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noseweek

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AUGUST 2005

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noseweek

AUGUST2005 ISSUE70

Cover illustration: Dr Jack

12 MZI KHUMALO DOES THE TWO-TIME

Kebble protégé prepares to take the floor with megabuck flotation

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Birds of a feather

A bit of useless trivia that I thought you might find interesting:

In your editorial "we told you so" (*nose*69) you recalled the Conlog deal, involving Major-General Ian Deetleefs, and the Mandela art scandal, involving Ross Calder.

These two "gentlemen" are related by marriage: Ian Deetleefs is married to Beverly Horsfield. Beverly and Ross Calder are first cousins.

A devoted noseweek fan
Johannesburg

Yup, birds of a feather flock, and sometimes breed, together. – Ed.

Death sentence

I am concerned by the addition of a sentence to my letter (Letters, *nose*69) regarding James Selfe and the DA's pro-death penalty stance. Michael Dukakis did not feature in the 1992 US presidential election; his moment in history was 1988. Had you put the sentence into italics, readers would have been able to figure out that it was the editorial comment that didn't understand the chronology of recent American political history.

James Sanders
England

The sentence, in brackets, was inserted to elucidate the point. The error was undoubtedly ours. Sorry. – Ed.

Once again the government in Botswana is showing that it does not care about our people, the Bushmen

Absa has a heart!

We would like to thank Mr Nose for pointing out (in *nose*68) the shortcomings of our standard letter sent to customers who had previously qualified for reduced bank charges because of disability.

Under special circumstances and depending on the product, Absa will still review the individual circumstances of customers to determine bank charges.

It should also be noted that social beneficiaries (including disabled customers) have options available such as a Sekulula or Mzansi Account.

The Absa Sekulula account provides benefits such as no administration fee, with two free withdrawals (which effectively makes banking free for grant recipients including disabled customers).

The Mzansi account, designed for the unbanked and underbanked sectors, is also available to disabled customers and offers more affordable banking. Mzansi also offers higher interest rates on deposits.

We look forward to meeting the customer mentioned by Mr Nose and will make every effort to satisfy his banking needs and those of other clients in similar circumstances.

Deon Oosthuizen
Absa Group Media Services,
Johannesburg

How kind. Thank you! – Ed.

Gus

"If you want to succeed in this business, son, you have to go for the jocular"

Bushmen and justice

Once again the government in Botswana is showing that it does not care about our people, the Bushmen of the Central Kalahari. Wildlife guards have again tortured seven of our people in Kaudwane who have shown us their wounds and told us their stories. This makes our hearts weep. When will our people be safe?

The wildlife officials have beaten them, hung them upside down, poured petrol onto them and stood on their hands. They have also left them hanging on a vehicle while they have driven with them fast over the sand. These people are now very afraid.

The wildlife guards accused the people of hunting. Yet only two men had meat with them. The others have not been doing any hunting. Even the ones who had meat, they need to hunt to feed their families. Bushmen have always hunted in this area to survive and because it is our culture. We should be allowed to keep on doing that. The government must show that it cares about this. When there was torture of many, many of our people in 2000 and 2001, the government did nothing. It ignored our crying. Now we are waiting for the government to take those wildlife guards to prison.

Jumanda Gakelebone and Roy Sesana
First People of the Kalahari,
Botswana

Also see update on page 20.

Sugar and science

An application has been made by the South African Sugarcane Research Institute (SASRI) to conduct a trial with genetically modified sugarcane. According to the public notice, several independent modifications, falling into two categories, are being investigated:

1. To order to determine sucrose yields in mature plants: the endogenous enzymes (three are specified) of five sugarcane cultivars have been up- or down-regulated.
2. To establish whether promoter elements isolated from sugarcane can be used to target gene expression to specific regions of the plant: sugarcane plants of cultivar NCo310, have been transformed with novel promoter elements and a "reporter" gene b-glucuronidase (GUS) from *E.coli*.

We have reviewed the application, and our scientific conclusions and objections have been registered with the relevant authorities. Briefly stated: The available scientific information, as provided by SASRI, does not allow for a full evaluation or determination of the risks of the use of the transgenic lines. At a minimum, the literature indicates that a great deal more investigation has to be carried out on the impacts of transgenes before their release into the environment.

No indication is given of what the future intention of the transgenic development is. The applicant has previously carried out similar trials and claimed the purpose as being for "proof of concept" only; are we to assume the same applies here? Since trials have ostensibly already been done for "proof of concept", what was the outcome of those trials and why are they being repeated? [*Except, possibly, as a strategy to irretrievably pollute existing sugar cane gene pools?- Ed.*]

In several instances where claims are made by the applicant of no adverse effects to human and animal health and the environment from release of the transgenic organism, the reason is given that there is "no difference" between the native and genetically modified form. The preceding discussion makes it clear that this is not the case. At the very least, independently verifiable research has to be carried out before such claims are made.

Any potential category of risk introduced by the genetic modification is still unclear from the application. The ability of ecosystems to develop gradually, the ability to anticipate environmental health effects and, very importantly, the establishment of regulatory mechanisms that can effectively, efficiently and credibly manage risks associated with the use of GMOs has not kept pace with the rapid introduction of GMOs.

Mariam Mayet
African Centre for Biosafety, Johannesburg

See page 28.

Blocked rands

It's time to look into the state of blocked rands. Remember them, from the days of "financial" rands? There are still billions of blocked rands locked up in the system and, as many of the original depositors have either died, forgotten, or abandoned them, they are just sitting in the banks. What is happening to them; who gets the interest?

Joe
by email

Several banks have already simply appropriated these funds – with a silent nod from their friends in the SA Reserve Bank. So our sources tell us. – Ed.

Licence to print money

Mutual and Federal have been producing sparkling results. A good proportion of these arise from their practice of automatically increasing premiums by 10% each year – to cover inflation you understand!

[*According to the CIA's – yes,* **the** *CIA's – World Factbook, South Africa's inflation rate in 2004 was only 4.5% – and since 1999 has averaged no more than 6%. – Ed.*]

Because I didn't handle my premium payments myself, I didn't notice this "inertia" selling until my new Toyota showed up on the renewal notice as being insured for considerably more than I had paid for it in the previous month. My smallholding, valued at R350,000 by the local authority a few months back was in at R1,500,000. The consequent reduction in the premium (when I complained) was R2,000. Now that really is a licence to print money!

J Wootton
Worcester

Sanlam, Liberty Life ... all have 10% escalating-premium, "inflation-beating" policy deals that end up having much the same effect on their profits.

Dear Reader

How FNB 'deals' with clients

We asked Ed Grondel, head of First National Bank HomeLoans, to comment on our article (see page 16) about the continuing ripoff and legal abuse of FNB's ex-Saambou mortgage bond clients.

What's immediately striking about his response is something he doesn't say. Grondel doesn't tell us that he has investigated the question of substantial overcharges on the accounts of his clients, and that the claims are unfounded. That he doesn't do.

All Big Ed wants us to understand is that it's *not his responsibility*.

"At the outset, it is important to note that it is the responsibility of the Saambou Curator and the Department of Finance to investigate alleged instances of excessive charging by Saambou," he writes.

Wrong! It is FNB sending thousands of its clients monthly statements that the bank claims are correct – when it has every reason to know that they are not. It is FNB issuing summons against "defaulting" bond clients who are not, in fact, in default. It is FNB auctioning off the houses of bond clients who are too poor and ignorant to know that they are being robbed by a supposedly reputable financial institution.

According to Grondel, "FNB cannot act without the concurrence of these two parties [the Curator and the Department of Finance] and we strongly advise you to seek further comment from both these parties in this regard".

Wrong again. Grondel makes FNB sound like a helpless toddler at kindergarten, when we're talking about a multi-billion rand financial institution that has all the power needed to confront the problem, with or without the co-operation of the Department of Finance, which everyone knows is compromised by its having condoned the fraud for over a decade.

Remember, these are now First National Bank's clients we are talking about.

In our article we cite the case of Mrs Maart who was summonsed late last year for being in arrears on her bond. "With regard to Mrs Maart's matter," writes Grondel, "in the time you have afforded us [one business day] we have not been able to establish any record of this matter on our books. We suggest that you approach the curator's office for further clarification."

Once again Grondel wants to pretend that it's all somebody else's responsibility. But it wasn't the curator who summonsed Mrs Maart in November last year, in Cape High Court case no 10013/04. It was First National Bank.

"For the record," Grondel writes further, "FNB has been in extensive contact with both the Curator and the Department of Finance to seek a resolution to the various matters brought to our attention." As far as *noseweek* is aware there is not a single one of the few individual cases that have been brought to FNB's attention that has actually been resolved. And the bank's responsibility is surely to sort out the problem as a whole – Saambou routinely charged all its bond clients usurious interest – not just to deal with those few cases that it has the misfortune to have "brought to its attention".

And even those cases it is "dealing with" rather than honestly settling.

When Grondel declares: "In closing, it is incumbent upon me to note that under FNB's tenure, not a single affected former Saambou client has lost his or her home because the balances on their home mortgage accounts have been incorrectly calculated", we know that's simply not the truth. The best he might say is that those who have lost their homes did not claim in their defence to have been overcharged. As we explain in our story, this can only have been because of the unfortunate clients' ignorance of the facts. Shamefully, Grondel does know the facts.

As our story indicates, FNB's strategy is both obvious and sinister: FNB is simply waiting for the Department of Finance to change the law, to deprive victim clients of their defence, and then it's back to business as usual.

The terms of FNB's agreement to purchase the Saambou mortgage book remain secret. Mr Grondel hints at some provision in the agreement that purports to absolve him and FNB from responsibility for the accuracy of balances on the ex-Saambou clients' accounts, and to leave that responsibility with the curator and the Treasury. What the conspiring parties have conveniently ignored is that there are third parties – their thousands of bond clients, such as Mrs Maart – who have rights, including the right to an accurate calculation of their debt; even if that happens not to be convenient to the Treasury – and not as profitable as FNB might have hoped.

Government officials and the curator may well be as culpable as FNB. But when it comes to honesty or dishonesty, on which side does FNB wish to be counted?

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Mr Nose puts it about

Mr Nose was sitting quietly in the waiting room of forensic investigator Dr David Klatzow recently, testing his new state-of-the-art, button-hole rose recording device, when it picked up the following telephone exchange between Dr Klatzow and Mrs Lerato Mametse, the heroic spokesperson for the Life Offices' Association.

They were talking about Bruce Cameron's article in *Personal Finance* in which he describes how the LOA had emailed a statement to the media on industry plans to provide clients with more accurate information about the costs of their investment policies, and how life companies illustrate anticipated future performance. But a confidential internal email had mistakenly been attached to the statement in which it was suggested that the way in which the performance of investment policies is illustrated should be *quietly* altered later in the year to make the projected performance look better... as in the bad old days.

Dr D Klatzow: Good day, it's Dr Klatzow. How are you?

Mrs L Mametse: I'm fine thanks.

Mrs Mametsi, the email that was sent by the LOA which inadvertently got into the media – was Bruce Cameron's description of that accurate? Does that email suggest that the way in which performance is illustrated should be quietly altered later in the year to make the projected performance look better? Is that true?

That's very inflammatory...

Well, is it true or not?

The email that was sent out, yes, it contained that, yes. It's available on our website. As you know the LOA is a trade association and we rely a lot on our committees for the work that we do. Now the email was discussed within our committee, putting forward suggestions on ways to take it forward.

Take what forward?

The suggestion to increase the levels from 10% to 12%.

Was that suggested by your members?

By one of our members, yes.

Did anybody express horror at what is patently a fraudulent suggestion?

Obviously, it may have come across that way, but that would not have finally been the way it would happen.

How was it going to happen?

Something like that would need to be approved by the Board and things like that at the AGM in November.

Who was the member that made this suggestion?

You will see that in the email. It was Francois Marais of Sanlam. But you haven't taken it into the context that, you know...

I see that as fraudulent but help me to put it into a different context.

You can't say it's fraudulent because it hasn't even happened yet.

The intention to commit fraud is as bad as fraud.

No, no, no. The LOA processes would probably not have allowed for the changes to be made in that kind of way. Now obviously, the word 'quietly' and all of that is very inflammatory and that's what you're 'picking up on'.

Is that not the truth?

Quietly?

Now if you are going to quietly alter things, your clients don't pick up on that.

Ja, but that's not how the LOA works.

Isn't it?

No. If you want to change a code, the Board has to approve it at the AGM in November.

One of the biggest insurance companies in this country, namely Sanlam, made the suggestion. Quietly

Yes.

Was any horror expressed by other members at the dishonesty of the suggestion?

We actually had a subsequent meeting of the committee itself and you know, they debated whether we need actually to change the ranges from 8 to 10, to 10 to 12 and it was discussed extensively and it is something that is always in progress. It is not for one member to decide that we need to do this quietly. That one comment was, you know, in the form of discussion between the members of the committee ...

Did any of your members email this crooked man back and say to him 'This is an outrageous suggestion. It reflects a dishonest approach to business and we want nothing to do with it?"

Conversation is still continuing sir.

As I said, that wasn't the end of the discussion.

Mrs Mametse, my question is very easy to answer. Did any of your members say this is outrageous?

People aren't going to use those words, sir.

It is outrageous. It's a crooked approach. It's dishonest.

To you it is …

Did anybody point out that it was dishonest?

Umm… Well, it's – I don't know what you want me to tell you.

I want you to tell me the truth. You're trying to put a spin on something that is difficult to put a spin on.

Ja

Now, don't put a spin on it. You risk losing my belief in you.

Ja, Ja.

So. Did anybody say that this was dishonest?

Umm… no I don't remember 'dishonesty' being used, no.

Do you think it's dishonest?

Umm...

To quietly alter the rates, to improve on them to make people buy these policies? Do you think it's dishonest?

I wouldn't use 'dishonest'.

What would you use?

I would use 'No, that's not the way to go. We should do it another way'.

Do you think it's honest?

No.

You don't think it's honest?

Ja. I don't think it's the way to go but when …..

Why do you have such difficulty ...

No, listen. Will you stop using words like 'honest' and 'dishonest'. It's about process and the way to do things and I think that people would agree that there's another way of doing it.

One of your biggest members, one of the biggest insurance companies suggests to you that you should alter the rates to effectively mislead the people who are going to buy the policy. OK, because you know that, at the moment, a major bone of contention is the projected values, so you tone them down – and push them up again when nobody is looking. Now, that is effectively the suggestion.

I think that the LOA was party to that.

Convince me that that is not true. If the industry are a bunch of crooks, who'se supposed to be the watchdog?

Alright. The press release was to announce the new Code on Policy Quotation.

But the one email was inadvertently attached to it.

We're not talking about the emails any more.

I *am* talking about the emails.

No. We're talking about disclosure and things like that.

Well, what I'm trying to establish is this. The email which was inadvertently (and I'm using the words of Ms Rich) attached should never have gone to the Press. Is that correct? Is transparency not part of your policy?

Umm…. Ja. Can we then talk about the Code itself then?

No, no, no...

Because it's...

Not yet.

... it's going towards addressing what we are talking about. In the Code, the figures, you will actually see in your policy quotation that these illustrations are at your low inflation rate of between 4% and 6% and your high inflation rate of 10% to 12% – or 8% to 10% – and one thing that we try to emphasise is that these are illustration rates.

You don't ever – your members are at pains not to do that. They're at pains to tell you that those are likely growth rates.

It says that all

To next page...

From previous page...

members will communicate to their client, when the intermediary shows the client these quotations, to emphasise the fact that this is an illustration. It is financial planning, not a promise made to the policy.

But it is sold by 9 out of 10 brokers with a promise. 'It can never lose your money.' 'You can only grow.' 'It is unlikely that it will not grow at this rate.' Your members are crooks and I'm telling you that upfront.

What do you think about the Code itself?

I think 'lip service' is paid by your members to it and I think that when you get down to 'tin tacks', it is honoured in the breach more often than in the observance. That is what I believe. I believe that your members are interested in making money for themselves. They're not in the slightest bit interested in making money for the client. I have on my desk at the moment, complaints from elderly clients who have been fleeced so that your obscenely-rich directors can drive in a bigger Merc to work. That's the problem that I have and I have a major problem with the spin that you are trying to put on that email. That's a dishonest email.

I don't believe it's the correct way of doing things.

But you also said to me it wasn't honest.

Well, honesty is not the word that comes into that. It's about process.

No. It's about honest and dishonest and I asked specifically 'Do you think this is honest?' and you said 'No'. Now, can I quote you on that?

No, obviously not.

Why not?

Because as I said …. 'honesty' is not the word I would use. You've chosen the words that you're going to use so….

I said to you 'Do you consider it honest?' and you said 'No'.

Ja.

Now, can I quote you on that?

No, because it wouldn't be...

That's what you said.

I believe ... I'm telling you now...

You're changing it now?

If the whole thing is to push me into a corner, you know...

My whole thing is to get a little honesty into this crooked business...

Ja.

...for which you are the spokesperson.

Ja. OK, so you say that you're going on radio.

I will be.

And you'll be quoting me?

I will quote you in my writing and my radio programme. OK?

No.

You're a spindoctor. At least you are embarrassed enough to laugh. Who did you say the man was at Sanlam?

Mr Francois Marais.

Mr Francois Marais. Sanlam. How wonderful if you have such crooks as captains of industry.

Dr Klatzow, do you realise that by using those words, you're obviously going to alienate people and they're not going to speak honestly to you.

I don't care if I alienate them.

But you want to conduct a constructive conversation…

How do you deal with people who cheat the public?

There's another emotive word again. I don't think it will get you what you want.

Then tell me a better way of doing it.

Well, speak to them in a non-emotive manner and try and get Francois to explain it to you, without you having to use 'cheat' and 'dishonest'. Those words are going to shut people down.

Some brokers make money by giving you advice about matured and second-hand policies. Is that right?

Umm…. I don't know what brokers do out there.

But you're a spokesperson for the industry.

No, I'm not a spokesperson for this particular association that has various policies. Gerhard would probably be the best person to speak to you about that.

Who?

Gerhard Joubert. You can speak to him. I'm sure he'll welcome your call.

But I'm going to tell him that you agreed with me that it was not honest.

But I didn't agree with you.

I can easily prove that.

OK. Can you also put in your article that you know…

That you tried to change your position…

No, no. That I believe 'dishonesty' is not the word to use in the circumstances.

Alright, let me ask you: do you believe that 'honesty' is the word to use?

I believe 'process' is the word to use.

That's called spindoctoring. I'm asking you a very simple question: do you think Mr Francois Marais' suggestion was an honest suggestion?'

In terms of progress, Dr Klatzow, I believe that the process he suggested was not the correct one to follow.

Not correct or not honest?

You see what you're doing? You're trying to get me to use your words, which I do not agree with…

I'm asking whether you think he was honest or dishonest.

That's not the word I would use.

The process …. you'd say of a thief who steals from Pick 'n' Pay, he's not following the process?

Oh God! I'm really having difficulty having this conversation…

I know you are.

It's early.

I know you're having difficulty with it.

I believe that until I say to you what you want to hear then...

No, I'm trying to understand why you are so reluctant to stop putting a spin on it.

Was there anything else that you wanted to find out?

Now I'm sure that what you're going to do is you're going to get Mr Gerhard Joubert to phone me. Who else do you think is in a position to comment intelligently on this?

He is the one.

When do you think this worthy gentleman will phone me?

You see, now you're using sarcastic language now … your whole approach Sir…

My whole approach is one of utter disgust…

It isn't constructive…

It's utter disgust at the way your industry is cheating people who can ill-afford to lose money. I have a major problem with that. I have a major problem with spindoctors trying to get out of the obvious inferences which are the only ones that can be drawn on that email.

According to you…

Well, no it's not only according to me – it's according to Bruce Cameron as well. Maybe he got it wrong. Do you want to tell me that?

Shall I get Gerhard then to…

Do you think Bruce got it wrong?

Can I get Gerhard to …

Answer my question, please, Mrs Mametse. It's a simple question: has Bruce got it wrong?

I don't believe he has it wrong, no – unless …

'Quietly, altered later in the year'. That's called scanniving.

But he doesn't use that word.

No, but I'm using that word. You're obviously not livid enough to use it, but I'm angry about it because I'm dealing with little old ladies and little old pensioners who have been cheated out of their money by the fatcat captains of industry like Mr Francois Marais. OK. I so enjoyed talking to you.

I'm sure.

Thank you, Mrs Mametse.

Thanks.

Bye-bye.

■ Next month: Mr Nose "overhears" the discussion that followed between Dr Klatzow and the aforementioned Francois Marais of Sanlam. Not to be missed!

HOWZAT!

UCB and Cricket SA caught out

According to their own 2005 financial statements, Cricket SA and the UCB have made a loss close on R100m, give or take a million or two. However, elsewhere the figures show a tidy profit of several million. Confused? You (and the taxman) are supposed to be...

WE'VE OBTAINED the yet-to-be unveiled 2005 financial statements of the United Cricket Board and Cricket South Africa – and they don't look good, once you manage to penetrate the Byzantine web into which they've deliberately been woven. Soaring expenditure, enormous salaries, and balance sheets elaborately doctored to hide the real picture from lovers of the great sport – and, naturally, to blind the Receiver of Revenue.

The bottom line: cricket faces a R70m-plus deficit and will be lucky to avoid bankruptcy in the next year or two. As *noseweek* went to press, in an attempt to stave off disaster, cricket's bosses were setting up a crisis workshop to restructure the sports's finances. It was due to be held on 29 July and to be attended by members of the UCB's general council, as well as the chief executives of all companies affiliated to cricket in South Africa.

"We fundamentally need to restructure cricket's finances," admits the UCB's commercial and finance general manager Don McIntosh. "We're facing a massive negative [an operational loss of R32m over the past two years, with a R40m deficit budgeted for the coming season] which means bankruptcy longer term. It's as simple as that. We definitely need to have a look at how we run our finances."

The two sets of accounts will be presented at the bodies' separate annual general meetings. Cricket SA's comes first, on 5 August, with the UCB's the following day.

On 29 June the confidential financials were sent to members of the UCB's General Council (Genco). The figures had already been approved by the

UCB's financial committee as well as the Audit Committee. Genco's members include cricket's 11 provincial presidents, as well as UCB president Ray Mali and treasurer Haroon Lorgat.

The provincial presidents were given just 48 hours to comment.

The accounts left some of them aghast. For at first reading it appeared that cricket's total loss in the year to 30 April 2005 stood at R98.7m. The UCB income statement they received showed a bottom line deficit of R36.7m, and a net loss to Cricket South Africa of R62m.

THE PROVINCIAL presidents, not all of them known for their financial acumen, may be forgiven their gulps. For the UCB accounts they received were totally misleading. Due to some slip, they did not reflect a credit of R105m for "amortisation and impairment", which helps to transform its (true) R36.7m deficit into a healthy R68m surplus.

Cricket SA's accounts, on the other hand, did show a debit for this R105m, which had the effect of reducing its (true) R43.4m profit to a net loss of R61.9m.

Confused? Well, it's all a prime exercise in creative accounting in order to avoid tax. Three years ago saw the advent of the so-called Section 30 PBO (Public Benefit Organisation) legislation in the Income Tax Act. This propelled some previously tax-exempt bodies, such as cricket, to divide themselves into amateur (which still qualified for tax exemption) and professional (which henceforth must pay on its activities).

UCB (the amateurs) is a non-taxpaying association. Cricket SA (the revenue-earning professionals) is the tax-paying Cricket South Africa (Proprietary) Ltd. Thus the elaborate shuffle to ensure that the Receiver would be left empty-handed.

When Cricket SA was set up in 2002 the UCB "sold" its commercial interests in things like TV and sponsorship rights to Cricket SA for R400m. No money changed hands for this "intangible asset". But amortisation, the annual write-off of this imaginary asset, plus a further amount for impairment – the asset's calculated reduced value due to the falling rand – enabled the profits of Cricket South Africa to be transformed into a bottom line tax-free loss.

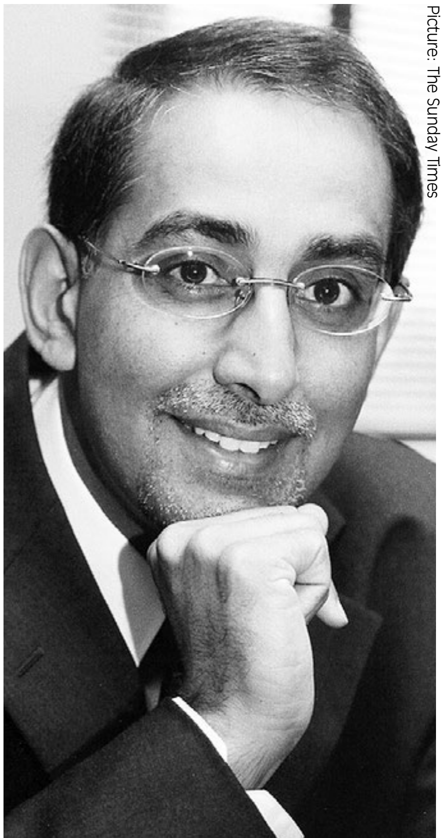
The write-offs are then (except they weren't for the edification of the 11 provincial presidents) credited to the bottom line of tax-exempt UCB, to vastly – and misleadingly – enhance its so-called operating surplus!

Some would say this is cooking the books, but McIntosh shrugs: "This is just how it works. I wouldn't term it misleading. I would say that a person who is not financially literate may be confused by it.

"Members will be told at the annual general meetings that after amortisation and impairment cricket made a combined operating profit of give or take R8m in 2005. That's essentially what it is."

(Applying the UCB's formula, our calculation is that the "profit" works out at nearer R6.7m).

McIntosh admits: "I must be honest. I started in this job a year ago and to me it's unfortunate, because it [the shuffling of non existent sums of money] creates enormous confusion. And it's all thanks to the Receiver, for having structured an Income Tax Act that never thought of sports clubs."



Picture: The Sunday Times

MONEY MAN: UCB treasurer Haroon Lorgat

Picture: The Sunday Times

SMILES BETTER: UCB's commercial and finance general manager Don McIntosh

McIntosh believes that the "big guns" in rugby, soccer and cricket should sit down with the Department of Trade and Industry and the Receiver to restructure taxation in sport. "Ten years ago our total revenue was R5.5m. This year the combined revenue is R250m [in fact it's R238m]. Sport has become a little industry, yet we've sat with the same Income Tax Act.

"The ideal would be for the two partners [UCB and Cricket SA] to marry again and become one. This would confuse people less, because then you won't need all these funny book entries."

The combined staff at the Wanderers head office has been almost doubled, from 17 in former chief executive Ali Bacher's day to 33 under new broom Gerald Majola. Reportedly, enormous salaries are paid to the higher ranks and there's talk of R350,000 to R400,000 allowances for luxury car purchases, with top-of-the-range Toyotas (Lexus saloons and Prada Land Cruisers) lurking in the car park.

When Ali Bacher was CEO at Wanderers he pulled in an annual salary of R800,000. Gerald Majola replaced him at a slightly lower R750,000. However, earlier this year Majola was incensed to learn that rugby's supremo Brian van Rooyen was getting a cool R1m. He promptly upped his own salary to R1.2m.

Not that you'll find the boss's salary in the combined accounts. It's tucked away, says McIntosh, along with his own in the R7.5m total for salaries (R3.7m in the UCB accounts, plus R3.8m in Cricket SA's). R7.5m, says McIntosh, is "pretty much what's spent on the 33 head office staff".

Take away Majola's generous wage and there's hardly enough left to pay the rumoured bountiful sums to the remaining 31 staff at head office. So do they toil for a pittance? To us, it seems more realistic that at least some of the salaries of these 31 are to be found in "staff costs". These are listed at a combined R38.5m.

More light may be thrown on executive salaries in 2006. In line with

King 2's urging to declare executive remuneration, McIntosh says that next year "we will look to disclose those kind of things in the interest of transparency, although we're not under obligation to do so."

Majola arrived on the scene to replace Ali Bacher, who stepped down as cricket's chief executive to run the 2003 Cricket World Cup in South Africa. Bacher took with him the UCB's finance director, Ian Smith. For their World Cup labours Bacher received a bonus of R5m; Smith got R1m.

The new finance head was Diteko Modise. When Smith returned to the UCB in a new position to run professional cricket, he raised a number of corporate governance and administrative issues with Majola. There was a cooling between the pair and a board member was dispatched to suggest that Smith depart. This he did, taking a goodbye settlement of R600,000 with him.

NEW FINANCE head Modise was arrested in March last year after being suspended on suspicion of embezzling R7.2m from cricket's coffers in a series of alleged fraudulent electronic banking transfers to a company called More Rand cc.

Modise had acquired a string of expensive cars, including a R1.4m Mercedes-Benz SL55, plus property at Pecanwood and Dainfern. After his arrest he put himself into voluntary liquidation. The banks and finance companies have seized his assets and McIntosh says "we'll be lucky if we recover R2m".

There seems to be a presumption of Modise's guilt at Wanderers, despite the fact that his trial is still pending. Scheduled to last three days, it begins at the Specialised Commercial Crimes court in Johannesburg's Braamfontein on 10 August, just days after the forthcoming annual general meetings. Modise denies the charges against him.

We can reveal that the UCB has received R1.5m in a secret settlement from its long-standing auditors, Deloitte & Touche, for not picking up the fraud earlier. Deloitte, concerned about its reputation, only agreed to the R1.5m payment on terms of strict confidentiality, so you won't find that in the financial statements, either.

So what is in the financial statements? Well, looking at the UCB set, total revenue was R33.7m. This included R11.5m in development sponsorship; R7.5m in national sponsorship; R3.5m "legacy income" from the 2003 World Cup; and a R2.4m government grant.

Payouts of R35m included R19.3m for amateur cricket; R2.7m for "cricket operations and umpires"; and R3.6m for International Women's Cricket Cup.

There was an initial surplus of R10.7m. But from this R1.7m went towards paying off the R7.2m fraud loss. Then there was an allocation of R45.7m to the provinces and amateur bodies. These two amounts resulted in the stated UCB deficit of R36.7m, before the accountants spun it into a "give or take" R8m profit.

Cricket SA records revenue of a handsome R204.5m in 2005 (R105.7m the previous year). Of this, national sponsorship pulled in R21.8m; international sponsorship R32.7m; international TV income a fair R86.9m; and gates revenue R16.5m.

Operating costs of R141.8m included R34.8m staff costs; R30.9m to professional players, team management and other non-permanent staff; R38.7m to fund domestic cricket; and R16.1m for seniors tours.

After adding "amortisation" of the dreaded intangible asset (R46.5m) and its "impairment" (R58.9m), the bottom line net loss of R28.5m was boosted by the creative accounting to an even bigger tax-free loss of R61.9m.

A criticism of chief executive Gerald Majola and the 19 members of Genco has been their addiction to flying around the globe Business Class. They're so much on the go that Rennies travel agency has three members of staff permanently based at the Wanderers to organize their tickets.

However, as a gesture to ease cricket's financial plight the brass recently indicated that henceforth they will fly economy to their meetings, certainly on domestic flights. But the arrangement still has to be enshrined in official policy. Explains Don McIntosh: "Until you've got a proper policy this is difficult to enforce."

The problem is that Majola and the Genco members have become accustomed to travel in luxury. "With some of them there's a definite expectation," says McIntosh.

Travel and hotel expenses are conspicuous by their absence in the net yet unveiled accounts of both UCB and Cricket SA. Under Cricket SA's "Expenses" though, there's the unexplained item "other operating costs", which amounts to a colossal R94.9m. In 2004 this mysterious entry swallowed up R77.6m.

Picture: The Sunday Times

SUPREMO: CE of the UCB Gerald Majola

Majola was incensed to learn that rugby's supremo Brian van Rooyen was getting a cool R1m. He promptly upped his own salary to R1.2m

Mzi Khumalo dances the two-time

Brett Kebble's one-time protégé has learnt some nifty steps from the master, but that hasn't stopped him from treading on his former-teacher's toes. Now Khumalo is proposing to take to the floor of the JSE with a contentious billion-rand flotation based on gold mines in Zimbabwe

BRETT KEBBLE'S friend, financial columnist David Gleason recently declared open season on Kebble's ex-friend and supposed billionaire businessman Mzi Khumalo.

With justification, as it happens.

If anyone doubted it, they need only take a closer look (as we have done) at Khumalo's long-promised, endlessly postponed and still pending listing on the JSE of a company called Metallon Gold. And at the tycoon's current starring performance as a two-timing bastard, in the Harare High Court. The two matters, as you are about to discover, are not unrelated.

But to get the full flavour, you first need to take a couple of steps back in history.

Mzilikazi Godfrey Khumalo's first claims to fame were as Robben Island political prisoner and then as KwaZulu-Natal ANC treasurer (where he is said to have had his first spectacular fallout – with Jacob Zuma).

Gleason's swansong in *Business Day* in June described how Khumalo became an overnight billionaire by shady means in the "Simane affair" – a story that's worth a recap here, too.

In 2001, mining house Harmony had lined up a broad-based grouping of Free State mine workers and community organizations, called Simane, to be its empowerment partner. Simane applied to the Industrial Development Corporation (IDC) to assist it in arranging funding to take up the offer of more than 21 million Harmony shares at R35 a share – a substantial discount. As the deal was about to go through, Khumalo, with a mix of what *Moneyweb* called "inducements, bullying and dubious tactics", secured control of Simane.

The deal stipulated that the shares could not be traded for 18 months, but within nine months Khumalo had contrived (with some help from Deutsche Bank) to sell close on 11 million of the Harmony shares at up to four-and-a-half times the purchase price, netting R1bn in profit – much of it off shore.

Two IDC officials assisted Khumalo in pulling off the deal – Andile Reve, who has emerged as chairman of

Picture: The Sunday Times

Thumbs up: Mzi Khumalo is convinced there's gold in them Zimbabwean hills

Metallon Investments, a Khumalo company; and Muvhango Netshitangani, who received a "loan" of R6m from Khumalo and was last heard of reading for an MBA degree in the UK.

"A formal complaint was laid by IDC officials with the Scorpions, led at the time by Bulelani Ngcuka," wrote Gleason. "Nothing more has been heard of the matter, and the only conclusion is that it has been swept under the carpet." (Here you need to recall that Bulelani was Kebble's enemy – and Khumalo's friend.)

Gleason omitted to mention that the IDC boss at the time, Khaya Ngqula (also a close friend of Khumalo's – they both acquired holiday houses in the South of France at about the same time) canned the enquiry. Ngqula then left the IDC to take up another position of presidential patronage as CEO of SAA, where his lifestyle and massive "package" have not helped matters in negotiations with unions driven to strike action by the miserly increases SAA has offered its poorly paid employees.

Back to Gleason. His obvious subtext is: if you were Schabir Shaik or Brett Kebble and you backed the "wrong" political faction, you got prosecuted by Bulelani Ngcuka. But if you were Bulelani's (and his big friend's) friend, even if you were a rogue like Mzi Khumalo, you didn't.

Which brings us to Brett Kebble's relationship with Khumalo. Like so many other aspiring businessmen in party ranks, Khumalo was an early Kebble protégé. While he has since turned his back on the master, he continues to cheekily parody the maestro's style.

True, Khumalo had run some rounds and learned some lessons when employed at McCarthys and then as chairman of Capital Alliance. But those were all largely figurehead positions. By joining forces with Kebble in a deal with Anglo American to take over mining group JCI, Khumalo was supposed to be acquiring a real stake in the company.

First sign that all was not well

between patron and protégé – and where the power, in reality, still lay, came in 1998, when Khumalo was forced by Kebble to resign as CEO of JCI "amid accusations of mismanagement and conflicts of interest". Two years later JCI instituted a court action against Khumalo, in which it was claimed he still owed the company R30-million. Kebble alleged that the company had "assisted" Khumalo by lending him JCI shares, and that he had never returned the shares or paid for them. Khumalo insisted he had not acted wrongfully.

The case only got to court in November 2003, by which time the debt, with interest, had grown to R50m. "We held off for some considerable time because of Mzi's apparent inability to repay at that time," explained Kebble. But by mid-2002, of course, Khumalo had made that sneaky "R1-billion killing" selling Simane's Harmony shares.

We've always suspected that the Simane/Harmony deal was more complicated – and involved more players – than met the eye, and that the profits may have ended up not only in Khumalo's offshore accounts. Look, for example at what happened next in the Kebble dispute: when the case got to court, Khumalo was desperate for the case to be postponed. Surely if he was the billionaire he was cracked up to be, he would just have paid up?

Kebble agreed to the postponement – in return for having his claim upped to R60m. It seems he had the squeeze on Khumalo.

ANOTHER YEAR passed and then, in September last year, it was reported that an out of court settlement had been reached between JCI and Khumalo.

"It was agreed that no details of the settlement would be revealed and no further public comment would be made," said the brief report. Quite apart from it having taken Khumalo some time to come up with the cash, that suggests a financial arrangement with features that are best not mentioned in public.

Khumalo was desperate for the case [brought against him by Brett Kebble] to be postponed. Surely if he was the billionaire he was cracked up to be, he would simply have paid up?

Which is not to say Khumalo did not have some Harmony profits to spend: in September 2002 he led a management buy-out of various divisions of the African Harvest group, said to have been worth R366-million. Some were sold, some were incorporated into his own, new, Metallon Corporation. (That silver cloud appears to have since acquired a darker lining: African Harvest Holdings – the shell that stayed behind, owned by Coronation Investments and Trading – is now claiming R40-million from Khumalo under a guarantee provision of the deal.)

A month after the African Harvest deal, in October 2002, it was announced that Metallon Corp had bought a Zimbabwean gold mining group, Independence Gold Mining, from Lonmin for US$15.5m (equal to roughly R150m at the then current exchange rate).

At the Mining Indaba in February, Khumalo announced plans to list his gold mining operations, incorporated as Metallon Gold, on the JSE by the end of April. The prospectus was due out by the end of March, with old friend Deutsche Bank as the financial adviser and sponsor, and KPMG as the auditor.

The division includes the five Zimbabwean gold mines that Khumalo bought from Lonmin in 2003 and the Agnes mine in Mpumalanga. The Agnes is so well known in mining circles as a bit of a donkey, that nothing much attaches to it. Which leaves the Zimbabwe mines to be assessed for value.

The *Financial Mail* reported at the time of the announcement that "speculation" at the Indaba was that Metallon Gold's share price upon listing would value the operation at R1.3-billion. The *FM* did, however, note that this implied "a sevenfold appreciation, over a period during which the Zimbabwean economy has collapsed and the SA gold industry has been squeezed by the strengthening rand."

Metallon Gold CEO Greg Hunter was quoted saying: "The five Zimbabwean mines ... should produce 170,000 oz in the current year. The mines are profitable and paying dividends which we are able to repatriate in hard currency to SA." (Really? Readers might like to check the lively report that appeared in the Zimbabwe *Financial Gazette* on 6 December 2003 regarding Metallon's first attempt to repatriate dividends. – Ed.)

April passed without listing – or comment. In May, Hunter spoke of "underestimated complexities" and time needed to "clear regulatory hurdles", but expected to have more certainty about a listing date "in a week or two". Two more months have passed and now there's talk of October.

One of the minor complexities we can think of is that Metallon has, since its establishment three years ago, not produced annual audited accounts. And auditors KPMG are said to be owed a fair amount in fees – hardly likely to smooth things along. (Neither, so we hear, have accounts been produced for the legendary Simane that made the "billion" for Khumalo by selling its Harmony shares – which means, presumably, that it still hasn't paid any income tax on the profits either. In the footsteps of The Master?)

But the major complication is, *noseweek* believes, something else entirely: the day after he told the press about those "complexities", Hunter quietly flew to Zimbabwe – to attend the first day of trial in the Harare High Court of the case Stanmarker Mining versus Metallon Corporation.

KHUMALO HAS for the past three years been in a court battle with yet another of his disenchanted former business partners – about those Zimbabwe mines. While we would not presume to prejudge the merits of the claims and counter-claims in the case, some of the evidence produced there should prove instructive for prospective investors and potential business partners. So here, in brief, is the story as it has emerged so far:

Early 2001 Lonmin is eager to sell its Zimbabwe gold mining subsidiary, Independence Mines.

Mid-2002 Negotiations are fairly advanced with a prospective Zimbabwean buyer, Lloyd Hove when Khumalo contacts Lonmin saying he, too, is interested in putting in a bid. Since a Zimbabwean was likely to have difficulty raising the US dollars Lonmin wants, and since the Zimbabwe government insists on local partners, Lonmin suggests to Khumalo that he get in touch with Hove. Khumalo flies to Harare to meet Hove.

24 June 2002 Khumalo's Metallon Corp and Hove's company, Stanmarker Mining, conclude a joint venture agreement. Hove withdraws his bid. For three months neither party will negotiate with Lonmin without the other. Hove is to obtain all the necessary consents in Zimbabwe, while Khumalo negotiates with Lonmin and raises the finance. Hove is to get a 40% share of a new holding company to be established; Metallon is to get 60%.

26 June 2002 Khumalo and Lonmin have agreed on a purchase price of US$12.5m – the book value of Independence Gold, payable by 26 July.

26 July 2002 By deadline day all Khumalo manages to produce is a letter from his auditors, Orbachs, in which they state that, through his company, Mawenzi, he has assets worth R1-billion. Lonmin dismisses it as a worthless piece of paper.

27 August 2002 Khumalo buys himself an extension of time until 19 September to produce the cash or an acceptable bank guarantee – by paying Lonmin a $1m non-refundable deposit, and upping the price to $15.5m.

19 September 2002 All Khumalo manages to produce is a letter from Deutsche Bank so hedged about with ifs and buts that Lonmin director John Robinson had no difficulty dismissing that, too, as "not worth the paper it was written on". Robinson agreed to extend the deadline until 24 September.

25 September 2002 Khumalo again fails to meet the deadline

26 September 2002 Khumalo and Metallon CEO Hunter arrive in London and proceed with a fresh round of negotiations with Robinson. That same day, on the existing draft agreement that had been drawn up three weeks earlier, the name First Gold – as purchaser – is scratched out and the name Pemberton International Investments Ltd (a company registered three weeks earlier in the British Virgin Islands) is written in.

Later in court Metallon Corp's senior counsel, Cedric Puckrin, argues that the reason for the change was that First Gold was a South African "entity" (Hove and Khumalo's proposed holding company) that required Reserve Bank approval to transmit funds out of South Africa, "which could take weeks if not months"; an offshore company, on the other hand, did not have that inconvenience.

On his way to the meeting Hove buys a newspaper in which it is reported that Khumalo has 'not finalised a local partnership deal'. Surely *he* is Khumalo's 'local partner'?

To which the witness, Lonmin's Robinson comments: "That presupposes that Mr Khumalo had resources in that company [Pemberton] that did not need to come from South Africa." (Pause, while all present re-adjust their eyebrow line and Mr Puckrin changes the subject.)

Wherever it came from, it still takes Khumalo, in his Pemberton guise, another month to produce the $14m (or R147m) needed to finally clinch the deal.

Late October Khumalo summons Hove to Johannesburg for a meeting.

30 October 2002 On his way to the meeting, Hove buys a newspaper in which it is reported that Khumalo has acquired the Zimbabwe gold mines, "but has not yet finalised a local partnership deal". Surely *he* is Khumalo's "local partner"? At the meeting Khumalo tells Hove that their agreement had expired (if only shortly) before he concluded his deal with Lonmin, and that they are no longer partners. In any case, he says, Hove has no political muscle in Zimbabwe, where politicians call the shots. Khumalo informs Hove he will be selecting a new Zimbabwe partner in consultation with Robert Mugabe's minister of mines. (Khumalo has, since, signed up such a local partner.)

Now Hove's Stanmarker Mining is suing for damages. It launched its case with an urgent application against Metallon in the Harare High Court in January 2003. In his opposing affidavit, filed in February 2003, Khumalo declared that he was not a director or office bearer of the BVI company, Pemberton International Investments Ltd, that now owned Independence Mining – and that Pemberton was not a subsidiary of Metallon.

Which was all very curious, if not a lie, since Metallon had announced only shortly before that it had made a major acquisition, giving it control of the five Zimbabwe gold mines.

To compound the mystery, in the affidavit Khumalo concedes that both Pemberton and Metallon have a "beneficial interest" in the Zimbabwe mining company, but that this interest "is not capable of attachment by means of legal process". (Prospective Metallon shareholders and creditors be warned. – Ed.)

Judge Omerjee ruled that the High Court of Zimbabwe had jurisdiction to hear the case, which finally went to trial in May this year.

In his evidence on behalf of Hove, mining consultant Neville Roberts valued the Zimbabwe company at $130m. Khumalo disputed this, claiming the Zimbabwe company is worth only $30m. (Then again, readers please note: if Metallon Mining's listing value is going to be R1.3-billion, as has been speculated, that would value the Zim mines at $280m!)

Evidence was taken on commission in London in June, and the matter is proceeding.

FNB's massive home-loan scam

Do Ed Grondel and his mates at the bank realise that losing a home is a serious matter? If so why do they continue to apply for the sale in execution of the homes of ex-Saambou bond holders, when they clearly have so little faith in their own case?

NOSEWEEK HAS previously written about the scandal of Saambou mortgage bond holders having their homes sold in execution for bond arrears when, in fact, if the bond balance is correctly calculated, they are not in arrears at all (*nose*40, August 2002). Up to the beginning of 2000, Saambou calculated interest charges on all its mortgage bonds incorrectly in order to secretly achieve a higher interest rate. As a result, when First National Bank took over the Saambou mortgage loan book in mid-2002 most of the home loan account balances were overstated, some significantly. In all cases Saambou had contravened the Usury Act, a criminal offence.

Would First National correct those balances? *noseweek* wondered. The answer has since become abundantly clear – and it's not the answer we were hoping for. First National not only persists in reflecting the incorrect balances on its bond statements but also – much worse – continues to apply for the sale in execution of the homes of ex-Saambou bond holders who the bank claims, incorrectly and dishonestly, to be in arrears with their bond payments.

Many of the ex-Saambou clients who are summonsed for arrears on their bonds by FNB are out of work, and cannot afford to consult an attorney. Most probably have no idea that they have been ripped off by the bank over many years. If they fail to file a notice of intention to defend the bank's application within the specified 10 days of receiving summons, the application will automatically be granted and the bank will sell the house. This is probably what happens in 99.9% of such cases. (How these sales are carried out is another grievous scandal that continues, despite exposure in the media.)

A rare exception is that of Mrs Cathleen Maart from Blue Downs near Cape Town. In November last year Mrs Maart was summonsed for arrears on her bond by First National. When she received the summons Mrs Maart recalled reading about Emerald van Zyl, the Bellville-based financial consultant who has successfully challenged many of the sales in execution of homes of Saambou clients, and contacted him. Van Zyl examined Mrs Maart's documents and established that her bond was overstated and she was not in arrears. He passed Mrs Maart's case on to attorney Stephan van der Merwe of the University of Stellenbosch's legal aid clinic, who promptly filed notice on Mrs Maart's behalf of intention to defend the application, with Van Zyl's analysis and calculations appended.

First National Bank is no innocent. Its response was interesting and instructive.

Instead of arguing the case in court the bank simply withdrew its application, and tendered Mrs Maart's full legal costs. FNB clearly did not have much confidence in its case against Mrs Maart.

But that is not all.

Instead of arguing the case in court the bank simply withdrew

SMILING FOR NOW: Cathleen Maart from Blue Downs near Cape Town, who called FNB's bluff when the bank summonsed her for alleged non-payment

Van Zyl has been involved in a number of similar cases. "As soon as they see there's a defence they back off". Their reason goes further than the obvious: "They know if they fight the case they'll not only lose, they'll get a judgment against them. One such judgment and they'll never be able to plead or pretend innocence again with regard to all the bonds they took over from Saambou." A judgment like that could prove very, very costly for someone.

Leaving aside, for a moment, the enormous legal, and accounting, implications of a court judgment against FNB on the point; if the bank's case is so weak that they aren't willing to argue it before a judge – only should the application actually be opposed, of course – why are they bringing the application in the first place? Simple. FNB have become bottom-of-the-barrel scavengers. They're relying on most of their victims being too poor or ignorant to oppose them, so they'll get to seize and sell most of their homes. The head of FNB's home loan division is Ed Grondel. Do Grondel and his assistants realise that losing a home is a serious matter? Earth to Grondel: this is a dishonest and dishonourable way of doing business and treating people.

There's a further nasty twist: it is fair to deduce from FNB's sneaky strategy that Mrs Maart's long-term prospects are bad: her reprieve may well be temporary.

In terms of provisions in the proposed new National Credit Bill, which will replace both the Usury Act and the Credit Agreements Act, when a banking practice that caused overcharges has ceased more than three years ago, it can no longer be used as the basis for a claim against the financial institution concerned (nor as the basis for a defence against a claim by that financial institution).

The bill is due for a public hearing in August, after which it will be passed by parliament and then be approval by the president.

Believe it or not, if the bill is passed in its current form, First National Bank will then be able sell Mrs Maart's house for non-payment of money she doesn't owe.

You see, dear reader, FNB has a soft-shoe partner in theft on the inside: namely, Trevor Manuel. (See box.)

PS: Remember pensioner Andreas April who was summonsed by Saambou for R46,000 in 2002 for being in arrears on his bond (*nose*40)? Mr April did not defend the bank's application, and a warrant was issued for the sale in execution of his family home. The sale was only stopped at the last minute when Stephan van der Merwe of the University of Stellenbosch's legal aid clinic, showed a Stellenbosch magistrate that far from owing Saambou R46,000, Mr April was actually owed R8,000 by the bank for interest it had overcharged him!

Since the bank owed him money Mr April naturally stopped all attempts to make monthly payments on his bond.

FNB however continues to add interest to Mr April's incorrect bond balance, and to send him monthly bond statements. According to the bank Mr April's balance has now grown to R94,000. But the bank has not again issued summons against Mr April for being so drastically in arrears. Perhaps they are waiting until the new National Credit Bill becomes law.

■ FNB responded just as *noseweek* was going to press. See Editorial on page 6.

Is it constitutional?

IT'S NOT just sales-in-execution of FNB clients whose bond balances are overstated that is a scandal. What about those people who continue to pay inflated bonds month after month? (Not that it's strictly relevant, but remember: Saambou's bond clients were not as a rule drawn from the richest segments of the community.)

Emerald van Zyl estimates that the sum of overcharges on Saambou's mortgage loan book is in the vicinity of R1bn. And that's not even taking into account possible claims by all those who have already fully paid off inflated and incorrectly calculated bonds.

So, if FNB decided to correct the bond balances, the value of Saambou's mortgage book would decrease by approximately R1bn. But in terms of the hasty fire-sale of Saambou's mortgage book (negotiated after its collapse by then deputy, now Director General of Finance, Lesetja Kganyago, then Reserve Bank deputy governor Gill Marcus and all the executive directors of FirstRand Bank, led by Paul Harris) all irrecoverable amounts that materialise after the sale, will be for the government's account. Invalid claims against bond account holders should, legally, be irrecoverable. In other words the bill for correcting the Saambou bond balances would ultimately go to the SA Treasury.

Is that, maybe, why Finance Minister Manuel is so keen to push through legislation that will make the victims defenceless ... with his pals at FNB lurking in the shadows behind him, waiting for their opportunity to pounce?

A question for our expert readers: is it constitutional?


CRY FOUL

Gone, but not forgotten

In a sleepy small town in rural Zimbabwe, civil servant Tumelo Makhurane (below) mysteriously disappeared after foiling an attempt by Deputy Foreign Affairs Minister Abednico Ncube to stuff ballot boxes during a midnight visit to the polling station on election day in 2002

TUMELO MAKHURANE lived a quiet, routine sort of life in the fast-fading southern Zimbabwe town of Gwanda. A civil servant in his mid-40s, he was a field worker in the ministry of agriculture – this was once a thriving cattle ranching area – and lived with his trainee teacher daughter in the red dust township of Jahunda.

At weekends he joined his wife who, like many wives whose husbands worked in Gwanda, preferred rural peace and stayed with the four younger children at their home in the Ntepe communal lands, some 55 kms from town.

March 2002, when our story first unfolds, was a time of more than usual political turbulence in Zimbabwe as president Robert Mugabe struggled to boost his Zanu-PF party's dominance over Morgan Tsvangirai's MDC opposition.

There were presidential elections that month. Not that Mugabe could expect too much support from those living around Gwanda, the desolate provincial capital of Matabeland South. It's an MDC stronghold, where Mugabe was and remains widely hated, not least for the ever-remembered excesses of the Korean-trained Fifth Brigade, which he dispatched into the province to demolish dissent back in the 1980s.

Like many civil servants, Tumelo Makhurane was mobilized for the election, assigned to be presiding officer at a rural polling station at Zhukwe primary school, some 40km outside Gwanda.

The presidential poll took place over three days: March 9, 10 and 11. When voting had closed after the first day, Makhurane, who had remained at the polling station to guard the ballot boxes, received a surprise midnight visitor. It was Mugabe's then Deputy Foreign Affairs Minister Abednico Ncube.

Accompanied by two bodyguards from the feared Central Intelligence Organisation, Minister Ncube demanded access to the locked room where the ballot boxes were held. Makhurane refused, saying the polling station was closed and would only open for business at 7am the following morning.

A furious argument ensued. Uniformed police on duty at the Zhukwe polling station that night later told how Ncube ordered them to "keep out of it". The officers spoke of a tirade by the minister, in which he accused Makhurane of being "an MDC civil servant".

Ncube was Zanu-PF member of parliament for Gwanda South. A wife-batterer and notorious bully – an MDC supporter once narrowly escaped death after Ncube had him tossed into a crocodile-infested dam – he warned Makhurane that if Mugabe lost the election he would be used as an example of "how we deal with civil servants who survive on Zanu-PF generosity but run around with the opposition".

Makhurane believed that the state-sanctioned warlord had come to the remote polling station that night to stuff votes into the ballot boxes and illegally boost the poll for Mugabe. The courageous civil servant stuck to his guns; the ballot boxes remained untampered with and Minister Ncube stormed off into the night.

Although Mugabe won that 2002 election, he didn't do so well in Matabeland, attracting just 164,471 votes compared to Morgan Tsvangirai's 323,983. Had Ncube been successful in his abortive midnight raid on the Zhukwe ballot boxes, the president might have done a little better.

The last day of voting was March 11 and around 3 am the following morning Tumelo Makhurane's slumbers at home were disturbed by the visit of several men. A member of the household [name withheld] recalls loud knocking at the door, a long argument and finally the sound of a car driving away.

The civil servant has not been seen since.

Makhurane had been deeply worried about his midnight altercation with Minister Ncube at the polling station. "When he came home from polling duties on March 10, he told us about the death threats and kept saying that he wished Mugabe would win and save his soul," says a relative [name withheld].

"When the results came on the evening of March 11 showing that Mugabe had won, he actually celebrated and said he was relieved. But that was the night they came for him."

Makhurane was abducted from his home in a CIO-owned Mazda B2200, registration number 633-019B. He was driven to Phephuluza Ranch, which was occupied by militant war veterans who led the terror and hit squads that then operated around farms in the West Nicholson commercial farming area. These veterans were under the command of one Khumalo, a man who had been a self-employed carpenter and home-fitter in Gwanda before going into the farms in February 2000.

Other players in this shameful affair were two unnamed CIO officers who doubled up as Ncube's bodyguards; war veteran Robson Mafu; Edward Sibanda (formerly Ncube's chief election officer in the March 2000 parliamentary elections); and Witness Sebata (later to be Ncube's campaign officer in this year's parliamentary elections).

They were supported by Never Matshazile, the provincial Zanu-PF youth chairman (notorious for leading militia invasions of rural schools and other remote government outposts) and former Gwanda deputy mayor and Zanu-PF party stalwart Japhet Dube (whose house in Phakama was used as an interrogation centre for suspected opposition supporters captured by youths and war veterans around Gwanda).

His captors proceeded to torture Makhurane, the sessions interrupted only for questioning by Minister Ncube, Mafu and Dube about which civil servants supported the MDC. The torture ended only when Makhurane became too exhausted to speak.

(Ncube suspected Makhurane of being the leader of a secret MDC cell that was drumming up anti-Zanu-PF sentiments among civil servants. Makhurane, it's true, did support the MDC – though never publicly. He was on a CIO blacklist of civil servants circulated to heads of government departments in the province.)

Despite efforts to revive him, Makhurane's condition deteriorated and he died around March 15. Sources say that his body was loaded onto Minister Ncube's red Nissan Hardbody pick-up and buried at Ashoka Ranch, which was occupied by – and later given to – Robson Mafu.

But Mafu wasn't happy having the civil servant's body buried on his appropriated acres. "He threatened to phone the police and spill the beans if the body was not removed from his property," says a source. "Ncube ordered an exhumation and re-burial at his own Timber Farm, about 9km south-west of Gwanda."

Khumalo, Edward Sibanda and Never Matshazile are alleged to have dug up Makhurane's body and re-buried it in the presence of Minister Ncube at the base of a hillock at the obscure, northern end of Timber Farm. The entire once-thriving cattle farm was now just an expanse of overgrown savanna grass guarded by a force of armed veterans.

The above account of Tumelo Makhurane's alleged abduction and murder has been compiled from reports and an investigation conducted by the Zimbabwe Human Rights Organisation (Zimrights).

Their findings were submitted to Supt Sunduza, the police's Gwanda-based Provincial Officer Commanding (Crime). "He said we should get rest while he consulted his superiors on the way forward," says one of the investigators. "We were then told to carry on with our inquiries, but forget any hopes of securing a prosecution

To page 31

An MDC supporter once narrowly escaped death after Ncube had him tossed into a crocodile-infested dam

Tokyo Sexwale's cash-in-transit company ignored a labour court judgment – and got three of its vans attached by the sheriff. Now a judge has ordered it to pay R384,000 into a trust account while the company tries to have the court ruling overturned

Picture: Sunday Times

Coin Security flips

RICHARD SMYTH is a burly, typically obdurate Ulsterman of 53 who works in South Africa in the security field. His speciality is electronic surveillance and his concealed cameras – cunningly disguised as smoke detectors and light fittings – are discreetly at work scanning the offices and boardrooms of illustrious customers such as Auditor-General Shauket Fakie, Investec bank and toll-road operator Trans African Concessions.

Coin Security is South Africa's fast-growing guards and cash-in-transit group. And a couple of years ago it thought that Smyth's little spy company ("don't name it," orders Smyth) would make an attractive addition to its services. [*It has been named in court papers as Outsourcing Technologies Business Trust – Ed*].

The deal was that Coin would pay Johannesburg-based Smyth R100,000 in cash for his company as a going concern, plus R330,000 in 22 monthly payments of R15,000. On top of this, they'd pay him a monthly salary of R32,000 to stay on and run the spy shop for them on a two-year contract, with 10% commission on the gross profit of all sales he brought in.

Smyth came on board and received the R100,000, plus R30,000 for the first two monthly instalments. But then the payments stopped.

What soured the sauce so soon? At the time, Caltex was in the process of installing closed circuit TV surveillance cameras in its 2300 service stations countrywide. One thousand, three hundred were done already and a R7m contract to do the remaining 1000 was up for grabs. Smyth thought he could land this contract for Coin – and win a welcome 10% commission (R700,000) for himself.

According to Smyth, Coin Security was unenthusiastic about this prospect. "In my contract it stated that I was responsible for all sales and marketing," he says. "But I was kept out of the loop and Coin's financial director Bruce Milne and the manager of the corporate division, went to Caltex's consultants direct."

In fact, it seems that Coin felt that it could do without Richard Smyth altogether. Coin's purchase of his company was conditional on Smyth generating turnover of R41,000 a month for the first three months. They said he was only doing R17,000, under-performing, and the deal was off.

As Smyth digested this news, Coin came up with a more damaging accusation: that he had accepted a bribe of R750 from one of the companies supplying closed circuit TV to Caltex.

"I got a letter from their attorneys saying they were cancelling my R15,000 monthly payments – and they wanted their R100,000 down payment back," says Smyth.

"I did receive R750 from the company, V Cam Solutions. But it wasn't a bribe; they hired equipment from me."

After a disciplinary hearing, Coin fired Smyth at the end of September 2003 for taking a bribe. V Cam Solutions' Steven Hsu said in an affidavit presented at the hearing that Smyth had requested him to state that the R750 was for accommodation in Mozambique. A day later Smyth had requested him to state that the R750 was payment for the rental of equipment.

Smyth took the matter to the CCMA and after an arbitration hearing Commissioner Kevin Scott found on 9 March this year that the dismissal was unfair. "Smyth was denied his right to cross-examine his accusers [inter alia Hsu] at the disciplinary inquiry and such evidence is, by its nature, hearsay," he ruled. "The chairperson of the inquiry should have found the applicant not guilty on a preponderance of the available probabilities."

Hsu's evidence at the CCMA arbitration hearing had contained "a number of contradictions," observed Commissioner Scott. Although the commissioner was persuaded that Smyth had wished to make a "commission" and had attempted to cover up this arrangement, he ruled that the dismissal was "both procedurally and substantively unfair". He ordered Coin to pay the Irishman 12 months salary – R384,000 – within 30 days.

Coin declined to do so, claiming the commissioner had erred in his judgment. The company thought it could get a better result if the matter went for review at the Labour Court.

Which brings us to the dramatic events of recent days. Smyth was smarting for his overdue R384,000, and on 23 June the Registrar of the Labour Court issued a writ of execution ordering the sheriff to attach and take for auction moveable goods of Coin Security to the value of R384,000.

The sheriff swooped on Coin's head office in Centurion and attached three spanking new armoured cash-in-transit vehicles valued at R500,000 apiece. He reckoned he could get R150,000 for each of them at auction; more than enough to give Smyth what he was due.

When the sheriff told Coin he was coming to collect the vehicles the following Monday, the company was spurred into action. It sought and obtained an interdict in the Labour Court to prevent the seizure of its vehicles pending a review. Judge Revelas, however, ordered the group to pay the full R384,000 to the sheriff, who is holding the money in a trust account until the court rules on the dispute.

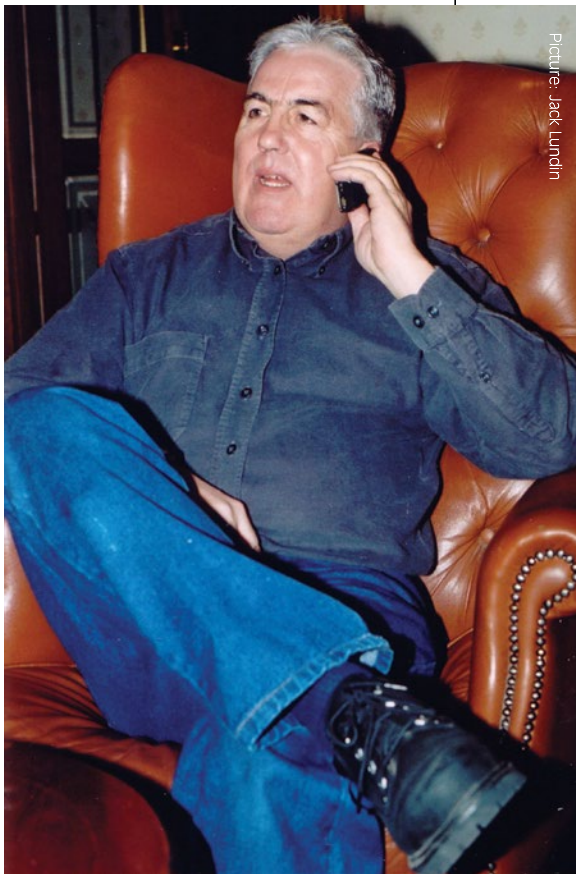
If it does – for the Labour Court may only conduct a review of CCMA arbitration awards if corruption in the body's hearing process is alleged, or if it can be shown that the commissioner committed misconduct, was guilty of a gross irregularity, or that he exceeded his powers.

Smyth, who in Northern Ireland worked as a fitter and police reservist with the Royal Ulster Constabulary until he emigrated to South Africa in 1981, believes that Coin's application for a review is an attempt to avoid paying him his R384,000 (with interest now more than R400,000). "It's a case of David versus Goliath," he maintains. "They think they can use the legal process to sink me."

Coin Security is 100% owned by Tokyo Sexwale's listed Mvelaphanda Group. Mvelaphanda's executive chairman, Sexwale, who issues summary dismissals every week on TV in South Africa's version of The Apprentice, was not available to comment on how he felt when it looked like three new armoured cars were to be lost from Coin's prized vehicle fleet.

Coin's financial director Bruce Milne says: "We feel we've been hard done by at the CCMA. The Commissioner said in his ruling that he believed the witness who confirmed that Richard had taken a bribe. Then he made this ruling!

"We have taken the Commissioner's opinion on review. The judge ruled that we should give security to the Centurion sheriff of the court and we have given him a cheque for the full R384,000. With that, the attachment on the vehicles falls away altogether."



Picture: Jack Lundin

Richard Smyth says Coin owes him over R400,000, including interest, after he sold his company to the cash-in-transit operator

Paradise island turns turtle

The denizens of the deep are rejoicing, while an ambitious development plan in the Seychelles goes belly up as one bill after another remains unpaid

THE CORAL ISLAND of Poivre lies in the Amirantes chain of the Seychelles archipelago. Surrounded by a coral reef, its lagoon is rich with exotic flora and fauna, birdlife and aquatic rarities. This unspoilt Indian Ocean island is one of earth's last surviving paradises – its perfect peace disturbed only by the occasional passing yachtsman.

Picture: The Sunday Times

RED CARPET: Leighton and Amy Curd

But in Johannesburg a New Zealander named Leighton Curd has been busy plotting an end to Poivre's tranquility. He wants to build a luxury 5-star hotel complex on the island, catering only for the very rich.

In Johannesburg, Curd's business is Private Label Promotion, which offers "niche solutions" to blue chip companies – clients include Telkom, Discovery Health, Barloworld and Standard Bank. But the brash 44-year-old is probably best known as the husband of former Miss South Africa, Amy Kleinhans-Curd.

From their Bryanston, home the couple swirl through Joburg's social round; no charity do is complete without them. It's 37-year-old Amy's dazzling glamour that draws the invites; that and the fact that Nelson Mandela is godfather to their two young children.

"I don't think they pay for their charity function tickets often," remarks one chronicler of the social scene. "But they like to be seen. Are they on the A-list? Dear me, no. Very much B-list, I'm afraid. But I find Amy rather nice; certainly much better than your usual Miss South Africa, who is generally, awful."

The big mystery that has Joburg's social scene abuzz: Is Leighton Curd's hotel project on Poivre actually going ahead, and is it a brilliant success, with everyone involved ecstatically happy, as he claims? Or has lack of funding brought the flashy project to a standstill before it got going, stuck in a black hole of debts to top consultants, and surrounded by bitter disputes that have even led to fisticuffs?

Several years ago Curd paid the Seychelles government around US$100,000 for a 99-year lease on a large chunk of Poivre for his exclusive hotel resort with yacht marina, gym, health centre, 1450m airstrip and helicopter pads. Work started early in 2003 and Curd was confident that his hotel would be up and running by December 2005, the deadline stipulated by the Seychelles government when it granted the lease to a Curd company, Island Retreat Poivre Seychelles.

It seems, though, that apart from some dredging work to make a harbour, little has been done. This is doubtless good news for the bottle-nosed dolphins, hawksbill turtles and manta rays who still frolic undisturbed around the reef with 900 other fish species. But it's been a source of irritation to the professionals and suppliers who were contracted by Curd's Whale Host cc to do the job – and who, after two years, are still waiting to be paid for their services.

"The funding never materialized," says David Dahlmann, a forceful, somewhat abrasive 47-year-old who was signed up as main contractor through his company VG Shopfitters. "It's imminent, it's coming – that's been the story all along. I had to put my company into liquidation because of Leighton Curd's pipe dream."

"Nonsense," responds Curd. He assures *noseweek*: "There's no story for you here. As far as I'm concerned

Apart from some dredging work to make a harbour, little has been done. This is doubtless good news for the bottle-nosed dolphins, turtles and manta rays

we have a fabulous project, a fabulous professional team. The project's going ahead and I'm not really interested in Dave's comments. He was terminated on the project. We had a problem with VG Shopfitters and Dave Dahlmann. We've tried to get together to resolve it but Dave's comments are always abusive, unconstructive and detrimental."

Is the funding in place? "I'm not commenting on the funding, that's a private issue," says Curd. "We have our own partners involved and I wouldn't be at liberty to discuss the funding in any way, shape or form."

Are any of the professional team members owed money? "At various stages they have been. But to my knowledge we have full and total support from all existing teams on this project. I'm more than happy if you want to call them."

We did just that.

Says Alan Klaassen, Cape Town-based former naval diver, whose Southern Oceaneering company was contracted by Curd's Whale Host to dredge a deep water harbour at Poivre: "The total price for dredging was in the order of R2.5m.

"The contract started on 24 April 2003, when I arrived on the island. They shipped my plant up from Cape Town, which cost them R420,000.

"Month One's certificate was R420,000. I got R100,000. Month two, I got nothing. Month three, nothing. In month four I stopped the operation.

"I'd cleared 400m of 600m for the harbour entrance. When I realized things were going wrong I pulled back and started work in the harbour basin. I foresaw that if I finished the entrance channel they could bring in ships and I would be obsolete.

"In September 2003 I decided that's the end of it. All I received was R100,000. After the dredging stopped there were promises made: the money would come, the money would come. A few financial guys were wheeled in. I met two of them. They were fly-by-nights.

"One of them was George Schroeder [the former Congo mercenary]. He said he'd put everything together for Richard's Bay. But I was the guy who did Richard's Bay [dredging 250,000 cu m of sand] and I didn't know this guy from a bar of soap."

The local who helped Curd get the 99-year-lease on Poivre was a prominent Seychellois, Glennie Savvey, an executive director of the Island Development Corporation. "Glennie Savvey started to put the screws on Leighton Curd and said if you don't start something you're going to lose your lease," says Klaassen.

"So Curd leased my excavator from me. He paid upfront for three months Then he said he couldn't afford it any more. That's where we're sitting now. How much am I owed? From Whale Host: R3.8m for the dredging – that's including interest according to the contract. Plus R691,000 for Whale Host's hiring of my plant. Plus R255,000 from Curd personally for his hire of my excavator.

"After 18 months my dredger and excavator are still sitting up there, rusting. The dredger's replacement value is R8m to R10m; the excavator's about R1m. It's affected my company seriously. I've had to build a new dredger. I've not considered legal action at this stage, because I did a search on Whale Host. It's a shell that has nothing."

Kevin Hellon of Quad Africa, the electrical consultant, says: "We did a fair amount of work, probably R200,000 to R300,000-worth. We didn't get paid any of it."

Krynauw Nel, main architect: "I don't really want to get involved in this. I'm still on a very friendly basis with Mr and Mrs Leighton Curd." Does he think the project will get under way? "I've no indication at the moment, but it's really not that important to me."

Lance Kinnear, architect for the Poivre staff quarters: "We did quite a bit of work on this, but didn't get paid at all." How much is he owed? "I haven't actually worked it out, it was such a long time ago. It was one of those jobs that obviously didn't work. I've written it off."

Paul Smith, interior designer: "I did a lot of work for them, interior detailing and design. The hotel was going to be 20 tent villas with lots of solid timber, like a luxury yacht. I've been very annoyed about the thing because for two years I haven't got paid any fees."

How much is he owed? "At the moment it stands at about R94,000, which includes interest compounded over a two year period. Leighton is still hoping to get finance. I've seen this big thick document with the seals on and everything from a bank in Australia. Leighton said the bank was sold and that fell through. That's one of the reasons why the funding wasn't forthcoming.

"Now Leighton's hoping to get funding here. He says he's talking to the Development Bank of South Africa, so I'll take my chances and go with Leighton rather than try any mudslinging. If there's a 10% or even a 20% chance of getting my money by sticking with it, then I'll take that chance."

TWO TIMBER merchants were contracted to bring in the massive quantities of exotic hardwoods for the timber-themed development.

Myers Rosengarten, of Johannesburg's Ian Fuller Agencies: "Whale Host ordered 500 cu m of Balau hardwood for decking. That's a lot of timber, R3.5m-worth. I placed the order in Singapore. The first 100 cu m arrived, R703,000-worth, and it just lay and lay and lay in my warehouse in Johannesburg.

"I phoned my supplier in Singapore and said: I think there's trouble; don't cut the rest till I let you know.

"I kept the 100 cu m for about eight months, then gradually sold it off elsewhere. I was very upset, I don't like doing that kind of business. When I place a contract it's a contract; my word is my bond.

"David Reece [Curd's project manager] phoned about four months ago and said: the money's coming through tomorrow. I've heard this from them I don't know how many times. It's just a cock-and-bull story at the end of the day."

Keith Walker of Tegs Timbers in Pietermaritzburg: "Whale Host contracted for 200 cu m of Merbau hardwood, almost R2m-worth, which we ordered and got into South Africa for them from Malaysia two-and-a-half years ago. They'd given us a written contract saying they'd pay us for it on arrival.

"We got paid nothing. We're slowly selling it off, but it was brought in in certain sizes for their particular use and some of those sizes aren't fast movers. We're still sitting with a fair amount of the stock.

"We realized the whole Poivre project was just pie in the sky. There were overall financing problems; they were jumping from one financier to another. Eventually we saw it was going nowhere. No, we haven't sued; at the end of the day we thought we'd be fighting a losing battle."

Curd's management team comprised the above-mentioned David Reece and quantity surveyor Terry Hinton, a former long-standing director of Murray & Roberts Buildings.

Hinton says he "believes" he's still on Curd's team. Certainly, he says, he's owed around R140,000 in wages and expenses. Despite Curd's assurance to *noseweek* that the project is forging ahead, Hinton says: "The site's been standing empty for 18 months. It's at a standstill.

"Leighton and Dave Reece still say they're trying to get funding. There's been talks with banks from America to the Far East, to Australia, to England. But at the moment funders are not easy to come by. I've been promised I'll get my money – I live in hope."

For main contractor David Dahlmann it all started in January 2003, when his VG Shopfitters company was given a letter of intent to "build the whole project". Dahlmann says his company cancelled all other work for 18 months to devote total energy to Poivre.

"We took a two-year lease on a factory in Aeroton (south Johannesburg), where we were to make all the wood components and send them to Poivre to be assembled. We started work on a prototype tent villa at the beginning of 2003, but, by that April, realized funds were not coming when they missed payment on the Certificate.

"On 13 April, 2004 I was obliged to liquidate VG Shopfitters because of this Poivre project. Whale Host owes

> **"I did a lot of work for them, interior detailing and design... I've been very annoyed about the thing because for two years I haven't got any fees"** – Paul Smith, interior designer

me R2.1m. Leighton Curd committed people without funding – and that's reckless trading.

"When I stopped Dave Rees from taking stuff from the factory after my company was liquidated, they sent in hired thugs who broke my jaw and two ribs. I had to have my jaw wired."

Responds Curd: "We do due diligence on all our suppliers to ensure they have the financial capability to deliver. With VG Shopfitters it only became apparent at the due diligence stage that they were some R16m in the hole. They'd had some bad projects up in Africa.

"When they went into liquidation it was very convenient for Dave Dahlmann to want to pass the blame onto the Poivre project. Their liquidator came claiming large sums of money, but within 10 minutes of seeing the facts he said: you don't owe VG Shopfitters a cent."

The hired thugs? "The VG Shopfitters factory housed a lot of our equipment, goods and services," says Curd. "Our general management went to collect the goods with appropriate paperwork from the court.

"We'd had Mr Dahlmann harassing management for a number of weeks. I'm talking about unpleasant abuse, so I felt it prudent that a security company went with the staff. Sure enough, Dave started shouting and screaming. I happened to arrive at the scene when that was happening.

"Dave wanted to come after me with his abuse. He came aggressively towards me and the security company stepped in. Dave then picked a fight with the security company, who took the appropriate action. Dave brought it on himself."

Liquidator of VG Shopfitters was Peter Bottomley of Westrust. Bottomley confirms that Dahlmann isn't owed a cent – let alone R2.1m – by Curd's Whale Host. "When we tried to establish what had been supplied there was a difficulty in proving the debt," says Bottomley. "There was a difficulty with the documentation."

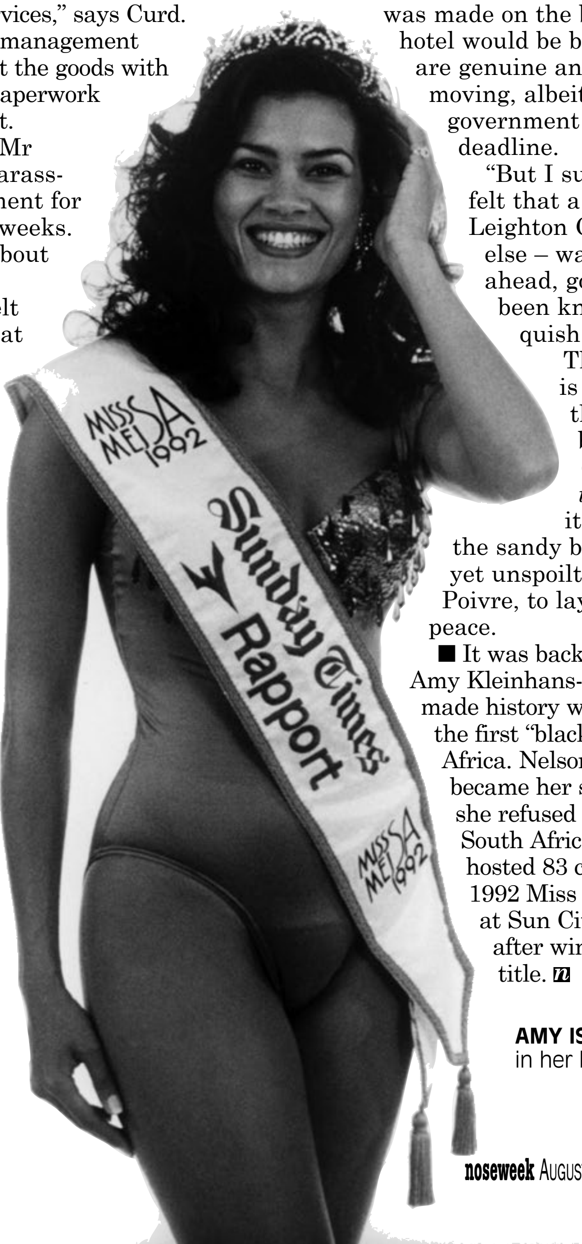
We hoped to get a definitive view on whether Curd's hotel on Poivre is forging ahead or a dead duck from Glennie Savvey of the Island Development Company in Victoria. No joy there. "I think you should ask Leighton Curd that question," dodged Savvey.

The influential Savvey revealed that Curd's deadline to get the hotel up and running has been extended to December 2006. "If he's not performing, government could revoke his lease," says Savvey. "The lease was made on the basis that the hotel would be built. If delays are genuine and things are moving, albeit a bit slower, government may extend the deadline.

"But I suppose if it's felt that a promoter – Leighton Curd or anyone else – was not moving ahead, government has been known to relinquish the lease."

This, doubtless, is the wish of the rare hawksbill turtle (*Eretmocheli imbricata*) as it ventures onto the sandy beaches in the as yet unspoilt coves around Poivre, to lay its eggs in peace.

■ It was back in 1992 that Amy Kleinhans-Curd, then 24, made history when she became the first "black" Miss South Africa. Nelson Mandela became her staunch fan after she refused to carry the (old) South African flag when she hosted 83 contestants in the 1992 Miss World pageant at Sun City, four months after winning her own title. ■



Picture: The Sunday Times

AMY IS TRUE: Mrs Curd in her beauty queen days

Despite the dismal failure of a Kenyan experiment with genetically modified crops, the biotech industry continues to use it as proof of the potential of its brave new agriculture

The bitter truth about GM sweet potatoes

GROWING CONTENTION: Florence Wambugu makes florid claims for genetically modified sweet potatoes, which have long since been discredited

'NOBODY HAS ever claimed that GM is the answer to world hunger," Monsanto UK's director of corporate affairs, Tony Combes, told Scotland's *Sunday Herald* newspaper in June 2003. But that same weekend Canada's *National Post* reported, "Genetically modified (GM)crops are the key to eradicating poverty and hunger in the Third World, says a leading African biotechnology expert."

That expert is Dr Florence Wambugu and such comments are far from an embarrassment to companies like Monsanto. In fact, Val Giddings, a vice-president of the Biotechnology Industry Organization, has said, "I wish we could clone her."

The industry has certainly done everything it can to help her project her unambiguous message. "In Africa GM food could almost literally weed out poverty", she told *New Scientist*. In the journal *Nature* she wrote that biotechnology was urgently needed to counter "famine, environmental degradation and poverty". Resistance to GM, she put down to a "strong anti-biotechnology lobby that actively promotes misinformation".

"Africa must enthusiastically join the biotechnology revolution," she says. Such a revolution, she told a Canadian newspaper in 2003, could pull "the African continent out of decades of economic and social despair".

Dominic Glover of the Institute of Development Studies at the University of Sussex sees such arguments as simplistic. They imply GM can magic away the problems facing poor farmers "without addressing the complex and intractable issues of poverty, land rights, lack of access to credit and weak extension services." The director-general of the UN's Food and Agricultural Organisation (FAO), Jacques Diouf, has added to the list, saying irrigation and road-building are more urgent priorities in improving Africa's agriculture than encouraging the introduction of GM crops. (African farmers need water not GM crops)

Glover writes, "Kenyan scientist Florence Wambugu has asserted that GM crops are ideally suited to poor farmers because 'the technology is in the seed'. In fact, however, the transgenic crops that are actually on the market all require a package of expensive inputs and special management practices, which pose special challenges and risks for poor farmers. They also tend to be crops and traits designed for industrialised, capital-intensive, temperate farming. This is primarily because they have been developed by private firms for wealthy northern markets."

Whatever the limitations of her prescription for Africa's "economic and social despair", Florence Wambugu is a rising star. As well as writing for *Nature*, she has written for *The New York Times*, and appeared on CNN as well as several American TV shows. In an issue of *Forbes* magazine in December 2001, she was named one of 15 people from around the globe who will "reinvent the future." In 2002 she was appointed to the Science Board of the Bill & Melissa Gates Foundation's Grand Challenges in Global Health initiative. She is also a DuPont Biotech Advisory Panelist, a two-times Monsanto Company Outstanding Performance Award winner, and author and publisher of the book *Modifying Africa: How Biotechnology Can Benefit the Poor and Hungry: A Case Study from Kenya*.

Florence Wambugu began her career studying zoology and botany at the University of Nairobi. She continued her education in the United States, graduating with a master's degree at North Dakota State University before obtaining a doctorate at the University of Bath in England (1991). She was then picked and trained by Monsanto for its GM virus-resistant sweet potato project. It is around this project that Wambugu has built her reputation, capturing massive positive publicity for GM crops in the process.

She has presented the sweet potato as a crop grown in her childhood by her mother. "The sweet potato is a woman's crop," she says. Wambugu has also presented the project, which in 2001 moved out of Monsanto's labs into the Kenya Agricultural Research Institute, as very much her own and essentially a Kenyan affair. Some newspaper accounts of the project have not even mentioned Monsanto.

But the project was not Wambugu's brainchild. It was that of three American men: Robert Horsch and another colleague at Monsanto in consort with Joel Cohen from USAID. It was the three Americans who recruited Wambugu, who had just completed her doctoral thesis, for their project using USAID money to pay for a three-year post-doctoral position(1991-1994) for her with Monsanto.

Robert Horsch has said his role at Monsanto is to "create goodwill and help open future markets". Wambugu reinforces the point: "It [the GM sweet potato] has no commercial value to Monsanto, except as PR." Over the years Wambugu has more than repaid Monsanto's PR investment, working hard to publicize the project and securing a career as an influential advocate for GM crops in the process.

To grasp the extraordinary character and scale of the media coverage Wambugu has generated in her role as biotech advocate, it is useful to do a Google search on Wambugu + "sweet potato". It throws up hundreds of articles, mostly in the Western press.

Following a visit by Wambugu to Australia, one commentator asked, "is it too cynical to suggest that having a black African as the face of a multinational chemical company is a spin doctor's dream? This seems to have lobotomised some journalists who have treated her views like the tablets from the Mount. Even the normally rigorous Jon Faine interviewed her in a way that was almost fawning. ("GM science can be blinding, Rankin McKay", *Herald Sun*, July 30, 2003)

Wambugu's GM crop appears a run-away success. The only problem is, none of her figures add up

Uncritical media coverage of a lobbying trip by Wambugu to Canada also drew critical comment: "A black African woman in colourful traditional dress delivering a sermon on feeding the hungry of Africa is a real show stopper. And the right-wing press love it. They don't bother to ask about the sources of the sensational numbers she throws about, they don't ask to see the research studies to back up her claims for biotechnology or the world of African farmers that she paints in simplistic terms. They don't ask who is paying her way around the world. Perhaps they just don't want to appear impolite, even if truth is the victim."

So what is the truth about the showcase project Wambugu built her career around? According to a piece in the *Toronto Globe & Mail* in July 2003, "Dr. Wambugu's modified sweet potato... can increase yields from four tons per hectare to 10 tons." A piece in Canada's *National Post* repeats the same figures: "Dr. Wambugu, who continues to act as an advisor on the project, said the modified sweet potato seeds should be able to produce 10 tons of vegetables per hectare compared with a natural Kenyan crop that yields four tons per hectare." ("GM crops touted to fight poverty") However, back in 1999 in an article in *Nature*, Wambugu wrote, "the production of sweet potato [in Kenya], a staple crop, is six tons per hectare".

Whatever the correct point of comparison, Wambugu's GM crop appears a run-away success. The only problem is, none of her figures add up.

In 2003 Aaron deGrassi of the Institute of Devlopment Studies examined all the available data for a detailed report on GM crops in Africa. He noted, "Accounts of the transgenic sweet potato have used low figures on average yields in Kenya to paint a picture of stagnation. An early article stated six tons per hectare – without mentioning the data source – which was then reproduced in subsequent analyses. However, FAO statistics indicate 9.7 tons, and official statistics report 10.4."

The results revealed that the non-GM sweet potatoes had yielded significantly more than the GM ones

In other words, Wambugu's figures on average non-GM yields appear to massively understate the reality by anywhere between 40-60%. By contrast, if, as Wambugu claimed, her GM sweet potato were producing 10 tons per hectare, then rather than roughly doubling normal yields, the GM sweet potato would be performing no better than the conventional crop.

This is where we come to the nub of the problem. Despite the hundreds of items referring to the success of Wambugu's project, until early 2004 there was no way of knowing the actual yields of the GM sweet potato. No peer reviewed reports or official figures were published during the three years of the trials in Kenya. Thus, despite all the claims of Wambugu and others about the enormous success of the project during that period, deGrassi noted in his 2003 report, "At the farm level, there is currently no evidence about the performance of transgenic sweet potatoes." The researchers, deGrassi wrote, simply "refused to state how the trials, now in their third year, have performed."

Yet the trials, with all of their unknowns, were presented by Wambugu as an agricultural revolution in Africa. To quote the *Forbes* article about Wambugu reinventing the future, "While the West debates the ethics of GM food, Florence Wambugu is using it to feed her country." The implication was that this trial technology was already benefiting the people of Kenya.

The article reported that the results were "astonishing": "The sweet potato is sub-Saharan Africa's first genetically modified crop, and its yields so far are double that of the regular plant. Potatoes are bigger and richer in color , indicating they've retained more nutritional value." For hungry Africa, we were told, "Wambugu's modified sweet potato offers tangible hope."

But then at the end of January 2004 the results of the three-year trials were quietly published in Kenya showing that none of this was true. Kenya's *Daily Nation*, reported, 'Trials to develop a virus-resistant sweet potato through biotechnology have failed. US biotechnology, imported three years ago, has failed to improve Kenya's sweet potato."

Instead of Wambugu's extravagant media claims of doubled yields, the results revealed that the non-GM sweet potatoes had yielded significantly more than the GM: "The report indicates that during the trials non-transgenic crops used as control yielded much more tuber compared to the trangenics". The GM crop had also been found to be susceptible to viral attack – the very thing it had been designed to avoid .

New Scientist also reported the project's failure last year in an article headlined "Monsanto's showcase project in Africa fails".

Even before these results were announced, deGrassi drew a contrast with a conventional breeding programme in Uganda which was able "to produce a new, high-yielding resistant variety in just a few years at a small cost that... raised yields by roughly 100%."

The success of this project gives the lie to another Wambugu claim that "Conventional breeding research had proved powerless to develop varieties resistant to these viruses". The conventionally bred virus-resistant variety is also a popular one with farmers, unlike the variety that had been genetically engineered by Wambugu and Monsanto.

Other shortcomings of the Wambugu project pointed to by deGrassi may help to explain what went wrong. Wambugu's yield claims are based on the assumption that the virus her project is targeting is responsible for massive losses. "Yield losses from the virus can be as high as 80%", according to one KARI claim ("Transgenic sweet potato could end Kenyan famine"). In reality, the virus that Wambugu has focused on – the sweet potato feathery mottle virus (SPFMV) – "is not a primary constraint on sweet potato production," says deGrassi, "nor is it a significant cause of food insecurity, let alone famine. SPFMV is only one relatively small factor among many problems that constrain production."

The reason the wrong virus has been targeted, deGrassi suggests, is that its selection, "resulted from pressures by American officials and business, rather than through a participatory process by the Kenyan agricultural research and extension system designed to meet poor farmers' needs."

DeGrassi contrasts Wambugu's project with the successful Ugandan one which has produced a new, high-yielding virus-resistant variety of sweet potato in just a few years and at a small cost. Wambugu's project, on the other hand, ran for over 12 years, involved over 19 researchers – 16 with PhDs, a rarity in Africa. So far, it has eaten up at least $6 million of funding from Monsanto, the World Bank and USAID. Once again this is the exact opposite of the claims made for the project that "the time and money spent actually developing GM varieties are less than for conventional varieties."

Nothing could illustrate better a point deGrassi is not alone in making: "The excitement over certain genetic engineering procedures can divert financial, human, and intellectual resources from focusing on productive research that meets the needs of poor farmers."

Florence Wambugu's reinvention of the future via genetic engineering exists only at the level of myth. Unfortunately, the Wambugu myth is helping to inhibit change for some of the world's poor.

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Zimbabwe

From page 21

because 'the wind was blowing in the wrong direction'.

"Things changed early one morning in June [2002] when we were abruptly told to stop investigating and hand over all information and evidence relating to the case. Two of us were asked to a briefing with two unnamed CIO seniors from Harare, whom the provincial intelligence command officers kept addressing as 'Chief'.

"We were told that the CIO would now take over the matter and we were to 'remember where our bread was buttered'. We were strongly advised to remain silent; that there was nothing more we could offer except our silence."

THE CIO subsequently concocted a story that an investigation by the police had revealed that Tumelo Makhurane had not been kidnapped or murdered on political grounds. Instead, said the CIO, police had discovered that Makhurane had used his argument with Minister Ncube to slip away from irreconcilable marital squabbles, which had already forced his wife to leave him in Gwanda and opt for life in their rural home.

"Gwanda is a small town, so that tale reached everyone who cared to listen and quickly became the official line," says the Zimrights investigator. "Go there now and they will either tell you the man slipped out of the country to escape a horrible wife, or he ran away after being caught up in some embarrassing womanizing encounter."

The mayor of Gwanda, Thandeko Mnkandla, is a fearless human rights activist and chairman of Zimrights (Matabelaland South). He describes the CIO's handling of the case as "the biggest deception of our time."

"What happened to Makhurane was politically motivated," says Mnkandla, formerly headmaster of Gwanda Secondary School. "Minister Ncube remains the prime candidate for a serious inquiry if one will ever be carried out. All the evidence points to him and his accomplices. The only way to get justice is to bring in external investigators, possibly Interpol, to handle this case."

Police spokesman Assistant Commissioner Wayne Bvudzijena says there was never any evidence suggesting Makhurane was abducted or killed, let alone by anyone close to Zanu-PF or Minister Ncube.

"It was clear from the beginning that it was a case of one who just decided to leave their own house at night and disappeared," says Bvudzijena.

"We are not aware that he had any visitors before he disappeared and we have no such testimony from the family. Our position is that Makhurane went missing and is still a missing person as far as the police are concerned."

After a recent reshuffle, Ncube is now Zimbabwe's Deputy Labour and Social Welfare Minister. He has benefited from the seizure of white-owned farms and at the last count owned three: Tshabezi Farm and Timber Farm in the West Nicholson area and Todds Farm and Guest House just north of Beit Bridge.

Asked about his alleged role in the Tumelo Makhurane affair, Minister Ncube cried: "Nonsense! Rubbish!" before slamming the phone down.

Second best, but far from bad

THE MOST curmudgeonly of wine critics must occasionally turn from truth and justice (dourness and castigation) and say with mere pleasure – "try this, it's delicious!" It seems a good time to be benign: the Cape's winter rains are in abeyance and vineyards rest in cool sunshine, the brilliant light green of the winter cover-crop contrasting with the dark wood of the severely pruned vines.

Now and then an enthusastic sensualist or sentimentalist speaks of fine wine as bottled poetry. Flagstone Winery (tending to the literary and extravagant in their nomenclature) even has a pinot noir called The Poetry Collection; Weltevrede, another producer with a weakness for fancy names, has a Poet's Prayer Chardonnay. The nakedly gnarled, vestigial vines of midwinter suggest haiku, perhaps; in a few months they will, amazingly, break out into sonnets and odes and wedding songs.

So let's forget the mean-spirited big wine companies and the grey-shod bureaucrats who too often do their bidding. Why should we think there are winemakers who cheat in their cellars and public relations zealots who cheat in auctions? And surely there are no winelands communities ravaged by centuries of alcohol abuse; impossible that the average monthly wage of a farmworker is lower than the price of a few bottles of prestigious plonk. Everything in the vineyard is lovely....

The wines I want to recommend admittedly suggest rather more prosaic origins than poet's prayers, and they're not even the best that the respective producers make.

One reason why an ambitious winery might have a second tier of wines is so that they can cascade down wines which they think not good enough for their top selections. Cordoba, for example, makes a red blend called Crescendo (the excellent 2003 sells for R133 from the Helderberg farm). The disqualified merlot and cabernet

Tim James hits the bottle

grapes go into a wine called Mount Claire Mountain Red, along with shiraz. This wine is made less expensively – no new French oak barrels, which would anyway overpower a less intense wine – and is intended for youthful drinking, whereas the Crescendo needs five to ten years before it starts revealing its best. But, at R25, the unpretentious but elegantly made Mount Claire 2003 is a great buy – better, more characterful than most bulk-product stuff at similar prices.

What counts for me in a second wine like this is that it is not cynically dumbed down. There are enough wines out there specifically designed to meet what accountants, and the Masters of Wine who make selections for British supermarkets, have decided is what the average customer wants.

Another smallish producer from Stellenbosch – though nearly as far from Cordoba as possible within the district – is De Meye. They now have a range of three reds called Little River: a Shiraz, a Cabernet Sauvignon, and the wittily named Blend (of cab, shiraz and pinotage). They all have a few years on them already, and make really good drinking, for around R25 from the farm.

Even cheaper are the new Rouge and Blanc (sounding grander than Red and White) from Eikendal, a producer with many well priced wines. The warm and friendly Rouge is particularly good: people in London would kill, or queue, for a wine like this at under two quid. A bit pricier is the Vansha Dry Red 2004 from Ridgeback, a pure-fruited, mouthfillingly rich dollop of sunny cheerfulness, with a touch of character. There's also a Vansha White, nearly as nice, equally beautifully packaged.

A few second-bests are much finer wines, and correspondingly expensive, but also bargains. One such is the Lourens River Valley Red 2001 from Morgenster, a young, ambitious Italian-owned winery near Somerset West. They've recently brought the price down to just under R100, no doubt because anything over that is getting increasingly difficult to sell, confirm retailers – and there must be other producers feeling the urge to swallow their pride and do likewise. At this august level, you're not going to find many better bargains around than this.

Then there is the similarly priced Meerlust Red 2002. This fits into the second-best category in a rather different way. Meerlust doesn't have a regular second label to make use of, and this is in fact the famous Rubicon (perhaps as close as we get in the Cape to a wine with iconic status – if not always iconic quality). The 2002 vintage was generally a less than brilliant one, especially for cabernet and merlot, and Meerlust decided their top wine wasn't good enough for their top label, so demoted that wine altogether (as they had done in 1985 and 1990). To me, the wine seems attractive and classy and not far off the usual mark, and given that it's at half the price that Rubicon usually is, it's a remarkably good buy.

Ah well, they're forecasting a change in the weather. More churlishness ahead.

BY HAROLD STRACHAN

MRS POMFRET is an old-time Prog, I mean she believes one should be fair to everybody, everybody should know their place, not just natives, whom to this very day she affectionately calls nignogs, with a motherly smile. Afrikaners are still called Nats. Nats believe only nignogs should know their place. Sometimes over our back gate Mrs Pomfret confesses in a Christian sort of way that she wouldn't mind too much if The Indians found a place to know somewhere else, excluding of course the family who have a curio shop at our Umbilo Mall here, but then they're Hindus. Some other Hindus too. This too is self-evident. Progs know their axioms.

Eric, now, he knows his place, it's just such a pity he exists in the garbage lane under some planks. He knows his place socially is what Mrs Pomfret means, being a Zulu nignog and hence a gentleman. She gives him bread most days. Otherwise he would die, says Mrs Pomfret.

Then there's Mr Adamson, over the road, he keeps racing pigeons, he is old-time Natal English working-class. These pigeons are real athletes, you should see them at the end of a long haul from Pretoria or somewhere; they're so exhausted they just glide the last hundred metres and flop on the ground, too shagged even to fold up their wings. Or try for a last hop into the loft. Some of these birds are worth R1000. More. Trouble is, certain falcons have moved into Durban, falcons love cities where they feed on low-class feral pigeons that sit about and shit on statues, and these raptors have begun preying on Mr Adamson's pedigree blood-stock. It's getting so bad the insurance people are threatening not to provide further cover, but what can you do about nature? Mr Adamson has a good vocabulary of English working-class present participles, which he applies to the world's falcons.

I am giving you here a little sketch of our modest Umbilo community, you will have noticed; a mixed bag, as they say. There's me too, of course; I clean people's oil paintings for a living, a bit like dry-cleaning kids' school blazers, they come in, they go out. But I make a few bucks extra from a deal with the local Spar: they buy the entire crop from my avo tree once a year. "Buy the Tree", as they say. Trouble is, certain monkeys move across Durban from the Burman Bush once a year and devour the crop just at picking-time, and what can I do about nature? I wait but in vain with a small bag of throwing-stones, and mouth a few present participles I remember from the Air Force.

Certain falcons have moved into Durban, falcons love cities where they feed on low-class feral pigeons

Plenty other odds and sods in this community, of course: certain businessmen, indeed, from further up the hill, but round the Spar down here where I live and breathe we seem a humbler lot, we recognise one another in the street, and love each other in a cultural sort of way. Even the car-guards and the koeksister-ladies with sun-blasted complexions and sun-scorched hair, lank and unlovely.

When I got out of boep Eric came and said to me, Borrow your wife's station-wagon and pick me up at the Indian Market where I have flown off two garbage-bins full of mealies and we will sell them on the roadside near Virginia Airport and do a deal 50/50.

So we made a sign saying BUY WHILE STOCKS LAST and sold the bloody lot in one hour and did it twice more until the mealie season ended and Eric got a bit healthy-looking. But generally he looked like hell, his teeth rattling about in his malnourished mouth. Until one day I bumped into him at the Spar.

Eric, said I, you appear abnormally healthy, has Mrs Pomfret been feeding you up? She gives me bread, said he, but I also eat green things. Like what? I enquired. O-o-oh, quarter pears, said he. You bastard! I exclaimed, it's you who eat my avocadoes! Never mind, said Eric.

So we did a deal 50/50 whereby he should harvest the bloody things and deliver them to Spar, and it seemed to work, sort of. But even in the avo off-season he got healthier and healthier. Eric, said I one day, you appear even abnormallier healthy, what has been your recent diet? No, said he, I bought a catapult cheap cheap from a Nigerian street-trader and I shoot birds. Hey, good for you, I declared, you know how to survive in this bitter urban jungle, you must be one hell of a shot! Nah, said he, birds are bloody stupid, man, they just sit on the ground there with their wings spread out and I walk up and shoot them. You bastard! I exclaimed, you have been eating Mr Adamson's pigeons! Never mind, said Eric.

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