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JULY 2006

Mbeki's secret French Connection



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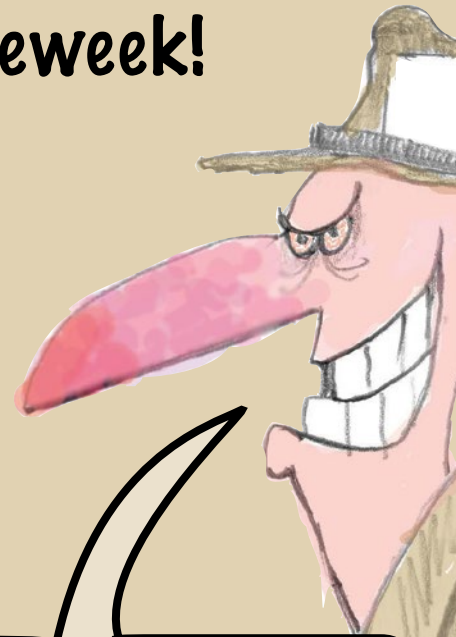
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Cover illustration: DR JACK

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Jew process of law

What possible relevance can there be for consistently mentioning the religious affiliation of some of the characters who played their roles in the fiasco regarding the Werksmans law practice (*nose80*)?

For instance, what is a “Jewish specialist” corporate partner? Is he the same as a “Christian specialist” corporate partner? Could an Afrikaner be a follower of the Jewish faith? Is religion language-related? If not, why mention it?

You do this quite often; do

Power, lies and Werksmans

Your report on the “restructuring” at Werksmans (*nose80*) was brilliant!

I work in the lower ranks, but find myself in the same nasty clutches of power, lies and deceit as Carl [Stein] did.

Now at least the world knows what’s happening here. If it weren’t for you, well ... I think a lot of people would feel they were farting against thunder.

Werksmans employee

Johannesburg

Fire the head cheeses

I’m appalled at the indecent fees paid to corporate

allowed it should be replaced with competent individuals.

Clive Varejes

By email

Could you suggest a cheap headhunter to find the replacement CEOs – Ed

Putting a damper

The street and area NoseArk describes in “Greenie, green thyself” (*nose80*) must have the most uncaring, arrogant water wastrels in the province. I live around the corner from Morgenrood Street and regularly walk my dogs in the neighbourhood.

A yellow face-brick house

“rip-off”. That said, surely these wines only become “serious” or “grand” (Mr James’ terms) after the five to 20 years it takes for them to mature? If this is so, then surely the price paid for them should include the cost of their proper storage over that time? Let the vendor coddle the bottles, Molly! Meanwhile, it seems there are enough “label drinkers” around to justify these usurious prices for apparently undrinkable immature wines.

Finally, after much soul-searching and angst, I have decided to forego my case of preferred plonk this month and instead invest R220 in renewing my *noseweek* subscription. Lasts longer, no lingering, bitter aftertaste – what did I expect for R220? – and no glass to recycle.

Michael Webb

Rondebosch

What is a ‘Jewish specialist’ corporate partner? Is it the same as a ‘Christian specialist’ corporate partner?

you have a pertinent reason for this?

Eddie Windsor

Wetton

We hate to see a good Jew fucked around by a bunch of Yoks. Seriously, we generally mention ethnic or religious affiliation only when (at least some of) the players in the story themselves regard these as relevant. If that means often, well, this is South Africa, after all. – Ed.

headhunters. After reading your article “Who gave Sasol head?” (*nose80*) I did some investigation and found that the fees can amount to 35% of the first year’s gross salary. This is way higher than the international standard.

I honestly feel that, if this is what a company is paying an “independent headhunter”, whoever authorised that payment should be fired, and perhaps the board of directors who

in Baker Street is being ripped-apart for refurbishing and the once tidy little terraced garden is now a pile of bricks and rubble.

As I passed, I saw that the irrigation system was squirting streams of water all over the destroyed garden. Inspired by your column, I stopped and politely told a jolly little group of brickies busy chopping cement off piles of yellow bricks that they were wasting water. Besides telling me that the automated sprinkler system had “shorted out” and now comes on for a few hours every day, they also told me to mind my own business and, for good measure, yelled a hearty “*jou ma se p@#s*” in my direction. They also said something about a “cheeky wit vark”.

Name withheld

Mowbray

Vintage wine column

I enjoy Tim James’ wine column and would be happier still if it were to spill over and fill the next page as well, obliterating the mental wank that is Last Word.

Referring to Mr James’ June column, I cannot contemplate the phrases “five hundred rands” and “a bottle of wine” used in a sentence that does not also include the words “outrageous” and

Man’s intolerance: who cares?

What is happening to your magazine? In *nose80* you tell the tragic tale of the man who shot the dog – four years ago! Surely there are more pertinent things to be investigating in this country of ours? All that article confirms is the intolerance of mankind. Other than that, I don’t think it is of interest to anyone apart from those involved. Here’s hoping you get back on track.

Lou Burger

Cape Town

We’re on track; all you need do is get on board and start enjoying the passing show. – Ed

Unwholesome Holcim

Your article “Where there’s smoke” (*nose79*) was very disturbing, especially in light of the fact that Holcim are planning to put up a “blending platform”, to do exactly what is described in the article, at their Florida factory on the West Rand. This is within one kilometre of Soweto, as well as the residential areas of Florida. At the moment they have an environmental impact study on view at their factory and at some other venues. I urge

GUS



“Were it not for your obsessive compulsive disorder, you would just be an idle slob.”

Structure of power

Due to a series of disastrous power failures in the 1990s, the city of Ponacel in South America totally banned elevators. Renowned for its high-rise residential and commercial buildings, the impact of this on the population has been profound.

An early effect was a steep increase in heart attacks but, as the population got fitter and stronger from climbing endless stairs, the incidence of heart attacks plunged a staggering 45% from the pre-ban high.

A side-effect of this increase in general health was the rise in serotonin levels, thanks to the beneficial effects of exercise and a concomitant upsurge in traditional cocaine and coca leaf use. A survey conducted by the Cocarl University suggests that cocaine use increased in proportion to the height of office or apartment.

There have also been curious sociological changes. The well-to-do began to favour the lower floors, while the higher floors were occupied by the poor but healthy, who enjoyed better views.

This situation, according to the Marxist Emmanuel Klug, creates a situation classically conducive to revolution – Spartan versus Epicurean.

However, he said, such a revolution, thanks to the mood-enhancing effects of serotonin and endorphins will be neither angry nor violent but cheerful and simple. The poor will move down. The rich will shift up, immediately becoming a counter-revolutionary force. The middle-classes will, of course, be immured from change.

As the Indian writer Vikram Tagore put it:
“A living analogy of karma in action.”

Gus Ferguson

everyone to go and look at it and voice their objections, based on your report.

Mike Zimmermann
Weltevreden Park

Scary in my backyard

The piece in *nose79* on the burning of hazardous waste in the cement industry was scary enough. But now it's about to happen in my own backyard.

Holcim intends building a waste-processing facility in the middle of the densely populated West Rand, which is already heavily polluted by Sasol, Mittal (*nee* Iscor) and other noxious industries. Here, in winter, pollution does not rise, but sits close to the ground, choking every living thing. If allowed to go ahead, this new facility can only make an already critical situation worse.

Maybe it's time the minister of health got off her butt, left smokers alone for a while and did something about the real polluters in this country.

Cedric Edwards
West Rand

Sleepless in Slovakia

I'm really glad to have found *noseweek*. The Holcim cement factory in Rohoznik, just 4km from where I live in Western Slovakia, wants to increase the amount of dangerous waste for “co-incinerating” from the present 40,000 tons per year, to 117,000 tons! It was while seeking information about this technology that I discovered your magazine on the internet. So, thank you very much: We need all the help we can get to win this fight.

Jan Ripka
Solosnica, Slovakia

Capital punishment is dead loss

In 2002 Americans were very, very happy because they had only 16,638 criminal homicides: and they were right because from 1984 to 1993 criminal homicides had averaged 22,000 a year. The same year, in Italy we were very afraid because, with a population that is one fifth of America's, we had 638 criminal homicides. We were very concerned, even if 638 was half the homicides we'd had in 1994.

Americans love to think the drop in their figures is a result of the retention of the death penalty.

On the other hand, Italy's murder rate has halved – yet we have no death penalty. (In Europe, capital punishment is strictly forbidden and most of the world is abolitionist).

Italy first abolished capital punishment in 1888, and restored under Fascism. In those sad years the homicide rate was five times higher than now. In the 20 years following the abolition of the death penalty (1948-1968), the homicide rate dropped to a quarter of its previous levels. Something similar happened in Canada too following the abolition of capital punishment there in 1976.

Curiously, in the same year, the US Supreme Court gave the green light to the “new and improved” American death penalty and, with the shooting of Gary Gilmore (17 January 1977), the executioner was back in business.

Now, after more than 1000 administrative killings, we can say, with Justice Blackman, that “the death penalty experiment has failed”.

Crime statistics for

“hanging” states in the US are not better than those for states which do not impose the death penalty. Of the 10 states with the lowest homicide rates, eight have no gallows, one has had no execution and one has an empty death row.

The death penalty is an enormous waste of lives, money, time and resources. This cancer is destroying American justice. It is not a deterrent and kills the poor, the weak, the mad, the illiterate, the black.

Of the executed, some were innocent, many were mad and many more were not guilty of a capital crime; nearly all would be alive, and some free, if they had had competent legal counsel.

Sooner or later, Americans will realise that the death penalty is an immoral, indecent, illegal, expensive, stupid, cruel, dangerous, racist, class-related and ineffective violation of human rights.

Dr Claudio Giusti
Forli, Italy



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Smokey deals

IN OUR COVER story we tell about President Thabo Mbeki's French connection. There was, of course, also an English connection, and a German – not to speak of the Kebble connection and all those other happy Party funding connections.

A recap on the English connection sets the scene. In the apartheid arms embargo years, British Aerospace (BAe) still had their man in Johannesburg: Richard Charter, who traded very lucratively, for the duration, as Osprey Aviation. Come 1994 he was back in uniform as BAe Systems SA. From then on BAe was actively vying for a slice of the South African defence pie: not only to sell us fighter planes, but (less well known) also for a chunk of the navy splurge. It had a team of experts in SA for months working on a navy bid. But within days in early January 1999, BAe's navy bid was off and its naval men were gone. It transpires they'd got a directive from somebody "very, very high up" to get out of the country.

Richard Charter would later explain to a trusted *noseweek* source: "We were told late in December 1998 that if we didn't withdraw from the naval bid, we stood a good chance of losing the promised aircraft deal as well." How come BAe was so sure of getting the fighter deal? Charter's reply: "That was settled in a smokey room deal between [then UK prime minister]

John Major and Thabo Mbeki already in 1995."

How smokey was the deal? British investigators estimate that Charter was involved in laundering an estimated R1.8-billion in "commission" from BAe to the ANC and/or its senior members, within weeks of the deals being signed in 1999.

The ANC has a problem: the vast majority of its supporters are desperately poor. They cannot afford food, let alone fund a political party in a modern democracy. So to fund its infrastructure and campaigns, the party must look to funders it would rather not identify. Who demand their pound of flesh in profit or policy changes.

That way we end up paying R50-billion-plus for inappropriate defence equipment in order to provide the party with perhaps half a billion in funding. (The other half went to the suits.)

Surely there are more rational – and less corrupting – ways of funding the democratic process? Can't we, as taxpayers, just agree to pay the party a billion – and get to keep the R49-billion in change?

We do not raise the subject in defence of Jacob Zuma: bums on the take must take what they get. But friends of the president should note that it's natural for politicians to use any dirt that comes to hand against their competitors. It's the way democracy benefits from the insight that, when thieves fall out the truth will out.

Judge for yourself

LONG AGO (in *nose41*), Dr Owen Dean of Spoor and Fisher, intellectual property attorneys of Johannesburg, had "cause to reflect" about *noseweek's* attitude to trademarks and trademark attorneys. (He referred to us as "nauseous week".) Of particular concern to him was the Standard Wank T-shirt produced by Laugh it Off.

On Sunday 18 November 2001, *Rapport* had carried an amused report on the T-shirts. By 11am the next day, Standard Bank's attorney, one Mohamed Khader had organised a search and seizure warrant – improperly issued in terms of Sec 7 of the Counterfeit Goods Act (the T-shirts were definitely not counterfeit goods) – and had six teams of inspectors from the Department of Trade and Industry (DTI) launching simultaneous raids on six boutiques in the Joburg area. (All had already sold out of the shirts.)

Laugh it Off should have brought a court application to challenge the DTI's Nazi-style action and the decision of the magistrate who granted the order. But they didn't have a million or three, and the issue of the improperly issued warrant faded away.

We'll return at a later date to the DTI's

scandalous role, but in the meantime, there is justice.

Go to Spoor and Fisher's website, where you'll find the following delicious passage: "The Counterfeit Goods Act 37 of 1997 is perceived to be a world first of its kind and was largely devised and authored by the firm's Dr Owen Dean. A full description and analysis of the Act written by Owen Dean is available on our website"

So, nobody knows the Counterfeit Goods Act better than Dr Dean. He wrote it. There can be no doubt that he knows the Standard Wank search and seizure warrant was unlawfully obtained. Dr Dean is personally in charge of the Standard Bank's intellectual property work. Mr Khader was/is his sidekick, sent in to bat on a dicey wicket – and, no doubt, to take the rap, if they get caught out.

Late in 2005, TV personality Judge Dennis Davis interviewed Dr Dean and Laugh it Off's Justin Nurse on his TV show *Judge for Yourself*. Dean obsessively questioned Nurse about the "political statement and social comment" made by the Standard Wank T-shirt.

It's simple, Dr Dean: you're the standard wanker.

The Editor



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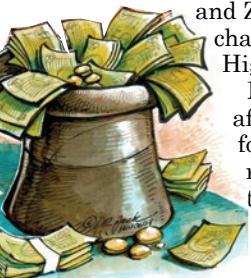
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Mr Mbeki's secret French Connection

PRESIDENT THABO MBEKI had a series of seriously compromising secret meetings with executives of the French arms company that was subsequently awarded a R1.3-billion share in the South African government's controversial arms deal – meetings that today he prefers not to remember.

Thompson-CSF, since renamed Thales International, faces criminal charges for offering former deputy president Jacob Zuma a R500,000-a-year bribe, *inter alia* for protection against the formal probe that was being conducted into allegations of corruption related to the arms deal. Both Thales and Zuma go on trial on these charges in the Pietermaritzburg High Court later this month.

Mbeki fired Zuma last year after Judge Hillary Squires found there was a corrupt relationship between the former deputy pres-



Were the president's clandestine meetings meant to advance the interests of the ANC or of South Africa?

ident and his financial adviser Schabir Shaik. Shaik solicited the R500,000 bribe for Zuma from Thales.

Shaik's Nkobi group – named after a former ANC treasurer – is Thales' local partner in the defence business.

Documents that have emerged from various investigations of the arms deal appear to confirm what has long been rumoured: that Mbeki, too, had secret meetings with the French and other major bidders for the defence contracts while he chaired the cabinet committee that oversaw the multi-billion rand arms acquisition process.

When last year Mbeki was asked a formal question in parliament about one such meeting, the reply was that he "does not recall" such a meeting.

Three weeks ago the president's spokesman, Mukoni Ratshitanga, promised us: "I will come back to you as soon as the people I need your answers from are out of a meeting. I will try my best to answer your questions before your deadline."

Days later, Ratshitanga changed his tune: "I cannot say anything about your questions. And I am unable to make any comment."

Documents in our possession show that Mbeki met with Thompsons/Thales senior vice-president Bernard de Bollardiere, among others, more than once.

In the documents, Johannesburg businessman Reuel Khoza and then-South African ambassador to France Barbara Masekela (now ambassador to Washington), are named as facilitators and organisers of the meetings.

In a letter dated 18 December 1998, addressed to "His Excellency Mr Thabo Mbeki", De Bollardiere states that he and his colleagues "have been very much honoured by the audience you granted to us during your last stay in Paris and we deeply appreciate your advice related to the present situation in South Africa. We understood through a further discussion with Her Excellency Mrs B Masekela that we could possibly meet with you in South Africa beginning of 1999 to enter into further details as far as the implementation of the black empowerment policy of our JV [joint venture] African Defence Systems [ADS] is concerned."

A senior representative of Thales International hand delivered the letter to Masekela at the South African Embassy in Paris, who received it on behalf of Mbeki.

Another letter, dated 19 June 1998, signed by De Bollardiere and addressed to Alain Thetard (Thales' chief executive in South Africa), informs the lat-

ter that the meeting between Mbeki and Jean-Paul Perrier, head of Thales International, “must take place on Saturday the 27th or Sunday 28th of June, in Pretoria if possible or even in Cape Town.”

It also says that “Khoza must press for an appointment with Mbeki. He is keeping us informed.”

Perrier came to South Africa as planned. His programme for 27 June 1998 shows that he had a “meeting with Mr Thabo Mbeki, Deputy President of the RSA” scheduled for that day – “details to be given by Mr Thetard.” A month later Pierre Moynot, chief executive officer of Thales subsidiary African Defence Systems [ADS], recorded on a handwritten note that Mbeki “is not happy” and that this was one of the reasons why the then-deputy president had “refused to see Perrier when he was in Paris.”

The cause of Mbeki’s unhappiness is not stated. A two-page business proposal written by De Bollardiere to ambassador Masekela, dated 27 November 1998, makes the unlikely claim that “the company was able, during the apartheid era, to show its support for the ANC cause in a symbolic manner and this without taking immediate commercial considerations [into account].”

More importantly, it records that “we had access six months ago to your President T Mbeki [perhaps a reference to Mbeki’s presidency of the ANC – he only became president of the country in 1999] and at the time handed him the name of a partner to play the black empowerment role in ADS *and to thus be our political guarantee.*” This would appear to confirm that a meeting with Mbeki did take place in mid-1998 – at about the time of Perrier’s June visit to SA and his then scheduled meeting with the president.

De Bollardiere’s business proposal goes on to confirm that “a contact whom we consider authorised by Mr T Mbeki recently informed Mr J P Perrier in RSA that ADS had met the requirements with regard to black empowerment” and concludes that “we could receive a clear message from the president on the subject on his trip to Paris.”

And, indeed, three weeks later, on 18 December 1998, De Bollardiere wrote another letter to ambassador Masekela in which he thanks her for arranging a meeting with Mbeki while he was in Paris. The letter explicitly confirms that Mbeki had a meeting with De Bollardiere, Perrier and Michel Denis (a senior official with Thales International) in

Paris on 17 December 1998. At that time the arms deal negotiations were at a very sensitive stage.

In the same letter, De Bollardiere informed Masekela that he was planning to visit South Africa in January or February 1999 to get Mbeki’s reaction and also “to discuss the subject of black empowerment in our ADS JV with him.”

De Bollardiere arrived in South Africa on 9 February 1999. On his itinerary for the next day was listed a “meeting with Thabo Mbeki, Barbara Masekela, Chippy Shaik and Jayandra Naidoo”, at an unnamed hotel at 2pm.

President Mbeki chaired the sub-committee of cabinet ministers responsible for approving the defence acquisition

packages. Naidoo was the chief negotiator on behalf of the government and Shamin “Chippy” Shaik, brother of Schabir Shaik, was the chief of acquisitions.

Masekela refused to answer any of our questions – sent to her in writing – relating to the documents and events referred to in this report. (See box below on her personal relationship with the notoriously corrupt French defence supplier.)

Reuel Khoza confirmed that he did meet Thales representatives, but vehemently denied facilitating a meeting between them and Mbeki.

Khoza said: “If there was a meeting between Mbeki and Thales officials, I was not part of it at all.” **■**

... and the ambassador

DOCUMENTS IN *noseweek*’s possession suggest that South Africa’s most senior diplomat, ambassador to the USA Barbara Masekela, has business links with the French company most prominent in South Africa’s arms deal scandal.

Masekela’s dealings with Thompson-CSF began while she was ambassador to France from 1995 to 1999. The company has since been renamed Thales International, in a bid to blur its international reputation for corrupt dealings.

Masekela accompanied Thabo Mbeki to a secret meeting with Thompsons executives (including Bernard de Bollardiere, Thales senior vice president) in Paris on 17 December 1998 – just a week after the formal contract negotiations between Thompsons and the SA Defence Force had begun.

Mbeki was deputy president at the time, but some Thompsons records appear to suggest that they were also negotiating with him as president of the ANC.

A document in our possession, dated 17 May 1999 – scarcely a week before the contract negotiations were successfully concluded – indicates that Masekela “authorised” Johannesburg businessman Jurgen Kogl to handle all her affairs with the company because “for ethical reasons, being an ambassador in Paris, it was not possible for her to be in a direct business relationship with a French company.” The document – an encrypted fax – is addressed to Thales boss Jean-Paul Perrier by Alain Thetard, Thales CEO in South Africa at the time.

Thetard reports that Masekela “wishes to wait for the next elections before defining precisely the terms and conditions of our co-operation.” He adds that “Barbara suggested that I validate the relation-

ship Jurgen Kogl holds at the highest political level, which I have accepted.” (He also notes that French intelligence have reported that “Kogl is not as influential as he once was”.)

Thetard recorded four meetings with Masekela and one with Kogl, in his private diary for 1999. Their phone numbers are written on its front page.

The Scorpions have a warrant issued for the arrest of Thetard for his role in the alleged Zuma bribe, after the Frenchman fled South Africa.

In a telephone interview from Washington, Masekela refused to confirm or deny she held shares or some interest in Thales. “I have no comment to make at the moment. I will come back to you if I think it’s necessary.” She didn’t.

The issue is particularly sensitive, since Thales is facing corruption charges along with Zuma in the trial scheduled to begin in Pietermaritzburg on 31 July.

Last year, at the trial of Zuma’s financial advisor Schabir Shaik, it was revealed that one of Kogl’s companies paid R656,000 into a bond account for Zuma’s flat – on the same day Shaik met with Thales officials in Mauritius.

Kogl also paid R183,000 to settle Zuma’s debt with Mercedes Benz Finance.

Scorpions chief investigator Johan du Plooy later declared in a search warrant application that Kogl was at one stage suspected of being a Thales representative. Du Plooy said the search necessary “to establish the true nature of the payment; whether the funds can be linked to Thompson/Thales; the relationship between Zuma and Kogl, and if any repayments were made.”

Kogl could not be reached for comment. **■**

Durban Metro Blues



Gunshot victim: Cherise Cox and colleague

WHEN CHERISE COX was called to a crime incident in Voortrekker Road, south of the Durban CBD she could hardly have been surprised to find herself being shot at. She was a cop after all – a member of the Durban Metro Police Service Dog Unit – and this was a hijacking.

What might have surprised her, though (if she'd had time to be surprised in the seconds before a bullet tore into her stomach), was that the gun that brought her down was police issue.

Cox and a colleague arrived at the scene to be confronted by four well-armed, highly trained and extremely violent criminals – armed robbers that the SAPS Serious and Violent Crimes Unit had been hunting for years.

Detective Inspector Bruce McInnes of the SAPS Serious and Violent Crimes Unit takes up the story:

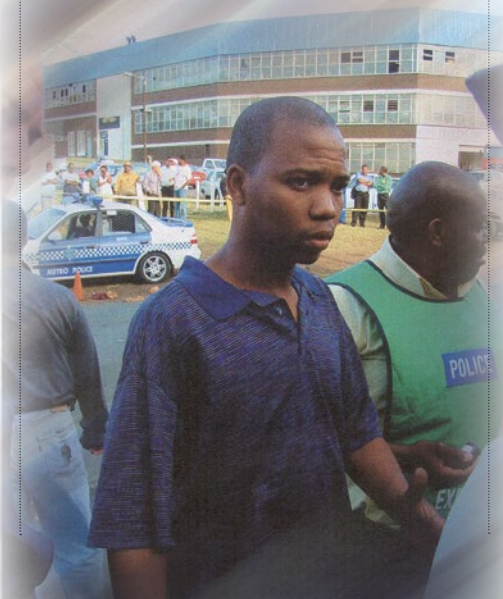
“We'd received a tip-off from an informer, Vulile Blose, that a cash-in-transit vehicle was going to be robbed near Southway Mall in Rosburgh. The van was going to be rammed off the road prior to being robbed and a Beemer or a Merc would be hijacked for that purpose.”

Simphiwe Shezi, alleged mastermind of the gang, doesn't have a long criminal record. He'd been arrested only once for hijacking a truck – but before he could be brought to trial the complainant and witness vanished.

Nobody knows precisely what happened to *them*, but McInnes knows *his* informer's fate. Blose's

Under arrest: Simphiwe Shezi, alleged cash-in-transit-heist mastermind, being led away from the hijack scene

Whatever happened to the 150 guns missing from the police armoury?



corpse turned up in an abandoned car after he snitched about a second robbery the Shezi gang was planning.

“He'd been bludgeoned to death with a baseball bat. They'd tried to make it look like a car crash,” says McInnes.

When Cox and her partner ran into the Shezi gang, the criminals were hijacking an old-model Merc – said to be their car of choice for ramming cash vans.

The cops leapt out of their car firing at the four armed men. The pint-sized Cox was wearing a bulletproof vest – but not a Metro Police one. In a cost-cutting measure the Ethekweni Council hadn't bought vests small enough for a 1.5m female.

As Cox stood up to fire over her car at one of the hijackers across the road, her vest hiked up – and a bullet ripped into her navel, tearing through her flesh and cutting her femoral artery – an injury that usually means a victim will bleed to death within five minutes.

Cox was saved by an ambulance – literally around the corner. Paramedics stemmed the bleeding and raced her to St Augustine's Hospital Trauma Centre.

It was when investigating cops secured the crime scene that they discovered that the Shezi gang had been armed with two Metro Police pistols – one of them the gun that shot Cox.

McInnes rushed to the scene when he realised his man had been nabbed. Shezi, desperate to cut a deal with the cops, sang like the proverbial canary.

After shopping the rest of his gang, Shezi told McInnes that the Metro Police guns had been bought off two bent cops.

Not quite the story the pair of cops spun. Thembinkosi Mthethwa and Sthembiso Zimu, in their official statement of 30 July 2003 reporting the loss of their firearms, claimed that three armed men had robbed them of their weapons.

Mthethwa went on to say the men sped off in a white VW Golf with registration ND 527 890.

However he failed to describe any of his robbers or even the clothes they were wearing, despite having been face to face with them.

The number plate he gave belonged to a Golf reported hijacked to the SAPS two weeks before the alleged robbery.

One sceptical detective wonders why, after being robbed, the pair didn't follow the vehicle and report the incident over their police radios.

Someone else thought of that too. Zimu's statement has an addition, made in a different handwriting, which adds that the robbers also took their Metro Police car keys.

Zimu did not sign his statement. He, too, neglected to describe the gun

McInnes provided a sworn affidavit that Shezi had claimed that the Metro Police officers had sold their duty firearms. This he handed to Cox, who handed it to Inspector Dieter Meyer – a Metro Police officer.

Serious and Violent Crimes Unit detectives have heard nothing more from Meyer.

When *noseweek* interviewed Shezi in the holding cells during an appearance in the magistrate's court, the alleged robber confirmed that nobody from the Metro Police had been to see him – although he is willing to give them a statement. The more he is seen to help the authorities the better it looks for him when he comes to be sentenced on the several counts of armed robbery and attempted murder he is facing.

When *noseweek* asked Durban municipal manager Dr Michael Sutcliffe why his police had been so remiss, he said it was felt that it would "not be in the interests of justice" to question Shezi and his accomplices about his claim – as they are awaiting-trial prisoners in a serious criminal case.

After shopping the rest of his gang, Shezi told McInnes that the Metro Police guns had been bought off two bent cops

thieves, despite his claim that they had come up close enough to search him.

Amazingly, the pair also did not report anything other than their guns being taken – despite being in possession of cell phones and portable radios.

Two weeks after this alleged robbery, Cox was shot and maimed with the Tanfoglio pistol issued to Mthethwa.

Sthembiso Mnyando, the man who maimed her, was shot dead on the scene by Cox.

Shezi was arrested on the scene and took detectives to his gang's lair where they recovered another Metro Police gun – the one that Zimu allegedly sold to Shezi's gang.

But when McInnes passed on the information that Shezi was "singing" and suggested the Metro Police speak to him preparatory to having another chat with Zimu and Mthethwa, the suggestion was ignored.

Former Durban city councillor Lyn Ploos van Amstel, a former senior public prosecutor in the Pinetown courts was shown the documentation relating to the probe of Cox's shooting.

"The facts are sufficiently suspicious that the policemen need to be cross-examined in great detail. If you are on-duty in a marked vehicle and someone comes waving a gun at you demanding your firearm, I would have expected that you would draw your firearm and shoot. A member of the public making a similarly absurd claim would be charged with negligently losing his gun."

She also observed that, if the case had been thoroughly investigated from the instant the guns were reported stolen, it was possible they would have been recovered and the suspects arrested before they maimed Cox.

At the time the Serious and Violent Crimes Unit recovered the two missing guns, the Metro Police had not

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even listed them as stolen on the SAPS computer system. This also might have helped lead to the guns being recovered before Cox was shot.

Sutcliffe now says he will make the results of his probe into firearms control in the Metro Police known. Don't hold your breath.

In 2004 councillor John Steenhuizen asked for the results of an audit into the firearms controlled by Metro Police to be made available to council. In proposing the motion he said that around 150 guns were missing from the Metro Police armoury.

The ANC caucus in council voted unanimously not to make this audit public – ensuring the public never got to know how many lethal weapons crooked cops have put in the hands of criminals. Despite the ANC majority's attempt to keep the audit from councillors, *noseweek* has learned some interesting details about it.

guess with being in possession of stolen military goods – which turned out to be equipment the SANDF had formally request he store in his strongroom.

Jacques Botha, Burgess' lawyer told *noseweek* he suspected this was all done to punish his client for reporting rampant corruption in the Metro Police to the SAPS.

It gets worse.

The Durban Metro Police record of missing guns lists an SAPS case number against each missing firearm. These case numbers are provided by the policeman who reports having lost his gun and are recorded as proof that the gun was reported missing or stolen to the SAPS and that the case is being investigated.

Metro police management uses the fact that the SAPS are probing the missing guns as a reason for avoiding holding their own disciplinary inquiry to find out how the guns went missing

Durban) the irate ANC big wig said that although "some" guns had gone missing, "all are now accounted for."

Since he is known for his creative use of the English language, we challenged Sutcliffe to confirm exactly what he meant by "accounted for."

It transpires that in Sutcliffe-ese it means that somewhere they are recorded on a scrap of paper as "missing" or "stolen".

Now read his official statement on the subject again: "I have indicated that, in our own 2003 audit we ended up accounting for all the guns which should have been in our possession; this was confirmed by the 2005 SAPS audit and in my own audits now this has been confirmed. I am further investigating each aspect of these and what is being done about those guns which are accounted for but not any more under our control."

Meanwhile, since being shot three

Burgess found that in some cases cops had lost two or even three guns – without facing a disciplinary inquiry

In 2003 Metro Police armourer Warren Burgess was tasked with conducting an audit of the Metro Police armoury. Described as a perfectionist and a stickler for detail by his colleagues, Burgess discovered nearly four dozen guns had vanished from the Metro Police armoury.

He found that in some cases cops had lost two or even three handguns – without facing a disciplinary inquiry. He also discovered that many of the guns had never been reported missing to the SAPS.

Burgess' report of the missing and stolen guns is filed at Durban Central Police Station (case number 273/04/2004).

Days later Burgess, a reservist with the SA National Defence Force, was arrested and charged with being in illegal possession of army property. The case against Burgess collapsed "in abject and complete ridicule" according to a prosecutor at the Durban courts.

The Metro Police had charged him with having unlicensed shotgun barrels – which turned out to be old pieces of steam piping. The Durban corporation's men in blue also charged Bur-

and if the policeman who lost them is culpable.

Trouble is, most of the listed SAPS case numbers are false.

In one case a Metro policeman has lost three guns and each of the SAPS case numbers next to these missing guns is fake.

Neither Sutcliffe nor the head of the Durban Metro Police, Eugene Nzama responded to queries as to whether this man was still in the Durban Metro Police. They also ignored questions on whether he has been issued another gun.

Neither did they respond to questions about Chatsworth SAPS case number 132/01/2005. In this case SAPS detectives recovered a Metro Police assault rifle from an armed robbery gang – while the Metro Police did not even know the gun was missing.

This case was not investigated by the Metro Police, despite the fact that the person caught with the rifle described and named the Metro Police officer who supplied him with the firearm.

When *noseweek* put all this to "Metro Mike" (as Sutcliffe is now known in

years ago, policewoman Cox has endured nearly a dozen operations and is so badly scarred that she has been told no plastic surgeon in this country can help her. She's also had her pay slashed – and been offered a pittance as a medical pension – an amount equal to less than one month of "Metro Mike" Sutcliffe's salary.

Cox has also been told that her severe post traumatic stress is not, in the Metro Police's view, due to her horrific injuries in the line of duty. So, she has had to pay for psychiatric medication out of her own pocket. Her brother Shane has been reduced to writing letters to newspapers asking anyone who could help his sister with her vast medical bills to contact him.

Metro Police have refused to pay for plastic surgery to repair the massive damage to her abdomen and her medical aid was exhausted long ago.

Metro Mike says he can't comment on anything relating to Cox until he has finished his own investigation.

He ought, as the saying goes, to be shot. ■

■ *Shane Cox can be contacted on 083 560 0489 or at shanec@telkomsa.net*

Brett's last laugh (and the joke's on Randgold)

HOW EXACTLY PETER Gray came to succeed Brett Keble as CEO of JSE-listed mining investment company Randgold and Exploration (Randgold) has always been an intriguing question. Now, thanks to legal action by disgruntled Randgold shareholders, answers are starting to emerge. And it's hair-raising stuff.

The question is intriguing because it's hard to imagine a less suitable choice for the position. Gray was a close business associate of Keble's, and had been his share broker for many years. (What an interesting job that must have been! And how instructive of Keble's business affairs and methods.)

As CEO of Tlotlisa Securities (T-Sec), a brokerage set up and financed by Keble (no doubt with ill-gotten gains), Gray was the broker through whom Keble carried out the now notorious unauthorised and fraudulent sale of billions of rands of Randgold shares in London-listed Randgold Resources.

There are still many unanswered questions about Gray's role in those dishonest dealings. How, for example, was it possible for an experienced broker like Gray to sell at least R1bn-worth of shares belonging to Randgold, and then remit the proceeds to accounts belonging to JCI and its various subsidiaries, without noticing that something was amiss? Did Gray's brokerage services for his crooked pal comply with the normal procedures and safety mechanisms? (Gray has refused to allow shareholders access to T-Sec's records for the Keble account.)

To what extent might cheated Randgold shareholders have a claim against T-Sec, or against Gray himself?

One Randgold shareholder told *noseweek* that news of Gray's



Picture: Mining Weekly

Grave situation: Keble's chosen man Peter Gray

appointment as CEO was like waking in the operating theatre after a mugging – only to find that the surgeon was the mugger's accomplice.

Equally troubling for Randgold shareholders was the fact that Gray had been Keble's representative in negotiations with Investec Bank over a new loan for JCI Ltd. The negotiations started early in 2005 and culminated in the deal that saw Keble's resignation in August – and Gray's installation in his place. Keble had plundered Randgold to support JCI, where his main financial interests lay, and had much to hide.

That Gray emerged from those secret negotiations as CEO, acceptable to both Keble and Investec, suggests that he must have shown an understanding of the "sensitivities" of the situation. And demonstrates that he would approach Keble's own special requirements (e.g. to avoid jail) in a manner that both Keble and the bank approved. But that might well be at odds with the interests of shareholders and the principles of good corporate governance.

Perhaps the main reason for Randgold shareholder concern was the fact that Gray was, simultaneously, also appointed CEO of JCI. Under Keble's direction, JCI and Randgold had come to share nearly identical boards of directors. This is what made it possible for Keble to misappropriate Randgold's assets for JCI's benefit.

It seemed common sense, many Randgold shareholders thought, to properly separate the affairs of the two companies, and for Randgold's claims against JCI to be properly identified and vigorously prosecuted by an independent Randgold board.

Meet the man
handpicked by
Keble (and
Investec) to keep
the lid on the
shares scandal

Despite the obvious conflict of interests, however, Gray was appointed CEO of both Randgold and JCI. And the other executive directors of the new Randgold board - chairman David Nurek, (a long-time Investec stalwart), and financial director Chris Lamprecht (from gold miner Western Areas)

largest shareholder, Alease Gold Ltd. That, and the fact that the forensic audit initiated by Gray, after he took over at Randgold, appeared to be dragging on indefinitely, prompted action by a group of Randgold shareholders. Led by Quinton George, CEO of Cape-based money manager

worst fears about Gray's appointment. The documents revealed that it was a specific condition of Investec's loan to JCI that the board of Randgold would be reconstituted in a manner "acceptable to Investec". Investec's dream board included Gray as CEO, and all the other directors that have since been appointed.

A specific condition of Investec's loan to JCI was that the board of Randgold would be reconstituted in a manner // acceptable to Investec //

– occupied equal positions on the JCI board. All the more troubling, and downright suspicious, was the new board's refusal over the next few months to appoint a director nominated by Randgold's single

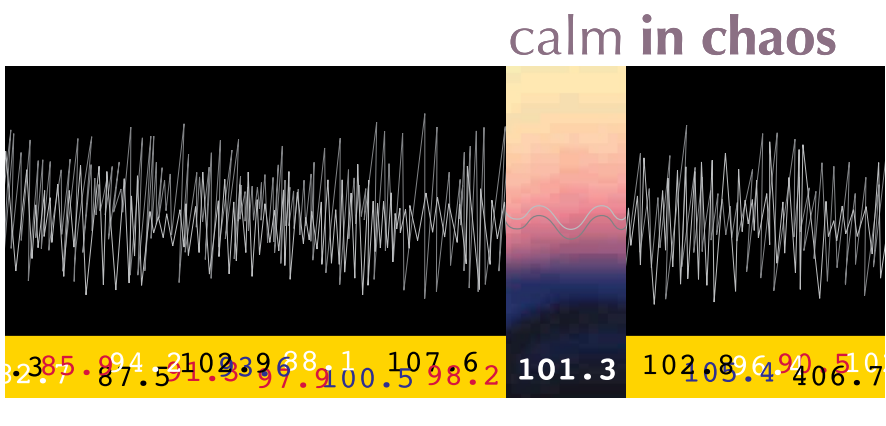
Trinity Asset Management, they took legal action this year in an attempt to wrest control of Randgold from Gray and his associates. The documents discovered, and legal exchanges in the case, confirmed their

Investec did not own shares in Randgold, and had not lent any money to Randgold, and therefore had no legitimate right to interfere in the affairs of Randgold, or the interests of Randgold shareholders. Why, then, was the bank seeking to control the board of Randgold?

Readers will remember that Kebble's resignation as CEO of JCI was precipitated by a cash crisis at JCI that threatened bankruptcy. As Kebble's representative, Gray negotiated with Investec for a R460m loan that would keep JCI afloat, and allow JCI to preserve its most valuable asset, its stake in Western Areas. In return, Investec would receive interest on the loan plus a fee that would be equal to the greater of R50m or 30% of the increase in the value of JCI's shares in various mining and other companies, most notably Western Areas, plus 10% of the rise in value of the shares of JCI itself. So far, Investec's fee amounts to a massive R360m – excluding a cut in an increased share price, which has yet to be established when JCI's shares are traded again on the JSE. An unprecedented and exploitative banker's fee!

The deal offered Investec the added advantage of avoiding all sorts of unpleasant consequences should JCI have been declared bankrupt – such as losses on sums already advanced to JCI and its exposure on the Western Areas hedge book. Investec CEO Stephen Koseff personally negotiated the deal, turning a potentially bad situation into an opportunity for the bank to make big bucks.

But there was still a potential danger: according to the financial statements of the two companies at the end of the 2003 financial year, JCI officially owed some R140m to Randgold. Insiders like Gray and Investec would have



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known that the sum owing by the middle of 2005 was much larger. An independent Randgold CEO and board, acting in the interests of Randgold shareholders, would have claimed repayment immediately of the R140m, and other sums, from JCI. That would have pushed JCI into bankruptcy and spoiled the Investec party.

Hence the bank's determination to appoint a Randgold board of its own choosing, and one that would direct Randgold affairs with a lenient view of the sums owed by JCI and contrary to its own shareholders' interests. Hence, to get back to our original question, the appointment of such an unlikely character as Peter Gray to head Randgold.

The appointment of a new CEO by the board should normally be ratified at the earliest possible opportunity by shareholders at an AGM. Nearly a year after Gray's appointment, Randgold shareholders have still not been given an opportunity to vote on his appointment, or that of the other new directors. Gray is still CEO of Randgold, only by virtue of the deal between Investec and a desperate Brett Kebble. The agenda for a general meeting of Randgold shareholders, scheduled for June 30, did not include ratification of Gray's appointment.

Gray claims support from one surprising quarter: that of Allan Gray Ltd (no relation), one of South Africa's biggest and most reputable investment management

firms. Allan Gray Ltd is not a Randgold shareholder. Allan Gray's clients own Randgold shares – 25% of them. The distinction is crucial because it means that Allan Gray must obtain a specific mandate from its clients invested in Randgold, before supporting Peter Gray's appointment – either informally, as they have done, or formally in a vote (which has yet to take place).

Until Allan Gray Ltd is willing to explain openly to those of its clients who hold Randgold shares why they should support Peter Gray as CEO, any backing they express for Gray is questionable - particularly since, at the time of Peter Gray's appointment, Allan Gray Ltd also had interests

in both JCI and Western Areas that would have been adversely affected if an independent Randgold board was to claim the full amount owed to that company by JCI – pushing JCI into bankruptcy. Allan Gray Ltd has a serious conflict of interests.

Quinton George maintains that Peter Gray continues to protect JCI to the detriment of Randgold. In particular, Gray is treating the loan to JCI of Randgold's shares in Randgold Resources and Afrikaner Leases as a theft by Kebble. This means that, by Gray's interpretation, Randgold can claim only the proceeds of the sale of those shares, not the return of the actual shares. Both companies' share prices have risen so much that the difference is worth well over a billion rand to Randgold.

George says that an independent Randgold CEO, with no allegiance to JCI, would claim the return of its borrowed shares, in addition to pursuing more aggressively Randgold's other claims against JCI. It is to this end that he and his investor group have instituted various court applications that are still pending.

Gray, on the other hand, has proposed a process of arbitration between the claims of the Randgold board (led by Peter Gray) and the JCI board (led by Peter Gray) – proving that he does at least have a sense of humour.

Randgold shareholders are not amused. So far, the joke's on them. ■



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Smoke gets in your eyes

LOOTING OF CONTAINERS in transit to and from ports – particularly those carrying hi-tech items, alcohol and cigarettes – is rampant. But the syndicate bosses who specialise in this lucrative organised crime live charmed lives. Cases rarely come to court and, when they do, it's usually their gofers who wind up in the dock.

Take the theft of more than 7 million British American Tobacco cigarettes and the heist of container number TEXU 4470296 from Spoorinet's bonded warehouse at Johannesburg's City Deep. It took place more than nine years ago, yet the criminal trial was concluded only last month – more than six years and at least 15 postponements after it began in Johannesburg Magistrates' Court. Result? Token fines for two bit-players.

The case raises some disturbing questions:

- Are police in league with the syndicates? The lost police docket story is wearing thin. Investigating officer Sergeant Palm of the Theft Unit claimed it disappeared while he was discussing the case with a magistrate.

- Why have the exporter (BAT) and the transporter (Cross Country Containers) failed to accept their responsibility? Why did both ignore strict rules governing the transportation of bonded exports?

- Will the small Portuguese trading firm Sociedade de Serviços e Comércio Internacional (SCI) ever succeed in its claims for compensation for the container-load of cigarettes it paid for? With interest compounded over nine years, the claim has grown to more than R9m.

The saga starts in January 1997, when SCI paid BAT (trading as United Tobacco Company) R696,342 for 2700 master cases of duty-free Life and Good Luck cigarettes – each case containing 10,000 cigarettes. They were driven in three 40ft containers from BAT's factory in Industria by Cross Country Containers to City Deep. They were to be railed to Durban and delivered to the vessel *Kilimanjaro*, destined for the Mozambique port of Nacala.



Mr Big & Co get away with millions in bonded goods

But only two containers out of three went to Durban. SCI's local representative phoned Cross Country and was told there was "some sort of problem" with the third, which they were sending to Durban by road. On arrival two days later, SCI's shipping agent reported that its high quality German padlocks had been replaced by cheap Chinese ones, and the seals had been tampered with.

SCI ordered that the container be opened. Of the 899 master cases loaded, 716 were missing.

SCI's representative in South Africa, Eric Monteiro, accompanied by BAT's assistant export manager Anver Rahman, went straight to City Deep. Cross Country's export manageress, Fatima Malek, explained that the third container had been taken – on BAT's instructions – to the premises of Eagle Freight

in Potchefstroom for “packing” and returned the same day to City Deep, before going on to Durban by road.

Malek later produced a fax, supposedly signed by Anver Rahman, giving this instruction. Eagle Freight operates out of Durban and has no premises in Potchefstroom. Rahman denied ever sending the fax, which police concluded was a forgery.

Investigators from three companies licensed by SA Customs to operate from City Deep – Marius Laas (Cross Country), Jaco Nelson (Roadwing) and Henry Beukes (Conlog), all signed a report dated 10 February 1997. This stated that on 30 January, the day after the theft was discovered, the trio, accompanied by police, took the driver of the container back to Potchefstroom. The driver said he had “received an instruction from the Cross Country control room that the client will meet him along the road to show him where his premises were.”

Det Insp Jonker of the police's Container Theft Unit tried to persuade Fatima Malek to turn state witness, but she refused saying: **They'll kill me!**

The driver recounted how, when he arrived, two Indian men took him to lunch, leaving the container in the care of his assistant. “According to the assistant, about 10 labourers off-loaded about three-quarters of the contents at the premises,” says the report. “When the driver returned from lunch he gave a new seal to ‘the client’, who resealed the container. He then returned the container to City Deep.”

The report states that two people, Adam Omar and Fatima Omar, were arrested at the Potchefstroom premises “for receiving stolen goods”.

It continues: “The investigation took us back to Johannesburg. Fatima Malek, the export manageress of Cross Country, was questioned and she confessed to being part of the scam.”

“According to Fatima Malek, she received the forged fax from Mr Mohammed Walley. She does not know where Mr Walley got the fax. Fatima Malek was offered R150,000 for the release of this container TEXU 4470296.”

Fatima Malek was charged and released on R15,000 bail.

The report states that “Walley” was arrested the following day. “He was accompanied by his lawyer and refused to say where the contents are. Mr Walley was also taken to court and received bail for R30,000.”

But the container had not been driven to Potchefstroom. It had been taken, and the cigarettes offloaded, at the mining village of Fochville, some 50km north-east of Potch!

Evidence of syndicate involvement appeared in an affidavit sworn by Roadwing's Isobel Louw. She says she went to Kazerne police station that 30 January to take a statement from a man in connection with container pilferage.

There she found Fatima Malek sitting alone in a constable's office. Malek started crying. “She told me over and over that she did not want to do it, but she was deeply in financial difficulty,” reads Louw's affidavit. “Her husband

was out of work. She was R7000 behind on water and lights. The children she must support.

“I asked her who made her do this. She told me a Mohammed, she thinks his surname was something with a ‘W’; Wyllis or Wolles. He offered her R150,000 to remove the container from the terminal. She also said they wanted her to take it out a second time [for the remaining cigarettes?], but she came to her senses and refused.

“She then stated that somebody else in Cross Country Containers helped these people before, and containers were removed from the terminal like this before. She also stated that the people from United Tobacco Company now plays innocent, but ‘he’ is part of the deal.”

Louw states that “before I could establish who ‘he’ was, Sergeant Palm and Constable van Lingervelde entered the room and I moved away from Fatima.”

Concluding her affidavit, Louw said: “When I looked at Fatima, I once again

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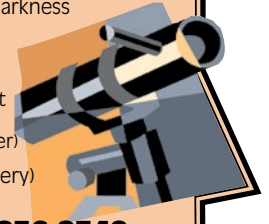
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realised how sad it is that a person with her good reputation in the container industry is used by syndicate criminals to reach their selfish greedy goals. I just hope that the SAPS will get 'Mohammed' and all the others behind him, the receivers of the stolen goods, the people that profit out of these types of crimes... Fatima was used when she was at her most vulnerable."

Goods held for export in a bonded warehouse may only be transported to a designated destination – in this case to the vessel *Kilimanjaro* in Durban. Any deviation – to Potchefstroom, Fochville or wherever – is a breach of SARS regulations.

Moreover, although SCI had paid for all 2700 cartons in advance, under these same regulations safe delivery to the ship remained the responsibility of the exporter, BAT.

Initially three people were accused of the theft: Fatima Malek, Adam Omar from Fochville and the mysterious Mohammed Walley (ID No. 7405315241087).

But the case against Mohamed Aruff Wally (finally, patient reader, that's the correct name spelling), a 32-year-old businessman (ID No. 7405315241087) and director of several companies, with addresses in Lenasia and Benoni, was withdrawn for "lack of evidence". And Sergeant Palm had, of course, managed to lose the docket!

Says SCI's local representative Monteiro: "For two years we exchanged correspondence with BAT and Cross Country, the exporter and the inland transporter. BAT falsely claimed we had bought the cigarettes ex warehouse and they were washing their hands of the whole thing. Cross Country also denied any responsibility.

"But there are no ex warehouse sales in international trading! These were bonded export goods exempted from excise duty and the exporter, BAT, was responsible for them until they reached the port of exit."

In July 1998, after SCI complained to Trade and Industry Minister

Alec Erwin and the then Safety and Security Minister, Sidney

Mufamadi, the police conducted an internal investigation. This resulted in Sgt Palm's departure from the force – he's now said to be running a garden business in Pretoria.

It fell to the new investigating officer,

Det Insp Jonker of the police's (subsequently disbanded) Container Theft Unit, to recreate the lost docket. Jonker tried to persuade Fatima Malek to turn state witness, but she refused saying: "They'll kill me".

Cross Country was insured by SA Eagle through SMS Insurance Brokers, and a claim – No 60-MP/97 – was made. SA Eagle's group audit manager, Joe Martins, now tells noseweek: "Cross Country had cover for goods in transit up to R500,000, plus theft and hijacking endorsements. But if an employee defrauds or steals from their company you need separate fidelity cover – and this they did not have. We did not repudiate the claim; the insured never proceeded with it."

In August 1999 SCI issued a high court summons against Cross Country for the market value of the stolen cigarettes. The writ amount was R1,188,786, although Monteiro now says the figure should have been R1.4m. SCI's attorney was a Lebanese named Brian Lebos. Monteiro says that in December 2000 Lebos told him there was no hope in this case. "So I told him to drop it."

Imagine Monteiro's surprise years later when he discovered that Lebos had not dropped the claim, as instructed. In fact, in 2002 the attorney "settled" SCI's claim with Cross Country for a paltry R75,000, without SCI's knowledge. And the money remained in his firm's trust account.

In January this year, Lebos appeared at a disciplinary committee meeting of the Law Society of the Northern Provinces, which recommended that the attorney be charged with delaying the payment of trust money and that he failed or neglected to give proper attention to the affairs of his client. The matter is to be re-enrolled.

SCI refuses to accept the R75,000 or recognise the "settlement".

With all these extraordinary goings on, the owners of SCI in Lisbon instructed Monteiro to get some independent advice. Monteiro turned to the Johannesburg Chamber of Commerce, where he has been assisted by its past president, Patrick Corbin, a long-standing expert on the intricacies of international trading.

"What I found most astounding was Cross Country's arrogant attitude," says Corbin. "They were trying to bamboozle and intimidate SCI into not pushing this case."

Why doesn't Cross Country claim on its insurance with SA Eagle? "Why not indeed?" asks Corbin. "I don't think they want to admit that they were in

any way responsible."

In Corbin's view, SCI is justified in claiming for the market value of the stolen cigarettes (\$322,290), plus interest over 3,441 days of \$1,054,268 – a total of \$1,376,558 which, at today's exchange rate, computes at more than R9m. "I would say he's got a good case. BAT should give him his money. They didn't deliver the goods to the ship – it's as simple as that. Just because he paid in advance, at their insistence, doesn't alter their responsibility at all.

"BAT should have been totally responsible for the export of those goods. They are the owners until they are actually on the vessel."

As for Cross Country Containers, owned by the Maersk shipping line until it was taken over in April this year by JSE-listed Grindrod Group, Corbin says: "When you're exporting bonded traffic it can only be handled by bonded carriers from A to B. You can't divert it out of the bonded warehouse at City Deep, as Cross Country did."

If BAT's suggestion that SCI bought the cigarettes "ex warehouse", and not for export, is true, why hadn't the tobacco giant paid excise duty of R1.1m at the time? (With penalties over the years, duty will have increased to some R3.2m). The Chamber of Commerce took up the matter with (*noseweek's* old friend) Ivan Pillay at SARS. BAT responded by wheeling in PricewaterhouseCoopers, who persuaded SARS to go along with the "ex warehouse" falsehood. And BAT handed over around R500,000 in a negotiated settlement for the late payment of excise duty! (It's one of those famous Pillay settlements: crooks pay half the normal tax rate, no penalties and no interest.)

Is Cross Country liable for the dishonesty of its manager, Fatima Malek? The law says that a company is vicariously liable for the acts of its employees only if they are acting "in the course and scope of their employment". SCI obtained counsel's opinion from advocate Colin Munro, who considered SCI had a case. There was no way Malek could have diverted the container were she not employed by the carrier, wrote Munro. "In clothing her with the responsibility of protecting the containers, the carrier thereby created the risk she may not be trustworthy, and divert goods."

At the beginning of June, Malek was fined a paltry R60,000 for theft. Adam Omar, from the offloading point at Fochville, was fined R75,000.

You can rely on the taxman and the department of justice to help make crime pay. ■



Judge Hlophe and friends: A profitable academic study

NOTORIOUS CAPE JUDGE President John Hlophe has, we are reliably informed, told the Minister of Justice that he has no intention of resigning from the Bench. If she wants him to go, she will have to persuade parliament to fire him.

It's old news to *noseweek* readers that Judge Hlophe and the Muslim finance and investment group Oasis have a mutually beneficial relationship. But, wait – there's more to Judge Hlophe's relationship with Oasis and its remarkable network of friends.

First, a quick recap: Hlophe heads the Umbilo Trust, which has a stake in Oasis Asset Management; unbeknown to the judicial authorities, Hlophe has since 2001 also been receiving a R10,000 monthly "consulting fee" from Oasis for providing "expert legal advice"; (Latterly, he's claimed the money is for expenses.)

Judge Siraj Desai suspects the fee might (at least partly) explain why the Judge President granted permission for Oasis's bosses, the Ebrahim brothers, to sue Desai for defamation. Judge Hlophe and the Ebrahim brothers suspect, or so they tell everyone, that Desai is *noseweek's* source for all the dirt on them.

But, while having the judge president in your pocket might be handy, and a bit of sound legal advice is always welcome, there was another, equally good, reason why Oasis should have wanted to keep their favourite judge well-oiled: Judge Hlophe was the chancellor of Peninsula Technikon, the Oasis Group's single biggest client.

It transpires that Hlophe and the Ebrahim brothers have long had a shared (financial) interest in academia. Between attending sponsored functions for judges, Hlophe is said to have done some moonlighting for the Ebrahim brothers by "urging" tertiary education institutions to invest with Oasis.

The Durban Institute of Technology is known to have responded negatively to Hlophe's urging. At Cape Technikon he had only marginal success: he did, apparently, succeed in recruiting Cape



Judge John Hlophe

Tech's then vice chancellor, Marcus Balintulo, to lobby for a R25-million Oasis investment. But Cape Tech's Council (chairman: Judge Siraj Desai) rejected the proposal.

In 2000, Peninsula Technikon invested half its reserves – about R300-million – with Oasis, thereby becoming Oasis' single biggest customer.

In February 2003 Hlophe became Pentech chancellor. Very shortly thereafter, Oasis was appointed as one of the portfolio managers of the National Tertiary Retirement Fund – to which all Pentech staff are required to subscribe – currently worth over R3.1-billion. While Hlophe's support would surely have been helpful, the deal is more likely to have been facilitated by another of the Ebrahim brothers' influential friends, Pentech's former vice chancellor, Prof. Brian Figaji.

Figaji was a trustee of the retirement fund at the time. (He also sat at the helm of Pentech when it invested the R300-million with Oasis.)

And so, sadly, we must abandon tales of the judge to focus serious attention on Figaji, whom readers will remember from *nose58* as the beneficiary of GrandWest Casino shares earmarked for the "disadvantaged", and from *nose77*, where he and some of his Pentech pals profited from the dubious Chapman's Peak toll road venture.

These, and Figaji's many other business escapades, were anything but extra-curricular. After his appointment

as Pentech's VC in 1993, Figaji set himself and his inner circle up to maximise the profits to be made from his tenure. He ensured that his close business associates dominated the technikon's council, which approves all large contracts and major financial decisions. This ensured that no-one disapproved of the institution being used as a vehicle for furthering Figaji and friends' financial interests, or questioned their suspect financial decisions.

Oasis was not the only company Figaji developed a special relationship with; he also got cosy with Mentor Healthcare Planning, which was chosen as Pentech staff's medical aid consultant. While Mentor does not get paid for these advisory services, it receives substantial commission for referring hundreds of medical aid policies to companies such as Discovery Health. Figaji was appointed chairman of Mentor in early 2005 – perhaps as a reward for his loyalty?

It has to be said: Figaji isn't selfish when it comes to looking after his friends. Just ask his long-time business associate Patrick Parring. Currently a director of 40 companies, Parring has his fingers in a lot of pies (including the Chapman's Peak saga and the Big Bay scandal) and unabashedly brags that his "popularity and credibility in the Western Cape extends to some of South Africa's most senior political and business leaders".

Parring's popularity has earned him big dividends at Pentech. As a long-standing member of council, he scored at least three major Pentech contracts (that we know of), in addition to using the campus as a base for his Western Cape Business Opportunities Forum (WECBOF).

Parring's company Granbuild got the contract to build a new control room for Pentech's security surveillance system – without a tender. The building eventually cost double the original budget.

When Pentech needed new electrified perimeter fencing, Parring's company Nedsteel was one of three invited to tender. When one of the other tender-

ers put in the lowest price, Parring was secretly advised to adjust his bid. Nedsteel got the massive contract, which is now running way over budget and into six digit figures.

In 2000, Holbert Technologies was chosen as the preferred supplier for Pentech's new high-tech surveillance and access control system, worth a couple of million. Parring muscled in on the contract by persuading Holden to form a joint venture with Nedsteel, called NTI Security Solutions. Things turned nasty when Nedsteel failed to pay its dues and then collected a R850,000 cheque from Pentech that was supposed to go to Holden. A legal wrangle ensued that ended with Holden pulling out of the venture and Parring keeping NTI, along with the Pentech security contract.

NTI now lacked experienced staff to operate and maintain the highly specialised system, which consequentially deteriorated. Despite staff complaints, the Figaji-led Council opted to stick with Parring's company and NTI now holds a maintenance contract for the system until 2008.

Unbelievably, Pentech never had a code of conduct to ensure that Council members declare their outside business interests. It also has no tender guidelines to prevent them from bidding for contracts. It was common knowledge that WECBOF, Granbuild, Nedsteel and NTI are Parring's companies, but questions about dodgy contracts and the squandering of funds were never publicly raised because Figaji had created a tight inner circle on council that looked after each other's interests.

Being a loyal member of the Figaji council clan also guaranteed lucrative business links off-campus. An example of how inter-connected these Council members became over the years: Figaji and Parring have shared interests in six companies, while Figaji, Parring and their strong ally Rev. Lionel Louw (former Western Cape Premier Ebrahim Rasool's chief of staff) are involved in two more companies. Figaji and Parring both sit on another board with Michael Thompson, who was on council when the multi-million rand Oasis investment was approved, and has since become a director of Oasis Crescent Property Fund Managers. Parring and Norman Jacobs, another member of the Pentech Council inner circle, are co-directors of yet another company, while Figaji has business connections with his long-time supporter Patricia Gorvalla, who, in turn, shared business interests with Parring.

It was apparently no problem for Figaji's cronies to abuse Pentech funds, but if you weren't a member of the inner circle such behaviour could literally be the death of you, as former director of finance Michael Clarke discovered. At a staff meeting in November 2001, Figaji announced (no formal hearing had taken place) that Clarke had "stolen" more than R1.1-million of Pentech's funds. Nine days later, on the day of his disciplinary hearing, Clarke shot and killed himself. Figaji later sued his widow for the money.

Without blinking, Figaji announced that under no circumstances were employees or any of their relations allowed to tender for Pentech contracts.

When the Pentech Employees' Union (PTEU) objected to the "continued lack of transparency and culture of secrecy in which business is conducted", and raised concerns about conflicts of interests "arising from members of Council and technikon management being engaged in business activities with each other", Figaji responded by dragging the PTEU's executive committee to a disciplinary hearing on charges that they had "impaired the dignity of the institution"!

It was happy days for Figaji and friends until 2003, when it was announced that Pentech and Cape Technikon would be merged to form the Cape Peninsula University of Technology (CPUT) in January 2005.

At that time, Cape Tech had practically no funds in reserve, while Pentech had about R350-million. Figaji's crew was damned if they were going to let outsiders get to spend "their" money. So began the race to spend as much as possible before the merger.

More than R5-million is said to have been spent on upgrading roads on campus, while the IT centre was revamped in another multi-million deal; R4-million was spent on a high-tech PVAX Siemens phone and internet system. (The Alcatel system it replaced could have been upgraded for a mere R160,000.)

Figaji's grand final gesture was to demand a severance package that was double the norm. This was after he repeatedly told Pentech staff that, due to the merger, nobody would be getting severance packages. He is fondly remembered by many as saying: "Why should we pay someone for leaving?"

Despite vociferous protests from staff unions, Figaji's pals on council approved his R2.3-million package in August 2004. They then gave Figaji the go-ahead to have a R1-million-plus "farewell" party at the Cape Town

International Convention Centre.

No idler, Figaji spent his first retirement year consolidating the business links he established in and outside the technikon during his reign. Along with Parring, Louw and Phuti Tsukudu (who sat on the new merged council), he established "BEE investment company" Dormell, which then bought a 30% stake in a company called Cape Lime in March 2005.

Mysteriously, two companies named Dormell became active on 11 February 2005: Figaji and Co's Dormell 428 and another called Dormell 435 – headed by three of the main Oasis Directors. What's up Doc?

Figaji has been heard to brag that his 18 directorships (most accrued while he was VC) earn him over R1.5-million a year - plus plenty more in business connections.

Some of his friends on council were not as ready to let go of the cash cow. So they made sure that close allies such as Parring and Louw were on the panel tasked with selecting a new VC. It was clearly predetermined that fellow council member Lineo Tanga would be appointed, even though she was one of the least qualified candidates (more on this in next month's issue). Nevertheless, her loyalty to the old Figaji crew on council obviously carried weight and she was officially appointed CPUT's new VC in February this year. (A month before the selection process began, Figaji and Tanga formed a company together, named Sithaba Hotel and Leisure.)

In keeping with Figaji tradition a "welcome" party was held for Tanga, costing the institution an estimated R500,000. Although it was poorly attended – most staff boycotted the celebration – several VIP guests did pitch up, including Oasis director Adam Ebrahim.

Shortly after Tanga's appointment, another big party was held at the pricey Cape Town restaurant Pigalle – this time to "celebrate the life and achievements of Brian Figaji". The big bash, costing "many thousands" according to several guests, was paid for ... by Oasis.

It was a jolly affair, with all Figaji's old council chums mingling with his Oasis friends. In a heartfelt speech, Parring had some special words of wisdom for the new VC, Ms Tanga: "Develop a good relationship with Oasis." We have no doubt that she will.

She might also wish to be reminded that Judge Desai allegedly described the Oasis owners as "scum" and "a bunch of thugs". ■

Section 152 - A

To Fall over forwards for clients.

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Fig. 93

Section 154 - A

How to bend over backwards for clients.

When dealing with any clients you will have to bend over backwards to meet their every need. (As demonstrated in Fig. 92 and Fig. 93)

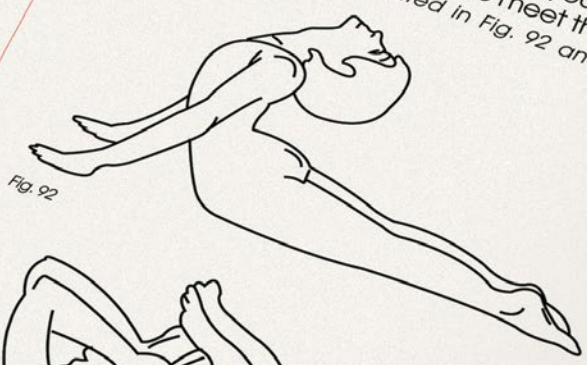


Fig. 92



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Carrot and schtick



LATE ONE afternoon in June 2001, John W Worley sat reading his e-mail. He was 57 and burly, with glasses, a fringe of salt-and-pepper hair, and a bushy grey beard. A decorated Vietnam veteran and an ordained minister, he had a busy practice as a Christian psychotherapist in Groton, Massachusetts, in a ground-floor office with walls adorned with images of Jesus and framed military medals. His wife, Barbara, had been his high-school sweetheart – he was president of his class, and she was the homecoming queen – and they had four daughters and seven grandchildren, whose photos surrounded Worley at his desk.

Worley scrolled through his in-box and opened an e-mail addressed to “CEO/Owner”. The writer said that his name was Captain Joshua Mbote, and he offered an awkwardly phrased proposition: “With regards to your trustworthiness and reliability, I decided to seek your assistance in transferring some money out of South Africa into your country, for onward dispatch and investment.” Mbote explained that he had been chief of security for the Congolese President Laurent Kabila, who had secretly sent him to South Africa to buy weapons for a force of elite bodyguards. But Kabila had been assassinated before Mbote could complete the mission. “I quickly decided to stop all negotiations and divert the funds to my personal use, as it was a golden opportunity, and I could not return to my country due to my loyalty to the government of Laurent Kabila,” Mbote wrote. Now Mbote had US\$55-m, in cash, and he needed a discreet partner with an

A Massachusetts psychotherapist, who spent his life advocating self-knowledge, seemed like the most unlikely person to fall for a scam, but the whiff of big bucks promised by a Nigerian e-mail proved irresistible, writes **Mitchell Zuckoff**

overseas bank account. That partner, of course, would be richly rewarded.

Mbote’s offer had the hallmarks of an advance-fee fraud, a swindle whose victims are asked to provide money, information, or services in exchange for a share of a promised fortune. Countless such e-mails, letters, and faxes are sent every year, with a broad variety of stories about how the money supposedly became available. It is often called a 419 scheme, after the anti-fraud section of the criminal code in Nigeria, where it flourishes.



(Last year, a Nigerian comic released a song that taunted Westerners with the lyrics “I go chop your dollar. I go take your money and disappear. Four-one-nine is just a game. You are the loser and I am the winner.”) Worley, who had spent his adult life advocating self-knowledge and introspection, seemed particularly unlikely to be fooled. He had developed a psychological profiling tool designed to reveal a person’s “unique needs, desires and probable behavioural responses.” He promised users of the test: “The indi-

A few minutes after receiving Mbote’s entreaty, he replied, “I can help and I am interested”. His only question was how Mbote had found him, and he seemed satisfied with the explanation: that the South African Department of Home Affairs had supplied his name. When Worley attributed this improbable event to God’s will, Mbote elaborated on the story to say that Worley’s name was one of 10 that he had been given, and that it had been pulled from a hat after much prayer by someone named Pastor Mark. (A more likely

said that he couldn’t fund the operation. No problem, Mbote answered; “investors” would provide up to \$150,000 for airfare and other expenses needed to move the money to the US, while Worley would act as middleman and curator of the funds.

As promised, in late August 2001, Worley received a cheque for \$47,500, purportedly from one such investor. It was from an account belonging to the Syms Corporation, the discount-clothing chain whose slogan is “An Educated Consumer Is Our Best

He cautioned the students about Satan, telling them, ‘He’s going to try to destroy you every inch of the way’

vidual’s understanding of self will be greatly enhanced, increasing the potential for a fulfilled and balanced life.” And Worley was vigilant against temptation. Two weeks before the e-mail arrived, he had been the keynote speaker at the First Assembly Christian Academy in Worcester, Massachusetts. He cautioned the students about Satan, telling them: “He’s going to be trying to destroy you every inch of the way.”

Still, Worley, faced with an e-mail that would, according to federal authorities, eventually lead him to join a gang of Nigerian criminals seeking to defraud US banks, didn’t hesitate.

possibility is that his e-mail address was plucked from an Internet chain letter, which he received and passed on, that promised a cash reward from Microsoft to anyone who forwarded the letter to others.) In e-mails, phone calls, faxes, and letters during the ensuing weeks, Mbote laid out the plan: If Worley would pay up-front costs, such as fees to a storage facility where the cash was being kept, and possibly travel to South Africa to collect the money, he would receive 30%, or more than \$16-m.

Worley told Mbote that he lived his life with the “utmost integrity” and didn’t want to jeopardise that. He also

Customer”. Worley was wary. He called the Fleet Bank in Portland, Maine, where the cheque had been drawn. The bank told him it was an altered duplicate of a cheque that Syms had paid to the Maryland office of an international luggage manufacturer.

After the Syms cheque proved false and Mbote failed to send a replacement, Worley told him their partnership was over. A few days later, though, he began receiving e-mails from someone claiming to be Mohammed Abacha, the eldest surviving son of Nigeria’s late dictator General Sani Abacha, who reputedly stole billions from the Nigerian

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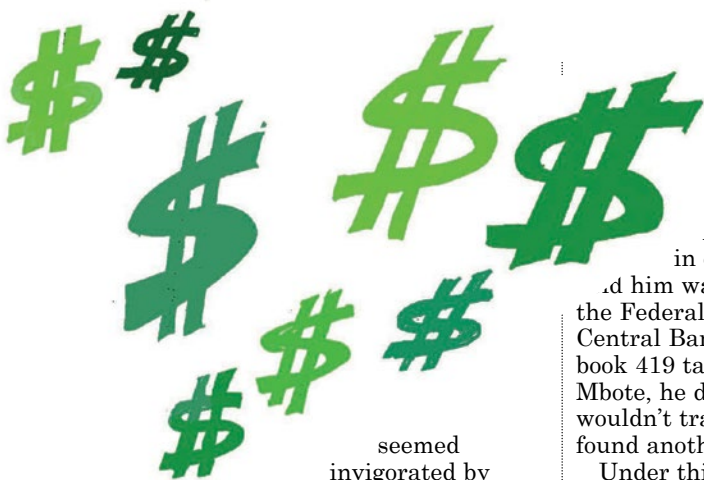
treasury. Mohammed Abacha told Worley that Joshua Mbote had been operating surreptitiously on the Abacha family's behalf, but had bungled so badly that Abacha decided to step forward. He told Worley that the story about buying weapons had been a ruse to protect the Abacha family and their money, which, he said, was actually hidden in Ghana. Soon Worley was put in touch with someone claiming to be the general's widow, Maryam Abacha. In a torrent of phone calls and e-mails, she appealed to Worley. "I learned you wanted to hear from me," she wrote. "Here I am. Help me." In his e-mails, Worley

right partner, and begged for patience: "I am a smart man and very cautious and do not want anything to go wrong." He settled on the Bermuda-based Bank of Butterfield, and in late January 2002, he told Mrs Abacha that he had spent \$4,300 to open an account there. "There will be no trail back to the US and no tax to be paid," he wrote.

Worley's partners soon persuaded him to wire more than \$8,000 to retain a Nigerian lawyer and "to cover the bank fees and late fees" that supposedly were the last barriers to the transfer. But, after more delays and growing doubts, Worley told them that he would not travel abroad – the money,

more and more distressed. The number of correspondents was increasing – at one point, he counted nine – and the spelling of their names kept changing. He complained of receiving letters from "Maram Abacha", "Mariam Abacha", and "Mrs Maryam S Abacha". "I would think that everyone would know how to spell their own real name," he wrote testily. "Obviously, someone does not." When he still seemed no closer to receiving the payment he'd been promised, he made a bid for sympathy, falsely telling his partners that he had been given a diagnosis of cancer. That didn't work, so he told them that he was abandoning the project: "To date,

She said that they needed \$500,000 to bribe five Nigerian bank officials, who had the power to release the \$45-m



seemed invigorated by this new scenario; he apparently believed that he was on the verge of becoming rich while rescuing a woman in distress.

In late November 2001, Worley spent several thousand dollars on an attorney who specialised in international tax planning. The attorney warned him against the seeming opportunity, as did Barbara Worley. She knew little about her husband's "project", as he called it, but she didn't like it.

Worley dismissed these warnings; now that he had committed money to the partnership, he had a vested interest. By the end of 2001, he was telling the Abachas that he had investigated ways to ship the cash secretly and had searched a half-dozen countries for a bank that would accept a huge deposit without alerting authorities. He reassured them that they had chosen the

they said, had been moved to Amsterdam – to collect the cash.

They couldn't change his mind, so they tried a different approach. Mrs Abacha asked him for help in claiming \$45-m that she

and him was hidden in an account of the Federal Ministry of Aviation at the Central Bank of Nigeria. It was a textbook 419 tactic. When Worley doubted Mbote, he disappeared; when Worley wouldn't travel for one treasure, they found another. He sent more money.

Under this new plan, Worley allowed his partners to file false documentation claiming that he was a private aviation contractor to whom the Nigerian government owed \$45-m. At the end of February, Worley crossed another line when a patient named Jennifer Morlock came to his home office for a counselling session. She had barely arrived when he told her he was engaged in a business venture with partners in Nigeria. Violating his profession's code of ethics, he asked to borrow \$15,000. Morlock went home, spoke with her husband, and agreed. By noon, Worley was at her door to collect the money. The same day, he went to a nearby liquor store with a Western Union postal outlet and wired all \$15,000 to Nigeria. He soon repaid Morlock, with interest, by borrowing on his credit card.

Meanwhile, Worley was growing

I have lost nearly \$50,000 chasing a rainbow with a pot of gold at the end of it. I cannot go any further. It will take me two years to recover from this, and I will probably be dead by then." Mrs Abacha's reassurances wrung \$13,000 more from Worley, but in April 2002, he swore he was through, writing, "I must stop this financial torment and anguish and pray that God forgives me for my pursuit of money, simply put, greed."

For five months, Worley didn't correspond with the Nigerians. Then, in September 2002, a fax arrived from someone calling herself Mercy Nduka, who claimed to be a confidential secretary at the Central Bank of Nigeria. Nduka told Worley that the Aviation Ministry funds were still waiting for him, and that she was secretly working with the Abacha family. She said that they needed \$500,000 to bribe five Nigerian bank officials who had the power to release the \$45-m; plus, she said, they needed another \$85,000 to cover fees. Worley refused to send more money, so Nduka and her boss, Usman Bello, said that they would borrow it from investors. Worley would pass along the investors' money and then receive the fortune on behalf of the Abachas, with shares going to him, Nduka, and Bello for their services.

Soon men who claimed to be investors began calling Worley from New York and Washington, asking him to provide credit references and request-

ing that he put up collateral for the loans they were considering making to him. He refused to offer collateral, but that was never the point. The investors' questions and demands made him feel more secure, as though they were truly weighing whether to lend him money. In late November 2002, Worley received a cheque for \$95,000, drawn on an account of the Robert Plan Corporation, a Long Island-based insurance company. Without verifying it, as he had done with the Syms cheque, he deposited it at a branch of Fleet Bank. In fact, the cheque was fraudulent, but a novice employee at the insurance company approved Fleet's payment inquiry. When the money appeared in Worley's account, Nduka told him to wire \$85,000 to a bank in Latvia, which he did. He wired another \$3,800 dollars when Bello said that he needed to buy a Rolex watch to bribe a bank official. Although the Robert Plan employee had approved the cheque and Fleet had paid it, Worley, according to federal law, was responsible for repayment. About a month later, the Nigerians sent Worley a cheque for some \$400,000 from a Michigan marketing company. This cheque was real, but it had been stolen and altered to make Worley the payee.

When Worley deposited it at a branch of Citizens Bank near his home, it cleared; following Nduka's instructions, he wired the money to an account in a Swiss bank.

In the meantime, the Nigerians had ensnared Marcia Cartwright, the wife of a Mississippi car dealer. In October 2002, she had received a 419 e-mail from a man saying he was desperate to get his money out of Nigeria. Two months later, Cartwright received a cheque made out to her for nearly \$109,000, drawn on the account of a Texas advertising firm, and deposited it at the Farmers & Merchants Bank of Booneville, Mississippi. It cleared, and, on orders from Nigeria, she sent Worley a cashier's cheque for \$106,000, keeping the remainder for herself. He deposited the money in his Citizens account on January 15 2003. The next day, he wired \$100,000 to the Swiss account.

Worley told Nduka and Bello that he was certain they now had more than enough to bribe the bankers and cover other expenses. Nduka, ever polite, said that they were not quite there. She sympathised with his frustration, and Worley promised



to be patient. She asked for another \$600,000 – the balance of Cartwright's cashier's cheque – to bribe the telex operators who would execute the transfer. Worley hesitated, but soon sent that money, too. Finally, Nduka told him what he longed to hear: "All is set for the final release of your fund."

That day, the president of the Farmers & Merchants Bank learned that the cheque Marcia Cartwright had deposited a month earlier had been returned as fraudulent. Bank officials called federal and state authorities, and Citizens Bank, where Worley had deposited Cartwright's cashier's cheque, was also notified. An investigator for Citizens, a former police lieutenant named Michael Raymond, told Worley what had happened and said that he was investigating potentially fraudulent activity. Worley sent frantic e-mails and made repeated calls to Nigeria, begging for a replacement cheque. Nduka answered with bad news: Bello had been attacked by robbers and was comatose. But, she wrote, "I have reached an agreement with them for your fund to be released as planned on

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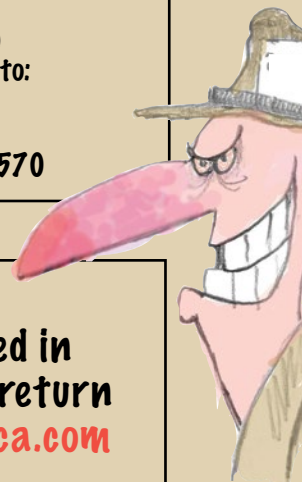
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Friday.” All she needed was \$1,000 to bribe another telex operator.

Worley seemed on the verge of panicking. “If you are my friend, then make it happen tomorrow,” he pleaded. “Why are you badgering me with this \$1,000? I have gone as far as I will go with this. I am desperate and have nothing else to say at this time. I am emotionally, spiritually, and financially drained.” Nduka answered humbly, calling herself “an ordinary woman” who struggled on \$400 a month. Worley responded that Nduka had “touched my heart”. He wired the \$1,000 on 30 January 2003.

The next day, Raymond told Worley that the other cheque he had deposited at Citizens, the cheque from Michigan for \$400,000, was also phoney. Worley

Including credit-card interest, money-wiring fees, long-distance telephone charges, and the tax lawyer’s bills,

Worley’s losses may have been closer to \$80,000.

The prosecutor, an Assistant US Attorney named Nadine Pellegrini, urged the jury to reject suggestions that Worley had simply been scammed. At best, she said, Worley “got in over his head”. Pellegrini portrayed Worley as the puppeteer, not the puppet, and said that he knowingly passed bad cheques, in the belief that he was entering into a “mutually beneficial arrangement”. She focused on Worley’s recognition at various points that he was dealing with liars, and said that he displayed “willful blindness” by ignoring the warning signs of their criminality and his own. Pellegrini said that Worley’s claims of innocence were undermined

he knew an investigation was underway – this was evidence, he said, of Worley’s gullibility. Mostly, Hoopes urged the jury to view Worley’s acts as foolish, not criminal. Hoopes emphasised that Worley had lost heavily in the scam. “It’s not willful blindness,” Hoopes said. “It is blind trust.”

In addition to witness testimony and lawyers’ arguments, the jury was given hundreds of e-mails between Worley and the Nigerians, which told a story of their own, about a man transformed by his pursuit of riches. Reading the e-mails, in which Worley displays both cunning and credulousness – sometimes in the same message – it is clear that the Nigerians were able to take advantage of his religious convictions, his stubbornness, and his desire to be a hero to Mrs Abacha and to his family. Patiently and persistently, the Nigerians turned Worley’s scepticism

‘I am ashamed, and shamed, and an embarrassment to my family. Thoughts of suicide are filling my mind’

knew what that meant, and, according to Raymond, disclosed his suspicion that the Robert Plan cheque was probably fake, too. When Worley got off the phone with Raymond, he was enraged. “I hate being taken advantage of by you evil bastards,” he wrote to Nduka. “This is all lies?” He went on: “Your day will come that you will be judged by God, and so will I. And I am ashamed, and shamed, and an embarrassment to my family, who are so precious and Godly people. What a terrible model of a Christian that I am. Thoughts of suicide are filling my mind, and I am full of rage at you despicable people. I hate living right now, and I want to die. My whole life is falling apart, my family, my ministry, my reputation and all that I have worked for all my life. Dear God, help me. I am so frightened.”

In May 2005, Worley went on trial in the US District Court in Boston on charges of bank fraud, money laundering, and possession of counterfeit cheques. Worley’s overseas correspondents, whose real identities he never knew, disappeared, and were never located or charged. With them went more than \$40,000 of Worley’s money and nearly \$600,000 from the cheques.

by consistent bad conduct – lying to his wife, borrowing from a patient, plotting to avoid taxes, posing as an aviation contractor, claiming to have cancer, and agreeing to bribe Nigerian bank officials. She was unsparing during her cross-examination. “So you don’t have any integrity either, do you, Dr Worley?” she asked. He answered, “No, I don’t.”

“Ladies and gentlemen,” she told the jury, “it’s clear John Worley understands behaviour of people and motivation of people, and he could and he can manipulate both behaviour and reaction... There is only one story here, and that’s the story of John Worley’s greed.”

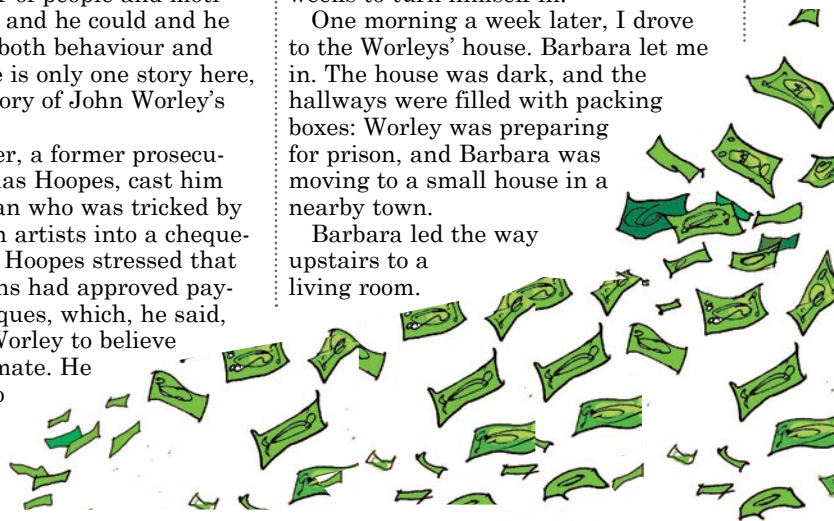
Worley’s lawyer, a former prosecutor named Thomas Hoopes, cast him as a childlike man who was tricked by sophisticated con artists into a cheque-cashing scheme. Hoopes stressed that Fleet and Citizens had approved payment on the cheques, which, he said, reasonably led Worley to believe they were legitimate. He urged the jury to focus on the final \$1,000 that Worley had sent after

into suspension of disbelief, to the point where he seemed to worry that they might not trust him. They made Worley the perfect mark.

The trial took six days, and the jury found Worley guilty on all counts. On February 15, Worley, now 62, returned to the federal courthouse to face sentencing. US District Judge George O’Toole, Jr., sentenced Worley to two years in prison, plus restitution of nearly \$600,000, and gave him five weeks to turn himself in.

One morning a week later, I drove to the Worleys’ house. Barbara let me in. The house was dark, and the hallways were filled with packing boxes: Worley was preparing for prison, and Barbara was moving to a small house in a nearby town.

Barbara led the way upstairs to a living room.



Worley entered. He seemed stunned by his misadventures of the past five years. "The communications that I had with those people were so convincing that I really believed that they were real, they were true," he said. "I would question them and they would come back with a response that was adequate to cover my concerns each and every time." Despite everything, he insisted that he still believed he had been dealing with the real Maryam and Mohammed Abacha. "I think they were legitimately trying to use me and my resources to get their funds out of Nigeria into a safe place where they could have access to them," he said. Worley wasn't sure whom to blame for the bad cheques, though Nduka was suspect. "Somehow there was a buyoff, a payoff, or something that went on there, and then it got switched to the point where I was then dealing with fraudsters," he said.

When I asked Worley what he wished he had done differently, he didn't answer directly. Instead, he spoke about hoping that the Abachas would get back in touch with him. However, before they could resume work on the multimillion-dollar transfer, he expected them to send the \$600,000 he needs for restitution.

"What if they sent you a cheque?"

Barbara demanded. "Would you put it in the bank to see if it cleared again?"

"Yeah."

"John!" she said.

"I don't know," Worley said finally, sounding defeated. "I have to have time to think about what I would do in that situation."

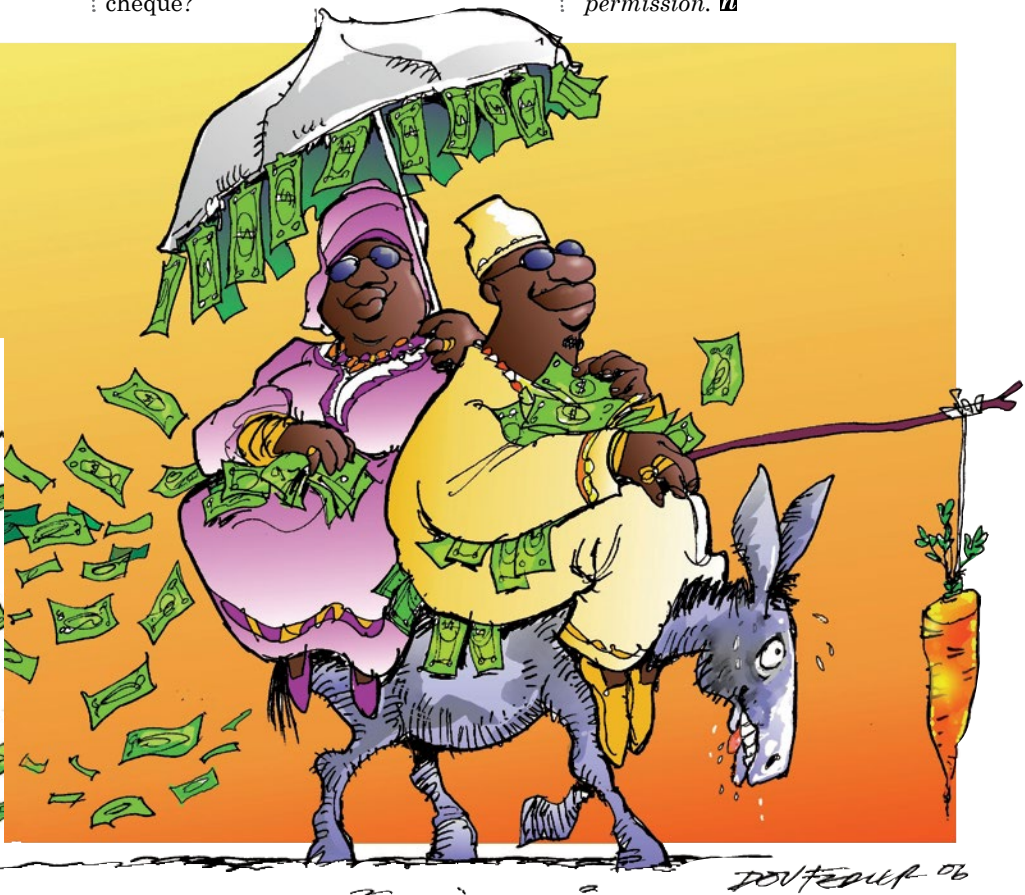
"My husband is naïve," she explained to me. "He trusts people."

An enduring trait of Nigerian letter scammers – indeed, of most con artists – is their reluctance to walk away from a mark before his resources are exhausted. On 5 February 2003, several days after the cheques were revealed as fraudulent, after Worley was under siege by investigators, after his bank account had been frozen, after he had called his partners "evil bastards", Worley received one more e-mail from Mercy Nduka.

"I am quite sympathetic about all your predicaments," she wrote, "but the truth is that we are at the final step and I am not willing to let go, especially with all of these amounts of money that you say that you have to pay back." She needed just one more thing from Worley and the millions would be theirs: another \$3,000.

"You have to trust somebody at times like this," she wrote. "I am waiting your response."

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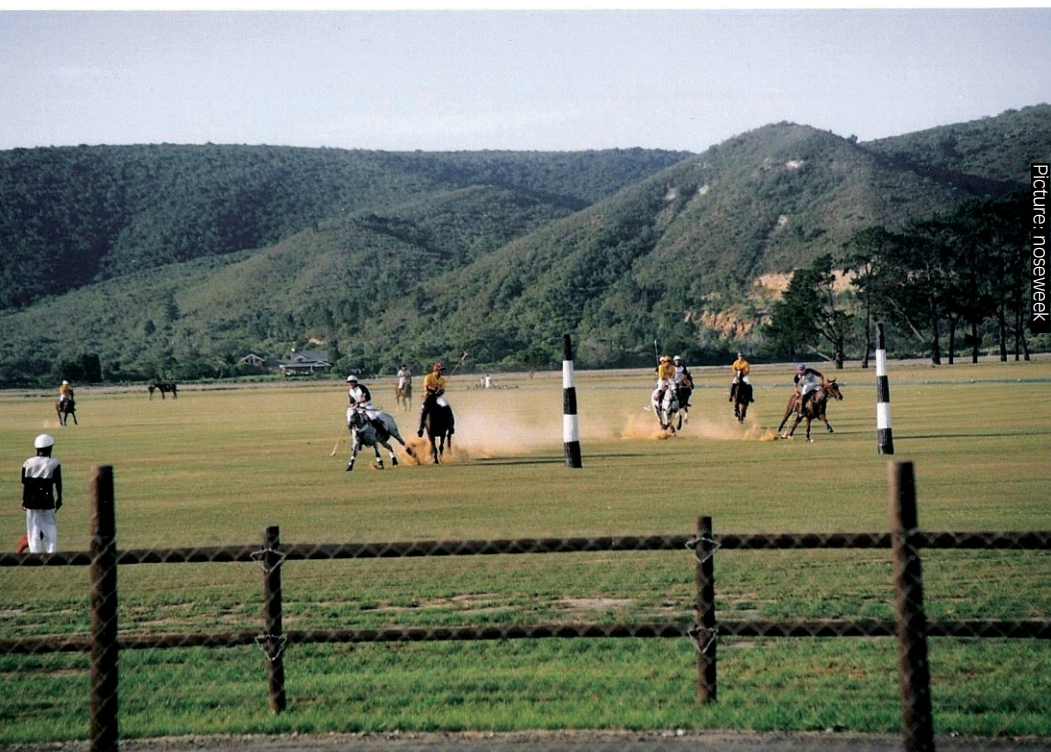


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Plett chukkas its wetlands away



Picture: noseweek

High horses: Plettenberg Bay greenies are alarmed at the galloping destruction of its environment

WILL MILLIONAIRE Leo Baxter be forced to remove tons of sand and topsoil that he trucked into a protected wetland area to create a polo field? That's the question being pondered by environmentalists at Plettenberg Bay, who are up in arms at the plethora of polo fields – 13, at the last count – now surrounding the fashionable Western Cape resort town.

Baxter, founder and chairman of MB Technologies Group, stands accused of infilling the precious Bitou wetland to raise the ground level above the flood line. He's also accused of constructing an illegal dam, erecting a wire mesh fence that has blocked a vital wildlife corridor and, finally, of building his Stonefield

When millionaire Leo Baxter allegedly trashed the environment to build his polo field, was it a case of 'wealth and arrogance' as his detractors claimed or, in the words of an admirer, was he just being 'very naughty'?

polo estate without having done an environmental impact assessment.

The Western Cape's Department of Environmental Affairs and Development Planning tells *noseweek*: "The department has issued a directive to Mr Baxter to cease activities and rehabilitate the impacted area."

Baxter, 48, has responded by appointing "independent" environmental consultant Theo Fischer to undertake a

belated environmental assessment to determine the level of rehabilitation required.

Fischer has admitted that there have been "transgressions", and he wants to see non-compliances rectified in a "participative and transparent manner". They include road construction in sensitive areas, storage of hazardous chemicals (herbicides and pesticides), construction of dams and infilling of a wetland.

Says Pretoria-based Fischer: "Obviously it's a sensitive issue. We are in the process of finalising terms of reference for a fairly comprehensive environmental impact assessment. We have some preliminary results but it's not quite the time to make those public, so hang on before you run your story. Or run it at your peril." [*Thanks for the invitation.* – Ed.]

It was two or more years ago that Johannesburg-based Baxter decided to build a polo estate in the Bitou floodplain.

Peter Wilson, who for 18 years was owner of Mallard River Lodge, a guesthouse perched on a koppie overlooking

the wetland, is nostalgic about the area – and bitter at Baxter's "destruction" of it.

"It's a unique situation, where you have two wetlands – a freshwater wetland and a saltwater wetland – joined by a narrow wildlife corridor," says Wilson. "All your wetland animals and wader birds moved between the two wetlands, mainly at night. But Baxter erected a tall wire mesh fence that has

blocked this corridor. When I asked the man who was doing the fencing to lift it 200mm so the creatures could get underneath, he told me to fuck off.”

Infilling the wetland, says Wilson, has created a “green desert” of manicured lawn grass that is the new polo field. “The area used to be amazingly rich in bird life. What was so special were the birds of prey; there were several species of hawks, forever hovering over that area because it was full of rats, mice and snakes. It was a whole thriving ecology. Baxter’s destroyed all of that. There’s nothing left – just a green desert.”

Henk Nieuwoudt, Nature Conservation’s manager at Plett, says even though it’s agricultural land, if you want to develop it into a polo estate you have to do an environmental impact assessment. “You’re going to use water; you’re going to have to level certain areas; you will put up buildings in a floodplain. All these issues have to be addressed.”

On 10 April Baxter held two “inaugural” polo matches at Stonefield. And Nick Frootko, a retired ear, nose and throat surgeon who’s a member of the Plettenberg Bay Community

Dry rot: It’s not certain how long Plettenberg Bay’s wetland will remain wet



Environment Forum, was there to take incriminating photographs of the event. Declares Nieuwoudt: “He’s (Baxter) been playing polo on that estate, so it’s not a farm breeding polo ponies any more.”

Says Frootko: “I think the real story is of wealth and arrogance and disregard for a lot of things. These enormously wealthy guys buy up these farms. They don’t need environmental impact assessments if they’re going to continue farming, and apparently breeding horses is an agricultural activity. It’s a loophole. Then they start levelling fields, with all that entails, to the degradation of the environment – and, suddenly, there’s a polo match.

“We’re also discussing what herbicides and pesticides they’re using to make that grass grow. They wash into the waterway and affect the whole ecological chain.”

Bryan Denman, vice-chairman of Birdlife Plettenberg Bay, who’s been doing waterbird counts in the Bitou wetland since 1995, says that 10 years ago the area was rich in waders such as red-chested and buff-spotted flufftails, greenshanks, marsh sandpipers and three-banded plovers. No longer.

For Steve du Toit of Wessa (Wildlife and Environment Society of SA), the water gulped by Plett’s polo fields is a major issue. Some 275-million m³ of rain fall on the area annually. The human requirement alone is 339-mil-

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lion m³, so that's a 64-million m³ shortfall at present. And by 2025 the Gouritz water management area's anticipated requirement will be a massive 445-million m³ yearly.

Nobody seems to know how much water a polo field requires. Estimates point to at least 250,000 litres daily. That's 3.3-million litres every day for the area's 13 polo fields – a substantial 1.2-million m³ a year.

"Wetlands are endangered habitats, because there are so few left," says Du Toit. "Estuarine wetlands like the one at Stonefield also perform a very important nursery function for marine species. If you change the level of the substrate you're going to destroy this habitat.

"Mr Baxter has raised the level of the substrate by about half a metre. You're talking thousands of tons that he's dumped there – topsoil, sand, who knows what."

Infilling causes changes in the quality and flow of wetland ground water, Du Toit explains. "Wetlands act as sponges; they retain water during flood events and slowly release it during drier periods. If you infill, larger volumes of water will flow into the rivers during heavy rains, causing unnecessary erosion. And there's less water available during drier periods for the river and wetland species.

"In my opinion significant damage has been caused and may well continue to be caused if he doesn't take the topsoil out and rehabilitate it," he says.

"The activities that Baxter has conducted below the highwater mark – the filling in of the wetland and the construction of a polo field – are illegal. Then there's the construction of the fence and the noise from helicopters.

It's cumulative, impacting negatively on the environment."

Leo Baxter does have at least one admirer on the Bitou – his immediate neighbour, pensioner Mick Jones. "Everybody's going at poor Mr Baxter, except me," says Jones. "He's been very naughty; it's illegal to fill in land which is in a floodplain. He brought in an enormous amount of sand and stuff. I live across the way and was horrified when I saw what he was doing – but now that it's done I think it looks pretty nice.

"Now they're asking him to rehabilitate that land. That's one helluva job. Presumably it means taking off the soil that he put on. No polo field then. I'm sorry for him. In my opinion he hasn't done an awful lot of damage."

Baxter is unrepentant. "I bought agricultural property that had been completely disused and mal-used, in order to develop this polo estate," he says. "Almost immediately I had all sorts of environmental issues and for whatever reason there was huge resistance against a polo estate.

"Simultaneously I went about trying to resurrect, to resuscitate, the wetland. And they claimed I had compromised the environment! They said I had infilled the wetland and all sorts of things.

"If indeed the people under my control had done this, I'd be the first one to remedy it and make amends. There's no one who wants to protect the environment more than me. My objective is to protect the wetland and turn it into something really special. I'll make a significant contribution to make sure it is not compromised.

"I'm going to demonstrate scientifically that in actual fact [the controversy]

is a storm in a teacup. I haven't filled in the wetland, as they allege. But maybe, because you've got a little bit of money, suddenly people start objecting.

"I had to spend literally millions of rands removing dump sites, scrapped cars and rehabilitating over-grazed ground, where cattle had trampled the wetland to a state of destruction. If I've done wrong, I need to remedy it. Where I haven't done wrong, I need to be able to show them and convince them.

"My investment at Stonefield runs into tens of millions. I've now got an environmental consultant [Theo Fischer] making sure we conduct ourselves in the appropriate manner. We've basically finished the environmental impact assessment and have dealt with the specific allegations about infilling wetland, damming up rivers and all sorts of things which were really a lot of nonsense.

"If the truth be told, I think I bore the brunt of what happened before, in the development of Kurland Park [owner Charles Cornwall] and Kurland [Clifford Elphick], where people did seem to go ahead and do exactly as they pleased in terms of damming up rivers. Charles Cornwall blew up half a mountain to make his polo fields. I think I became the scapegoat.

"The wetland at Stonefield has become dramatically reduced over a period of 30 to 40 years. I'm going to play my part in protecting it."

■ It was Clifford Elphick, former chief executive of E Oppenheimer & Sons, who built Plett's first polo field some five years ago. Those who have followed include London-based asset-stripper Brian Myerson (Bitou House Polo); Zimbabwean businessman Mike Mouat (Redford Polo); Charles Cornwall, who created video game heroine Lara Croft and is now facing charges for his alleged involvement in Brett Kebble's frauds (Kurland Park); Paul Main (Bateleur Polo) – who made at least part of his fortune as a collaborator in Kebble's frauds (see: "Who framed Roger?" in *nose63*); and Nicola Fitzgerald (Platinum Polo).

The Western Cape's Department of Environmental Affairs referred Cornwall's activities at Kurland Park to the director of public prosecutions more than two years ago (nothing happened) and the department now says that the allegation that the millionaire blew up part of a mountain to level his land is "being investigated" by its law enforcement and compliance unit. ■

See "The dorp that just can't say no": Page 34

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Hoaxes, lies and rumours

BILL GATES is sharing his fortune, oral sex is a cure for breast cancer, someone is out to steal your kidneys, Nokia is giving away free cellphones, beware of the HIV-tainted blood in the ketchup dispenser ... Who believes this stuff?

A lot of people, evidently.

The most outrageous stories are spread daily via the internet. Never before in the history of humankind has the world had such an efficient means of passing on rumours, hoaxes and downright lies.

Nielsen/Netratings have estimated that there are 450 million cyberspace surfers around the world. Not all of them are termed "active" but there are about 250 million people regularly surfing through cyberspace.

In the past, myths related to a place or group of people and spread by word of mouth. Now that we can fly around the world in a matter of days and have instant mass communication via the internet, the world has become the proverbial global village: a sort of collective consciousness that reacts fast.

Just hours after the first jet slammed into the Twin Towers on 11 September 2001, emails claimed that Nostradamus predicted the event in 1654:

"In the City of God there will be a great thunder, Two brothers torn apart by Chaos, while the fortress endures, the great leader will succumb, The third big war will begin when the big city is burning."

Actually, it was written by college student Neil Marshall as part of a critical analysis of Nostradamus. Ironically, his hypothesis was that his made-up verse could be interpreted in a myriad different ways.

We've all had emails from well-meaning friends, who have passed on warnings of bodies in rum barrels, kidney thieves and exploding toilets. Then there's the poor little dying boy with a rare disease whose last wish was to set a world record for the most postcards ever received ... Sometimes we laugh, sometimes we cry, sometimes we hit the delete button.

Some net lore is hilarious and worthy of passing on. Like the story about the Arkansas woman who killed herself, in a mistaken rapture, jumping from the sunroof of a car. It seems a man, dressed in a toga and on his way to a cos-

Never before
in the history
of humankind
has the world
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of passing on
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tume party, discovered the tarp had come loose from his truck, releasing 12 helium-filled blow-up dolls. So he flung his arms up in frustration – and just then the woman's car passed by. According to her husband, his wife imagined she had seen Jesus lifting people into heaven and couldn't wait for her husband to stop the car.

Then there's the Lovenstein Institute of Scranton, Pennsylvania, study, wherein George W Bush was found to have the lowest IQ score (92) of the last 11 American presidents. The report stated "... his low ratings were due to his apparent difficulty to command the English language in public statements, his limited use of vocabulary..., his lack of scholarly achievements other than a basic MBA, and an absence of any body of work which could be studied on an intellectual basis." Okay, so I fell for that one.

The late Joseph Campbell, noted mythology scholar, wrote in his book *Hero with a Thousand Faces*: "Myth is the secret opening through which the inexhaustible energies of the cosmos pour into human manifestation..."

Quite profound. But I reckon what he was really trying to say is that a culture can be studied through its history and geography, but nothing tells you more about a culture than its mythology. We can discover what people aspired to, what they feared, what they envied; in essence, who they really were.


So what does the mythology of the internet tell us about our emerging worldwide society?

What would Joseph Campbell say today about warnings of killer crocs in the sewer system, deadly diseases from unwashed coke cans, lead in our lipstick, flesh-eating camel spiders and dwarf-eating hippos?

And did you know that the act of ogling breasts makes men live longer?

What do these myths tell us about our subconscious? What are the hidden meanings, and what do they reveal about who we are today?

I hope some investigator has the courage to find out. I sure as hell don't know what to make of it.

■ How good is your bullshit detector? Go to: urbanlegends.about.com, a site with all the latest and greatest internet hoaxes, urban legends and netlore. Then under "most popular" click on Test Your Urban Legends IQ. 

Curl up with a good bit of software

IT'S NOT often that copyright disputes make it all the way up to the Supreme Court of Appeal.

Which is just as well, because they can be pretty tedious as well. The recent case involving Brewer's Marketing Intelligence makes interesting reading, though!

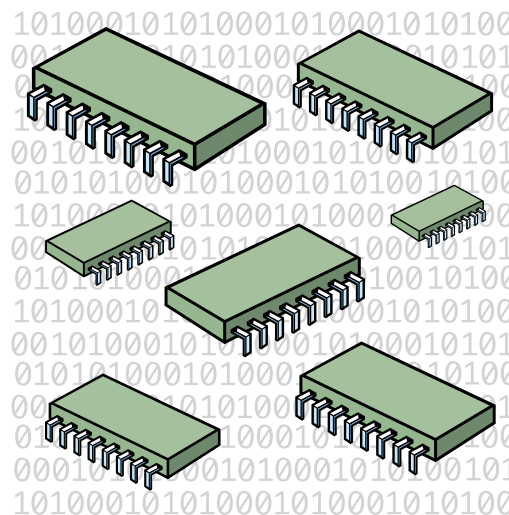
People who have read this judgment will tell you that the facts were horribly technical and complicated. We don't do technical and complicated, of course – we do simple. There's a man called Chris Brewer. There's another man called Anton Haupt. They're brothers-in-law, although, by the time you've read this story you'll probably feel that their family Christmas lunch must be a pretty tense affair. They were also business partners (yes, very silly, you're quite right), and co-directors of a company called Brewer's Almanac, an advertising agency which also disseminated information to the advertising industry. There's a third man, called Byron Coetzee. He's a computer geek. It's not clear if he's anyone's brother-in-law.

Brewer's Almanac briefed Coetzee to write a computer program to "interrogate and manipulate" All Media Products Survey (AMPS) data (perhaps one of the partners had a previous life in the secret police?). What's AMPS you ask? It's Big Brother-type information about who's reading, viewing and listening to what – information which is apparently useful to people in marketing or advertising. Coetzee programmed away merrily and, in the process, also created a database or two. The program was given the mildly intriguing name Project AMPS – by the former spook, we reckon.

Haupt and Brewer parted ways (you never saw that coming did you?) before Project AMPS was completed. Coetzee's relationship with Brewer's Almanac came to an end, but he continued to develop the program for Haupt, in return for a promise of 20% of gross sales of the program. Further component programs and databases were created along the way (hope we're not getting too technical!). The program was now given the grand title of Data Explorer – bravely going where no data has ever gone before.

Coetzee moved to the USA. Why? Perhaps he did, in fact, have a brother-in-law and went

When a database becomes a literary work



off to visit him. Six months in the US is of course a very long time and, after he'd been there for about that many months, Coetzee started getting restless. He contacted Brewer to say he hadn't heard from Haupt for some time. Brewer responded in an e-mail, which went something like this: "Hey Byron my old china, can I use your program to convert AMPS data into my own database? I'll get old Hank to do the technical stuff [*Hank's a new character, and with Hank in SA and Coetzee in the US you may be wondering what on earth is going on in this story*]. I'll pay you a royalty on sales. Don't say a word to Anton Haupt, but don't worry, there's nothing underhand or devious about this. We really should work together because there is room for another player in the market – Anton is obviously doing exceptionally well, in fact he's positively RICH – and you, yourself, would not be compromised." Basically your classic "Why the %#@! didn't I just phone?" type e-mail.

The thick plottens! Coetzee was so enamoured with this plan that he signed an agreement with Brewer's company, Brewer's Marketing Intelligence (an oxymoron?). The company would develop the program, and Coetzee would provide compiled data and generally be very helpful. Brewer's Marketing Intelligence then employed our friend Hank to write the program, which became known as Brewer's AMPS program. Hank frequently contacted Coetzee for assistance, and Coetzee kindly

sent him portions of the source code of the Data Explorer program.

When Haupt found out about Brewer's AMPS he sued for copyright infringement. All parties involved appear to have made a complete hash of things. Haupt lost. He therefore took the matter to the Supreme Court of Appeal, Bloemfontein's sole claim to fame (apart from the Cheetahs, that is). He succeeded in his appeal. Although the court didn't really create any new law, it did clarify a number of basic principles and applied them to a somewhat convoluted set of facts. It held that:

There is a clear difference between a computer program and a database, although both are protected by copyright law. A computer program is specifically protected as such, whereas a database is protected as a "literary work". Although it may sound bizarre to call a database a literary work, the expression basically means a written work - no literary merit is required at all.

Project AMPS (the original and uncompleted program created by Brewer's Almanac) enjoyed copyright as a computer program, even though it wasn't completed and didn't work properly.

There was a separate copyright in

Data Explorer, even though it was essentially an improvement on the Project AMPS program. An improvement or refinement of a copyrighted work is eligible for copyright if it is substantial and if it is original.

A work must be original before it enjoys copyright, but originality in copyright law does not mean creative. It simply means that the work was not copied and involved the exercise of a substantial degree of skill, judgment

of labour. The work done by Coetzee clearly did involve skill, judgment and labour. The question of the authorship of a work depends on the kind of work it is. With a literary work, the author is the person who first makes it. The databases had been created by Coetzee, albeit computer assisted, and he was therefore the author. Haupt, however, had an implied licence to use them. The

author of a computer program, on the other hand, is the person who exercises control over the making of the program. The making of the program had been controlled by Brewer's Almanac before the parting of the ways, but after that by Haupt. He had instructed Coetzee, every step of the way, even though he himself didn't have the expertise to write the program. Copyright in Data Explorer therefore belonged to Haupt.

In order for there to be an infringe-

“Don't say a word to Anton Haupt, but don't worry, there's nothing underhand or devious about this”

ment, there must be a substantial degree of copying and it is quality, not quantity, that counts. The evidence showed that significant parts of the Data Explorer program had been copied in the Brewer's AMPS program. There had, therefore, been infringement, and Coetzee had assisted in this infringement.

Brewer's Marketing Intelligence, Brewer personally and Coetzee were all ordered to stop infringing the copyright. [1]



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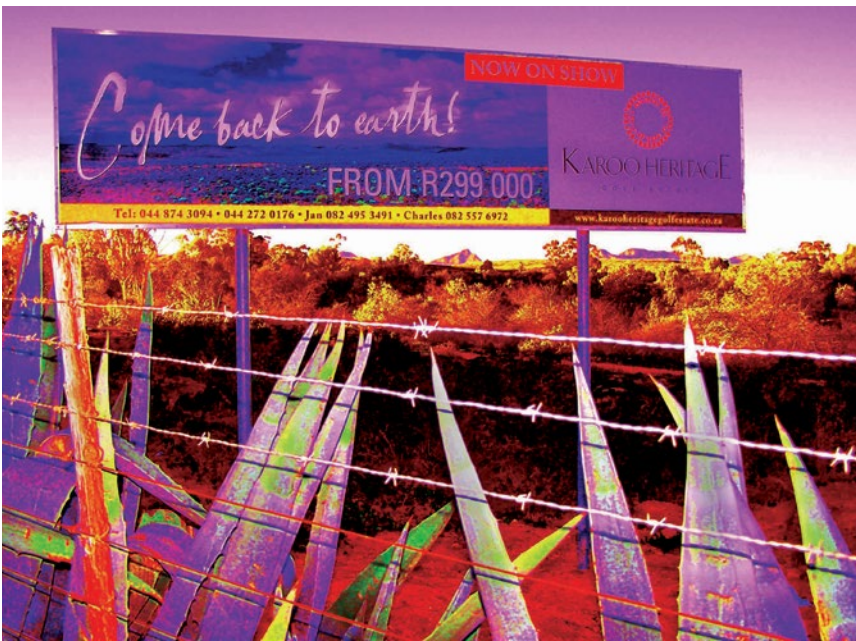
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The dorp that just can't say no



ON A WIDE, arid valley floor, between the Swartberg and the Outeniquaberg, lies the not-quite-bustling main dorp of the Little Karoo, Oudtshoorn. Most famous for its innumerable highly-strung ostriches, the nearby Cango Caves, that attract annual gathering of the Volk, the Klein Karoo Nasionale Kunstefees, it feels like the kind of place where things will never change much, or too fast. Kids play in the street, tourists dwaal around, and the crackle and thud of small arms fire from the army base gives a little frisson to many an immaculate sunset.

Little do Oudtshoorn's residents know that their lives may soon be getting a lot worse. The dorp, like others in this part of the world, is heading for a water crisis. Instead of taking steps to avoid that crisis, the local council is driving developments that will make water scarcer and thus more expensive to users.

Oudtshoorn has generally had access to a reliable supply of cheap, clean water, piped from two dams in the Swartberg (although in recent years water restrictions have become more frequent). Many residents have

**In Oudtshoorn,
it's not just
the ostriches
that have their
heads in the
sand**

wonderful, lush gardens. The municipality irrigates its road island gardens so enthusiastically that the streets are often shining wet.

The dams can supply about 6-million m³ per year at what water boffins call a one-in-10-year assurance of supply to urban Oudtshoorn. This means that, for nine years out of 10, the town should have access to at least 6-million m³ of the stuff. For one year out of ten, there will be a shortfall. Water planners usually aim to provide sufficient water at a 1 in 50 year assurance of supply, reducing the likelihood of a shortfall to 1 in 50 years. Oudtshoorn's current system can only supply 5.4-million m³ per year at the desirable 1-in-50-year-assurance-of-supply level.

According to a report by consultants Ninham Shand (connected to the well-known construction/engineering company of the same name), Oudtshoorn currently draws 6.3 million m³ per year – almost a million m³ per year more than it “should”. This explains the more frequent water restrictions.

One would think that the local council would halt further development until it implements permanent water saving measures, or increases supply. But they're not – they want as much development to happen, as quickly as possible. One of the projects they're backing is the Karoo Heritage Estate (slogan: “Come back to earth!”), a golf estate residential complex (how original).

A few years ago the Oudtshoorn Golf Club, a typical small-town golf club, went into partnership with BC Design and Kanu Construction (Pty) Ltd. to redevelop the course. Kanu (the guys who built the famous Fancourt golf estate) and BC have planned an upmarket residential estate around the existing golf course – and called it the Karoo Heritage Estate. The development is financed by RMB Private Bank.

Although the greens of the golf course are, and will be, irrigated with semi-purified wastewater from the dorp's sewerage plant, Ninham Shand has estimated that the Estate's accommodation – 500+ living units – will add 4.5% to Oudtshoorn's already excessive water consumption.

In addition to the Karoo Heritage Estate, other new developments are springing up around town: hideous “security villages” that attract paranoid buyers who haven't realised that Oudtshoorn's low crime rate obviates the need to live in a Fortress a la Jozi. The council also wants 1,170 low-cost houses,

and an expanded industrial area.

Ninham Shand reckons that, if the currently proposed developments are completed, by 2010 Oudtshoorn will have to abstract 7.2 million m³ of water a year to supply its urban needs – almost a million more than the current over-abstraction. In other words, if the developments go ahead, Oudtshoorn must find lots of extra water, or condemn its citizens to enduring more-or-less constant water shortages.

Council thinks that unbridled building can go ahead because they have plans around the water issue. Proposals include making residents use less via a Water Demand Management Plan, fixing leaky pipes, buying water rights from farmers, and, most controversially, pumping a helluva lot from a planned ultra-deep borehole field at a place called Blossoms south of the town.

Fixing pipes costs millions. Implementing a demand reduction plan costs millions more. (The chronically disorganised council appointed a consultant last year to draw a plan up, but they haven't yet given him a work schedule, so it's likely to be years before even just the plan sees the light of day.) Buying water rights from farmers is all well and good, but these rights are hugely over-subscribed in the Oudtshoorn area – farmers have rights to far more water than is in its rivers and dams. A right to water is no guarantee that you'll actually get it, especially in dry years.

The ultra-deep boreholes at Blossoms are still in pilot phase. Two narrow-diameter research holes were drilled in 2005 at a cost of millions, and these are currently spewing out abnormally high quality water. (“They're stupid to use this for watering gardens and flushing toilets – they could make tens of millions selling it as bottled mineral water”, a hydrologist declared when viewing the quality test results.) The cost of developing a full production borehole system and a pipeline to Oudtshoorn will probably be somewhere between R30 million and R40 million. There are also additional, non-financial, factors to consider.

If you suck too much water too fast out of a deep borehole you're likely to dry up other shallower boreholes and springs in the area. Farm pumps and

streams run dry, devastating the local economy and wiping out wild species like fish and water-loving plants. To appease environmentalists and farmers near Blossoms, it was agreed that water would be abstracted from the research holes for about five years so that potential impacts could be properly studied before wide-bore production holes are considered. But as the water position becomes more desperate, council officials are railroading through plans to increase the size of one of the research holes to ‘production diameter’, unilaterally reducing the study period to one year, so that they can start pumping out vast amounts of water – fast.

They don't want a proper impact study, which takes years. They want the Blossoms water at all costs, stuff the farmers and the environment. The officials find big-budget projects more glamorous (and more lucrative?). So do their more overtly political colleagues,

the elected councillors. “Blossoms is like the Angel Gabriel coming to save them”, says a NoseArk source.

At a recent PR function arranged by the golf estate project manager, an out-of-towner called Sarel Coetzee, the deputy mayor of Oudtshoorn, James Swigelaar, sang the estate's praises: “The Oudtshoorn municipality very much wants the development at the golf estate to be commenced as soon as possible”. Long-serving councillor Angeline LeKay warned all present not to “sour” the good relationship between the council and the developers.

The Western Cape's Department of Environmental Affairs and Development Planning (“Dead-P” in Acronymish) could stop the golf estate. It still needs to grant a positive Record of Decision to allow it to go ahead. At the time of writing, a decision had not yet been made, but NoseArk's informants in Dead-P assure us that the top brass are making approving

noises, never mind that the Karoo Heritage Estate is already contravening the Western Cape's guidelines for golf and polo estates by promoting the development in advance of approval being granted. (None of their advertising tells potential buyers that the go-ahead has not yet been given.) Marketers are telling buyers to expect transfer in mid or late 2006.

The only major obstacle to Dead-P approving the estate has been a letter of opposition from ecologists at CapeNature who seem to be the only people clued up on Oudtshoorn's perilous water position. They are now under pressure to tone down their disapproval.

The Karoo Heritage Estate's marketing guy (Golf Club ex-chairman Jan Celliers), perhaps sensing trouble on the horizon, has quietly started saying that estate houses will not, despite what is said in their written materials, be using municipal water.

“They're stupid to use this for watering gardens and flushing toilets – they could make millions selling it as bottled mineral water”

They will, he now says, install a water-purification system so the sewage-plant water they currently get for the greens can be used for human consumption. “What nonsense!” a current Golf Club member told NoseArk. “Jan proposed some expensive Swedish system that we could never afford to operate. It'll never be installed. The estate will use municipal water.”

Celliers also says that there were no objections to the project in the public participation process. Amazing. If the developments go ahead, it's Oudtshoorn's people that will pay more for less water and see their environment deteriorate, while the developers profit. While rich golf estate investors will be “coming back to earth”, the average local will be coming down to earth with a bang.

Perhaps people do get the government they deserve. ■

See “Plett chukkas away its Wetlands”: Page 28

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Three-Penis Wine

THROWING STUFF into wine to make it more tasty, or more interesting, has a long history. The ancient Greeks and Romans added sea-water or, on occasion, honey, or herbs and other “botanicals” to produce a sort of vermouth. The Chinese, who seem traditionally to delight in ripping things off or out of animals for dubious purposes, still produce variations of snake-infused wine and “three-penis wine”.

The trio of unwilling contributors to the latter potion have customarily been the seal, the dog and the deer. As species, they no doubt sighed with relief when Viagra came along, but sighed too soon – a number of traditional chaps out East still insist on the good old ways.

For a short time in Singapore, however, a crucial component of Viagra became a popular wine additive, before the dour health ministry clamped down. Sadly, there’s been an internet purge, and I can no longer find the splendid and hope-giving ad I came across half a decade back while researching an article on wine additives. It informed me that Viagra Tonic Wine, “which had been abstracted from the treasure-house of traditional Chinese medicine and pharmacology, has properly met the man’s need for a overloaded wrok and high quality of pursuit in life, giving them more confidence and price” [sic]. The same producer offered other means to deal with an overloaded wrok, including their version of Three-Penis Wine, “brewed with pure grains, mixed with the precious Chinese medical materials as deerhorn blood, deer penis, bull penis, dog penis, lycium & ect. through scientific formula and advanced process”.

For some, on the other hand, things go better with cocaine. For all I know, it has the same effect as Three-Penis Wine and certainly in the latter half of the 19th century there was a big buzz for Vin Mariani à la Coca du Perou: a mixture of Bordeaux wine and coca-leaf extract, developed by a Corsican chemist fascinated by coca, and enthusiastically endorsed by such diverse members of the establishment as Pope Leo XIII, Buffalo Bill, Queen Victoria and Louis Blériot – who was swigging it as he adventurously fluttered across the Channel.

Government crackdowns put a halt to this sort of adulteration, but it’s worth noting

In our cynical age it’s less a question of miraculously turning water into wine than of putting water into wine

the legacy of Vin Mariani. An American copy was concocted in Atlanta in the 1880s, called French Wine Coca. But when prohibition pressures grew, John S Pemberton was forced to replace the wine component with distilled fruit oils in his “valuable brain tonic and ... cure for all nervous afflictions”. Such was the disreputable birth of what became Coca-Cola, which apparently included coca until around 1903.

Such exotic additives make pulping some greenpepper into your sauvignon blanc seem pretty dull (as done by those two naughty KWV winemakers, and cleverer ones who weren’t caught). Nowadays, in what is, I trust, our largely law-abiding industry, I suspect the most popular illegal additive is even more innocuous. In our cynical age, it’s less a question of miraculously *turning* water into wine, than of *putting* water into wine.

Dilution is not (well, not always) done to stretch the wine. Rather, the aim is to mitigate the soaring alcohol levels that accompany fashionable ultra-ripe fruit flavours and richness. Riper grapes mean more sugar, which means more alcohol. One possible result is “stuck fermentation”, when the rising alcohol inhibits further conversion of sugar, and the yeasts turn up their myriad little toes and leave the wine sweeter than most wine-lovers want it.

If you’re a clever wine-maker, the wine can be in balance despite big alcohols. But many find these wines hard to drink, especially when a refreshing accompaniment to food is wanted.

Adding water to lower the alcohol level, especially during fermentation, can be an attractive option – though not for ambitious winemakers who don’t like too much manipulation. But the process has already become legal (with some notional limits) in California, where the Americans have developed euphemisms like “breaking back” and “rehydration”.

Perhaps, perversely, dilution can have the same net effect as more convincing aphrodisiacs like deer penis. For alcohol’s effect on (male) lust is pretty equivocal, as the Porter in *Macbeth* pointed out: “Lechery, sir, it provokes and unprovokes; it provokes the desire, but it takes away the performance.” But properly managed vineyards and wineries, and less devotion to over-ripe fruit, are preferable ways to satisfaction at table and in bed than any amount of dilution – sorry, rehydration. **W**

That'll be the day

DEAR MR NOSE, There are those who opine, nay ordain, that Captain Hornblower is the model of excellence for all fiction, and that Buddy Holly was the greatest musician of the 20th century because he was the first to play the electric guitar. And here was I thinking Gabriel Garcia Marquez was a bit of all right and Sir Edward Elgar had a certain majesty about him, though he wasn't the first to play the electric violincello. Well it's *quot homines tot sententiae* in the matter of literature, I suppose. (However many men, so many opinions.) But I refute outright the chronological claim, because my father was the first to play the electric bagpipes in 1902.

Buddy Holly had this electrical *meisterstück* called *That'll be the Day*, the lyric of which went like this:

Uuuh

That'll be the day, gechunkachunkachunk

That'll be the day, gechunkachunkachunk

That'll be the day, gechunkachunkachunk

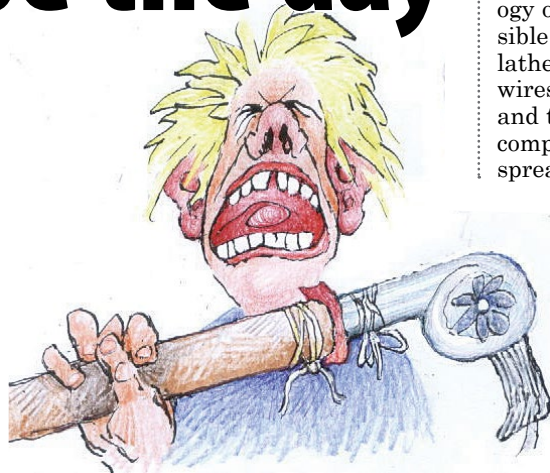
Uuuh that'll be the dayhayhay when I die

Uuuh

That'll be the day, ge...(etc for 3.5 mins)

Now it is possible to imagine Sir Edward retiring to agricultural life upon hearing such advanced composition in the later 20th century, and Igor Stravinsky returning to the Music of Social Purpose in the Soviet Union, and among the guitarists Andres Segovia falling into clinical depression since he'd only got as far as playing J S Bach on the guitar, which is about as advanced as *Chopsticks* on the pianoforte, and Julian Bream dying of dismay, which I believe he did. I have heard that Eric Clapton got stoned unrecognisable on hearing the above and tanked up with liquor and squirted full of every drowsy syrup known unto science and art and set forth to drive his car into the Hudson River with every musical instrument he owned on board, being saved from ignominious death only by an oak tree which he happened not to notice en route. Mick Jagger confirms it was this *meisterstück* that gave him the wrinkles.

So here's me father in 1902, then, employed as metal turner by the London, Midland and



Scottish Railways, expertly at work in the workshops of the Glasgow Terminus on the great steam locomotives of the day, taking note as he goes of the new electric technology of the German railways, deducing it possible to attach the belt drive of his capstan lathe to a small generator and lead certain wires therefrom to where it's quiet outside, and there drive a small electric motor with a compressor attached to the family pipes while spreadeagled on a workbench like the family pet on a vet's operating table. He nails down the bag with tapes to the bench, ties the drones to an overhead beam with string and clamps the chanter in a vise so he can play it like a piano. He sings:

O-o-och

Wullie's waife was dour an' dun,

Tinkler Maidgie was her mither,

Sic a waife as Wullie had,

I wudna gie a button fr her

Additional to the claim, on my late father's behalf, to being the greatest musician of the 20th century, I can also lay claim on behalf of my cousin's grandson in Australia to being the greatest of the 21st

And I must say I find this something of an advance on the *That'll be the Day* theme, as lyrics go. Also the music has something jaunty to it, such as might cause one to spring about 'twixt crossed swords at risk of injury to the toes, and to join in the song.

That's not the end of the story of Firsts, though. Later he was able to fix metal stops on levers to the holes along the pipe, as on a clarinet, and dispense altogether with the bag and the drones, and with a series of such pipes conjoined vertically in a cabinet with double-manual harpsichord-type keyboards, to constitute what was in fact the first electric organ, the patent for which was purchased by a certain Walter Hammond, who produced the Hammond Organ of the 1940s, as favoured by a certain Ethel Smith who played on it a melody titled *Tico Tico* about a cuckoo in a clock, which was top of the popularity ratings of 1942 (possibly 1943).

And now, additional to the claim, on my late father's behalf, to being the greatest musician of the 20th century, I can also lay claim on behalf of my cousin's grandson in Australia to being the greatest of the 21st. You see, he is the first to play the electric digeridoo, a technology achieved by fixing a hair-dryer to the blowing end with a flat piece of inner tube in between, with a slit in it like human lips, and controlling the volume of air passing through there with a foot-pedal type rheostat as on a sewing machine, thus varying the traditional timbre of the instrument whilst his true lips are free to sing down at the Seednee ferryboat harbour there:

Aaar

The sun shoines bright in Woolloomooloo

The sun shoines bright in Woolloomooloo

The sun shoines bright in Woolloomooloo

An' Oi'll be sewfing in the wives in a minute or two

Aaar

The sun shoines bright...(etc for 3,5 mins) **W**

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