I. We are never too old, says he.

We look around. Even Neanderthalensis has opened his eyes, he no longer leans on his post. The plastic sandwich-boxes remain unopened. One is reminded of the Angel of Mons; the sudden eerie silence in the midst of Life's hubbub. A car slowly rolls to a stop at the Green Man pole; not an accident or anything, and the driver hasn't stopped for any apparent reason, he's just looking, that's all. **W**

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