

news you're not supposed to know

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noseweek

77
MARCH 2006



NEDBANK'S STRONG-ARM TACTIC

Rich ex squeezes Sea Point dad Chapman's pique
Sir Donny Gordon's marital menagerie Sydney Opera House sings





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noseweek

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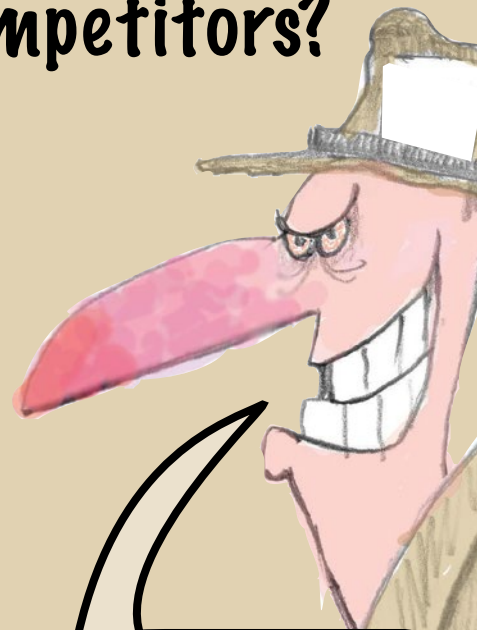


Illustration: DR JACK

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It's next month already. Why not steal a **March** on your competitors?



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Prophet or loss?

Do you think God or the Prophet will appear in any of your cartoons? I really liked the one about the virgins in the Danish paper. Can you top that?

Tim Winstanley
Durban

No. No. (Although I think Hans Christian Andersen's fairytale about the emperor's new clothes long ago saw the joke in the difference between those who believe and those who don't. He was, of course, also a Dane.) – Ed.

the same does not apply to expert witnesses. When Dr Antonel Olckers joined the Ackermann defence team, it couldn't have taken her long to realise that she would be instrumental in setting a killer free. I am sure she has justified this to herself in a number of ways, but the truth remains: She too has the blood of the Smits on her hands and no money can wash it off.

The final chapter may yet belong to Judge Bosielo who would not wait one day for the

how many people have concluded that Boswelox has much the same effect as Botox.

TW
Johannesburg

Misleading advertising

Your article on "false advertising" by the beauty products industry prompts the question: Where is the Medicines Control Council in all this?

Some time ago I was involved in a small business producing and marketing

whaling organisations.

However, all our attempts to implement this simple logic have failed; our letters were met with arrogant refusals – or not answered. Once you are corporate and rich, the basic cause kind of fades away.

Paul Watson is presently in the US to talk to the relatively few supporters in order to raise money for a faster vessel, crucial for any continuous interception of the Japanese whalers early next year.

Paul will return to Cape Town to train crew and re-equip vessels to participate in the next anti-whaling campaign – where matters will get ugly and dirty. We would be delighted if we could recruit South African volunteers, crews, and possibly vessels to join us.

Dr Herbert AE Henrich

Member of the Advisory Board
Sea Shepherd Conservation Society
Washington
Email: southafrica@seashepherd.org

Save the whale, boycott Japan

We are calling on everyone who cares about whales to use their consumer power to send a strong message to the Japanese government and the fishing companies that continue to finance Japan's whaling programme in the Southern Ocean whale sanctuary.

It's unbelievable that the South African port authorities complied with the Japanese government's request to put the *Farley Mowat's* crew under boat arrest when they sailed into Table Bay last month. They were on their way to intercept the Japanese whaling fleet in a whale sanctuary.

More people came to SA last year to go whale watching than to go game viewing in our National Parks. It's the fastest-growing sector in the tourism industry worldwide. South Africa is not sending out the right message by obliging the Japanese.

If our government does not want to take a stand against Japan's whaling programme, for political reasons, then it is up to us to take the battle to the supermarket shelves and

truth. As always, *noseweek* has done a sterling job.

Tjaart van der Walt
By email

Trick or treat

Your report on the "science" of cosmetics and the advertising industry went down a treat. They have more tricks, though.

One is to invent a scientific-sounding name like "Dermacalifragilistic", or something that is very close to a trademark infringement such as "Boswelox". I wonder

a brand of petroleum jelly. The wording on the label suggested that the product was beneficial to the skin when applied. We were contacted by the MCC and told that we could not make any claim regarding improved physical or mental conditions resulting from the use of any product unless it had undergone the required laboratory testing procedures of any new medication.

The cost of replacing all our labels and marketing literature, and the loss of the position in the market that we had created resulted in the product's withdrawal.

If the MCC was so concerned about an innocuous product like petroleum jelly, why have they remained silent on the plethora of misleading advertising emanating from the cosmetics industry? Surely they don't have any financial interest ... ?

R Bungay
Cape Town

Sea Shepherd wants you

Thank you for *NoseArk's* excellent article on our campaign to stop illegal whaling (*nose76*).

Greenpeace has the faster vessels and sophisticated equipment. Nothing could make more sense than to combine forces with Greenpeace and other anti-

Do you think that God or the Prophet will appear in any of your cartoons?

Old Mutual's big boob

Old Mutual's "big boob" with the judges' Christmas lunch needs to be put right: how about the judges donating R25,000 (the cost of the lunch) to a recognised fund for victims of crime?

Ernie Durra
Cape Town

Living with murder

Whereas it is a lawyer's job to get the best possible outcome for a client who has committed even the most heinous crime,

GUS



Do you think his death might have been age-related?

not buy Japanese products until they stop killing whales.

To follow the progress of the *Esperanza*, the Greenpeace ship that has gone to intercept the Japanese whaling fleet, go to www.greenpeace.org/stopwhaling.

Giangi Negra
Hermanus

Smoke and fire

The hapless tourist arrested for starting the Table Mountain fire will probably be charged. The last Franschoek fire caused much more damage (although nobody died), but, although the culprit's identity is known – he works for the TCTA on the Skyfraam dam – he has not been arrested. This is the second time he has started a fire in the area. Do you only get arrested if there is sufficient public outcry?

The police have told residents that they are free to bring civil action against him. I believe that Bellingham are going to do so.

Ian Hurst
Franschoek

Underhand means

You recent article regarding the court transcription services provided by Infotech was on the mark.

I believe that Infotech obtained the contract by underhand means, and that they have no idea how to conduct this kind of business. What concerns me even more is that there is a human factor to this: How many innocent people could be languishing in jail because of lack of delivery of court transcriptions or bad workmanship by typists?

Tokolosh
Durban

NEWS FLASH

THE SOUTH AFRICAN Publishers' Collective has called on the government to place a 20-year moratorium on all creative writing.

This emergency suggestion is designed to allow readers to catch up as research reveals that there are literally tens of thousands of South Africans who have not yet read all the novels of Jack Cope. It will also allow publishers time to reduce or remarket unsellable stock.

This crisis was sparked from a report to parliament from the Congress of South African Book Clubs (COSAB). The report dealt with the exponential growth in the creative writing industry which has created a literary backlog of pandemic proportions. The shocking fact is that one in three South Africans is an established writer or has an unpublished manuscript or is working on one.

Curiously this proposal has been fully supported by the Union of South African Writers, the group that organised a three-week poets' strike in 2003. USAW spokesperson, Ruth Dlamini-Firgood said that the moratorium will also allow novelists and poets a generous sabbatical to gain some real-life experience - in fact, to live a little.

Until the 60's, she said, authors had pre-literary careers such as whalers, waiters, short-order cooks, mercenaries, farmers, chartered accountants, explorers and artisans. Today the average writer's CV is a melange of workshops, writers-in-residence programmes, creative writing MAs and creative writing teaching posts.

Chairman Mao, she said, must be turning in his grave.

gus ferguson

Nominate Mr Nose's HERO of the month and your nominee could get a R400 bottle of Champagne (and you could win a gift pack of Ken Forrester wines)

TIRED of reading about villainous lawyers, scamming bankers, corrupt businessmen and ne'er-do-well politicians? Now's your chance to change all that and to bring some joy and light to the pages of noseweek. Nominate anyone who during the past month has done the right thing. It could be:

- * The national leader who sold the presidential jet to fund housing for the poor;
- * The call centre operator who answered your call in less than 12 minutes and made a genuine attempt to deal with your query; or
- * A taxi driver who returned to its owner the package containing R2m in cash left in the back of his cab.

Send your nomination with a motivation

And this month's HERO is...

Kitty Strawig, Department of Home Affairs, Pretoria, who restored Melody Mitchell of Kenilworth's faith in civil servants by organising in less than a week a document that had previously taken 16 weeks to procure. "Even though we had never met, she saved me time, money and

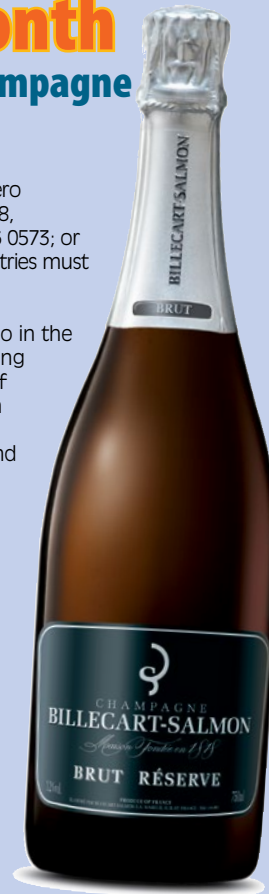
of no more than 50 words to: Hero Nomination, noseweek, PO Box 44538, Claremont 7735; or fax it to (021) 686 0573; or email it to noseweek@iafrica.com. Entries must be headed "Hero Quest".

The winner will be the nominee who in the editor's opinion is the most deserving and imaginative choice. The Hero of the Month will receive a write-up in noseweek and a bottle of Billecart-Salmon Brut Réserve with your – and our – compliments.

The sender of the winning nomination will receive two bottles of Ken Forrester wines.

endless frustration," says Ms Mitchell, "and she deserves to get pissed on expensive bubbly!"

The bottle of Champers is on its way to Ms Strawig in Pretoria and the Ken Forrester gift pack should be arriving in Kenilworth for Ms Mitchell any day now.





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The Terrible Terror

Early in 2002, Richard Young's CCII Systems, designers and manufacturers of defence software, applied to the Auditor General Shauket Fakie for access to his working papers and drafts for the controversial report on the government's defence procurement programme that he tabled in parliament in November 2001.

This followed allegations that the process of the procurement of the arms had been irregular and corrupt – and that the irregularities and corruption had led to CCII losing its bid for a part of the naval component.

Six months later, when CCII had still had no proper response to its request for information, the company applied to the Pretoria High Court for an order compelling AG Shauket Fakie to comply with the request. The first judgment ordering the AG to hand over the documents within 40 days was delivered on 15 November 2002. It had little or no effect.

By 12 June 2003, Fakie had produced only 751 pages (along with a covering letter informing CCII that that was all they were going to get). So the company launched another court application, this time to have the Auditor General declared in contempt of court – a criminal offence. Suddenly, the floodgates opened. Some 10,000 pages of documents had been provided to CCII by Fakie's office by the time the contempt application was heard in October 2004. Not surprisingly, the court found that the only reason the AG produced the bulk of the documents was the threat of a criminal conviction for contempt.

The court found Fakie guilty of contempt of court and, on October 24, 2004 gave him a suspended sentence of one month's imprisonment.

Fakie appealed against the judgment and order. Shortly after leave to appeal was granted on the contempt matter, he made available the last outstanding draft reports to CCII – “without admission of liability”.

The appeal was argued in Bloemfontein last month and the court's judgment is still awaited.

Pretoria High Court Judge Brian Southwood last April ordered Defence Minister Terror Lekota to furnish defence electronics manufacturer Young with all the arms deal documents he had requested, saying Lekota had not given adequate reasons for refusing Young access. Young had already formally requested the documents more than two years earlier, in terms of the Access to Information Act.

You will be aware that in recent years

Mr Lekota has made it known that he now prefers to be known by his given name, Mosiuoa, rather than his old MK nickname. And who could gainsay such a charming man? Even we went along with it – until we realised we'd been had by the smile and the disarming voice.

We have reinstated his old nickname, because terrifying he remains – now in his outrageous defiance of the law as a party cover-up man.

Lekota brazenly ignored the Pretoria court order, for months on end. When Young finally took him back to court, this time seeking to have the honourable minister up for contempt of court, Lekota announced that, actually, he wished to take the court's order on appeal. Why he should have thought of this only many months out of time becomes clearer and clearer by the minute: He has no genuine defence and is simply abusing his position of power to cover up documents that will almost certainly prove government dishonesty – and incompetence – of the most serious kind. Behind the legal babble he is showing the finger to the courts, and no doubt earning brownie points with the presidency.

Last month, Judge Southwood quite properly turned down Terror Lekota's application for leave to appeal. The minister was ordered to pay the legal costs, which means that we, the taxpayers and the poor of the country – not the dishonest party officials hiding behind the cover-up – will pay still more wasted legal fees.

One of the objects of the Promotion of Access to Information Act 2 of 2000 is to facilitate access to information “as swiftly, inexpensively and effortlessly as reasonably possible” (s9[d]). More than four years have passed since Young first officially applied for the documents. His legal costs total hundreds of thousands of rands – in addition to the still bigger sums paid by taxpayers on behalf of Fakie and Lekota. And now our defence minister plans to drag it out by petitioning the chief justice. Presumably he thinks we, the voters, will eventually get bored with the Arms Deal and move on. He's wrong. We are riveted. There has to be extraordinary wrong-doing at a very high level if he's prepared to go to such great lengths.

It's really just a question of who gets to tell the whole shocking story first: Lekota – or us. The government's handling of the arms deal has not only cost our country billions and our government its credibility; it has tainted every one of our democratic institutions.

The Editor



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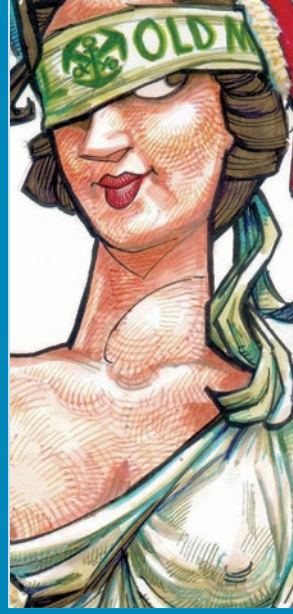
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Mr Nose puts it about



Old Mutual tries to cover up its other boob

YES, MR NOSE even has friends at Old Mutual. And they have told him, off the record, naturally, that the Judges' Christmas Lunch at Old Mutual House was not the only time members of the judiciary have been "entertained" by the life assurer. I am told that judges, singly and in small groups, have previously been entertained in the Cape and further afield; even another Judge President has been entertained by head of marketing Gary Petersen's department.

The department exists primarily to influence "emerging role players" in the market,

the Black Lawyers' Association being one such organisation. As Judge Yekiso has already made clear, the request for sponsorship by new members of the judiciary was founded upon their experiences as members of, or guests of, the BLA.

The prime purpose of this department is to help "shape the environment" in order to create a conducive attitude and perception of the Old Mutual brand.

"Quite frankly, the funds expended by this department could never be justified as reasonable expenditure for normal sales purposes," Mr Nose's

OM source confided.

Chief Justice Pius Langa's non-committal response to the Christmas lunch incident could be explained by the fact that, back in November 2001, he and some senior colleagues (including Cape Judge President John Hlope), attended a dinner thrown in their honour at the Durban Country Club – by the Nest Life Assurance Corporation Ltd. (No relation of Old Mutual's, but word gets around.)

There's gold in them thar dolls

WHEN NOSEWEEK recently crossed the 17,000 monthly sales mark, Mr Nose was inspired by media magazine *Newsclip* to take a closer look at the competition in the same circulation slot. First published as a bi-monthly in 2004, the *Barbie Magazine* jumped in with initial sales of over 22,000. Now, only two years later, it has hit a new all-time record, achieving sales of 17,000 monthly (34,000 bi-monthly). Recent research on the *Barbie Magazine* revealed that:

- 98% of parents believe *Barbie Magazine* encourages their kids to read;
- 97% say their offspring recognise product characters (Snap, Crackle & Pop);
- 96% say their sprogs react to adverts in the magazine.
- 86% help their little darlings with activities found in the magazine.
- 78% of mothers read the magazine with their nippers.

Its conclusion, on a scale of 1–10, is that 8 out of 10 youngsters influence their parents' product purchases!

So, Mr Nose wonders: do 78% of mothers – forget about the brats – read *noseweek*? And should Mr Nose make way for a Barbie section in *noseweek*? Anything for an extra buck, he reckons.

Donkey lovers give Grahamstown SPCA kick in the ass

GRAHAMSTOWN RESIDENTS may think of their town as a Karoo-style Oxbridge. Mr Nose, on the other hand, thinks it should be renamed Assbridge on account of the alarming number of donkeys trundling about its country lanes either pulling *karretjies* or on the loose. A professor of Equine Studies from Grahamstown's agricultural college, which rather pompously describes itself as a "university", tells Mr Nose that the SPCA last year found itself accused of bounty hunting.

The mild-mannered animal welfare group had

been auctioning off stray donkeys to the highest bidders, who turned out to be the local game ranches.

When a wildebeest can cost around R7,000 a pop, it's a lot cheaper to feed donkeys to your carnivores.

The result was an unlikely alliance between angry donkey owners from the townships and the bunny-hugging brigade from the suburbs. Mr Nose concurs with the lions who are said still to prefer wildebeest. Late last year, one fussy pair showed their displeasure over their new diet by straying through an open gate onto a public road. Fortunately, the hot

tarmac seduced them away from joining a march against the SPCA, and into warming their bellies on the road. Any number of donkeys, jockeys, cart-drivers or ass-licking donkey lovers might have journeyed past the two felines on that occasion without eliciting any response.

Finally, however, the SPCA backed down, letting Grahamstown revert to the normality of small-town South Africa: housing protests, municipal shenanigans, unemployment and donkeys wandering about with impunity.

How Nedbank embraces its clients

There was a distinctly unpleasant odour down on the farm, when a bank forced a customer to sell off three prime Cape wine estates



JUDGMENT IS awaited in the Cape High Court in a R32m lawsuit against Nedbank that raises questions close to the heart of many South Africans.

Firstly, may a bank do what it bloody well pleases with assets signed over by a client as security for an overdraft, when that overdraft falls in arrears? Regardless of any losses needlessly inflicted on that client?

Secondly, what is the Free State Law Society going to do about the R1.3m secret backhanders a senior member took as a lead-in to the case?

In court, a senior bank executive admitted that Nedbank had acted without regard to the interests of its client – this when selling the client's property worth R65m for a mere R31m – but claimed that the bank was perfectly within its rights to do so!

Then there is the little matter of Nedbank's crooked attorneys and the role that that "confidential" backhanders played in the saga. (It was described by another witness as "standard practice at the time".)

Deciding the case will be Mr Justice James Yekiso.

Yes, the same Judge Yekiso, still fresh from the lavish Christmas jamboree laid on for judges of the Cape High Court by Old Mutual, owners of Nedbank.

Our story begins in 1996, when Johannesburg businessman Peter Rymer bought Zorgvliet, a 58 hectare

wine-farm in the Banhoek Valley of Stellenbosch, for a modest R17m. Zorgvliet is neighbour to Thelema, where Gyles Webb makes his magic potions, and to GT Ferreira's Tokara. We're talking serious wine country here.

Shortly after buying Zorgvliet, Rymer bought two smaller adjoining farms, Le Pommier (for R11m) and Springrove (for R10m).

Over the next few years Rymer spent some R22m on improvements to the three properties – renovating the farmhouses, restaurant and guest-house, replanting the vineyards, extending the dams and irrigation systems, starting a winery.

He financed all that partly by borrowing R12m from Nedbank. As security for the loan, Rymer pledged all three farms to the bank. (Nedbank conservatively valued the land, excluding improvements, at R36m.)

During 2001 Rymer realised that he had, in his enthusiasm, perhaps over-extended himself. He started to look for a buyer for one of the smaller farms. Negotiations were already underway with a prospective buyer

when the loan with Nedbank crept over its R12m limit to R12.8m.

Nedbank demanded immediate repayment of the full outstanding loan, and, when Rymer was unable to do that, instituted liquidation proceedings against the three companies through which Rymer owned the farms. Since the value of the farms so far exceeded the debt, Rymer told the bank that he would oppose liquidation.

Nedbank wanted its money back without the delay of a lengthy court battle. Rymer wanted to avoid any possibility of the sale in execution of any of the farms. So they decided on a compromise: Rymer would have a month to sell one, or all, of the farms – to finalise the deal with his prospective buyer – and to settle his debt to the bank. If he didn't manage to do that, Nedbank would have another month in which they would be entitled to sell as many of the farms as necessary to pay the debt. (There was a further proviso: reserve prices were stipulated for each farm; they totalled R37m). If, by 14 January 2002, the debt had not been settled, then Nedbank could put the farms up for sale at open auction,



without reserve and on such terms as Nedbank in its discretion saw fit.

As would later become apparent, Rymer and Nedbank had very different ideas about the meaning of the phrase “in its discretion”.

The proceeds from any sale would be applied first to Rymer’s debt with Nedbank, with whatever remained going to Rymer’s account. Since the farms were worth at least three times more than the amount owed to Nedbank, logic suggests that Rymer had a greater interest in the way that any sale was handled and what prices were achieved.

Rymer did not manage to bring his sale to a conclusion during the first month. But in the following month Nedbank introduced him to a possible buyer, an American called Preston Haskell. Haskell was financially sound, Nedbank told Rymer. The only problem was that Haskell was aware of Rymer’s financial squeeze, and was offering only R20m for all three farms. Rymer refused the deal in spite of pressure from the bank to accept.

By January 2002 no sale of any of the farms had been concluded, and Nedbank decided to go ahead with the open auction. A date was set for 12 March.

Later that month Rymer was approached by Jean-Vincent Ridon, the Cape Town representative of Michel Reybier, the owner of various wine estates in Bordeaux. Reybier had been looking for a suitable Stellenbosch wine farm for a few years. Such was his financial standing that, when Ridon reported that he had found a suitable farm, Reybier’s bankers, Rothschilds, sent one of their directors, Jean-Luc Coupet, to Zorgvliet in February to look things over. The French were tremendously excited by what they saw, says Rymer. On his return to Paris, Coupet wrote to Ridon, on a Rothschild Bank letterhead, to say, “We confirm the intention of Chateau Cos d’Estournel [Reybier’s company] to

submit to you an offer of R49 million relating to the mandate you received relevant to the Zorgvliet vineyards...”

Rymer immediately wrote to Nedbank to ask the bank to put the plans for auction on hold. “Things are finely poised,” he wrote. “Buyer confidence is imperative”.

But there was no response from Nedbank to Rymer’s increasingly worried letters.

No one at Nedbank apparently thought to use their “discretion” and phone Coupet to find out about the deal.

Instead, the bank went ahead with advertising the auction – in terms that made it sound like a sale in execution. That spooked the French, Ridon later testified, and they decided that they needed more time to think things over. But time was what Rymer didn’t have.

About a week before the auction an increasingly worried Rymer got what seemed like a break: Haskell, the American, re-appeared on the scene. Having previously offered R20m for all three farms, he now offered R18m for Zorgvliet alone.

Rymer didn’t think it was a great offer, but it did mean that he could avoid the auction and keep two of his

But for the time being Nedbank’s attitude was simply puzzling.

Things were about to get stranger still: On 12 March 2002 the auction was held at Zorgvliet. There were two serious bidders: Haskell (represented by a friend, John Sparks, and his Cape Town attorney, Allewyn Joubert) and Mac van der Merwe from Johannesburg.

When the bidding reached R31m Sparks and Joubert stopped bidding; they needed to consult with Haskell, who was in the Mediterranean, before tendering a higher bid. There was no cellphone reception in the valley, so the two men drove to the top of the Helshoogte Pass to make the call. Haskell authorised Sparks to bid up to R40m.

But, back down the hill, Joubert later testified, the men from Honey & Partners told him that the sale had been concluded. Later that day he received a fax from Honey & Partners confirming that Nedbank had accepted the bid of R31m, and that bidding was closed. This despite the fact that the auction rules – announced to the gathering before the auction started – allowed for a 14-day period before the seller would have either to confirm or reject the bid, and during which time

It emerged that Nedbank’s attorneys had a secret interest in the **sizeable commissions** generated by maximising the turnover

farms. He decided to accept.

To his horror, however, Nedbank – which now controlled the sale process in terms of the deal – said no. They were proceeding with the auction.

Not only that, but Nedbank also refused Rymer’s request that they should put the farms up for sale both individually and together – common practice in such cases – allowing them the option of accepting a bid on an individual farm if it would produce sufficient to settle his debt.

Haskell’s offer was sufficient to repay Nedbank’s loan in full. Why should they object?

It would later emerge that Nedbank’s attorneys, Honey & Partners (of Tyger Valley and Bloemfontein) had a secret interest in the sizeable commissions that would be generated by maximising the turnover at auction. (No such commission was payable on a sale out of hand.)

new bids could be considered. Van Der Merwe’s bid was locked in for 14 days. So there was no advantage to Nedbank to close the bidding before the end of the 14-day period – only a substantial disadvantage to Rymer.

By declaring the bidding closed, Nedbank prevented Haskell from making a further bid, and the French from entering the race. Monsieur Ridon would later testify that he would certainly have approached his clients to solicit a bid had there been the opportunity. And Haskell had already said that he would go to R40m. Both the French and the American later bought SA wine farms.

So why did Nedbank close the sale?

After the auction, a distressed and angry Rymer issued summons against Nedbank and Honey & Partners for damages suffered through their careless handling of the sale of the farms.

At the trial advocate Roelof van Riet SC (for Rymer) asked Nedbank's head of legal affairs and debt collection, AP van der Merwe, why he had closed bidding on the day of the auction.

Van Riet: "Did you, before you took the decision, give any thought to the possibility that the approval period would perhaps work in Mr Rymer's favour if you kept it open so that a higher offer might come in?"

Van Der Merwe: "I don't believe it was necessary as far as I was concerned."

Van Riet: "So that means you didn't do it."

Van Der Merwe: "I didn't do it."

Rymer had long suspected that Honey & Partners had had some undisclosed interest in the way that the sale was handled.

Now he discovered documents that showed that Nedbank's attorneys had in fact received a whopping secret kickback from Auction Alliance amounting to R1.35m, half of Auction Alliance's 7.5% auction fee.

But, in a brave but unlikely show of innocence, the attorneys now claimed that the auctioneers, Auction Alliance, had – please note – only a few days after the auction, spontaneously approached them with an offer to split their commission 50-50. They accepted the kind gesture – but did not think it necessary, "in these particular circumstances", to notify its client of the "sharing arrangement".

But, in case there was anyone on the planet who might actually have believed that story of unsolicited

charity, there was also discovered an invoice for half the commission, issued by Honey & Partners – on the day of the auction!

And Rael Levitt, the CEO of Auction Alliance, said later on in the witness stand that it had always been understood there would be a kickback (he didn't use that nasty word) to Honey & Partners.

Remember: Honey & Partners would not have received any commission had Haskell's prior R18m offer for Zorgvliet been accepted. And, if the farms had been auctioned separately, as Rymer had wanted, then the sale of Zorgvliet surely would have realised much less than R31m – and a much smaller secret commission for Honey & Partners. What effect might that have had on the way Nedbank was advised – and on the decisions taken by the bank?

Just before the case was due to be heard in court, Honey & Partners wisely chose to conclude a separate confidential settlement with Rymer. We will discuss the terms and ethical implications of that interesting settlement in a future issue.

Rymer's case is now against Nedbank only. He maintains that the bank had a fiduciary duty to him, and that it failed to act with reasonable care with regard to his interests. As a result he was denied the opportunity to sell Zorgvliet only and to keep the other two farms or, alternatively, the opportunity to sell all three farms to the French for a substantially higher amount.

Nedbank argues that it acted at all times in accordance with the agreement struck with Rymer after they had applied for the liquidation of his companies. The bank had the right to go to auction, the auction was advertised properly and a "very good" price was achieved. It doesn't matter why the bank took the decisions it did; it had the right to do so, as expressed by the phrase "at the bank's discretion".

Rymer says that while the agreement did give Nedbank authority to take certain steps with regard to the farms, they were still his farms and in selling them the bank was acting as his agent, with all the attendant duties.

In his argument on the final day of the case, Advocate Van Riet got straight to the point: The fact that Nedbank had a discretion, did not mean that Nedbank could exercise that discretion unfettered by any consideration for Rymer's interests. In fact it only increases the bank's responsibility to use its discretion, mindful of Rymer's best interests. Nedbank's argument, that it was effectively entitled to do as it pleased with Rymer's farms, the advocate found outrageous.

"Can it be true my lord," he cried – seemingly in anguish – "that now, in the year of our Lord" – here he looks at his watch – "2006, we have a contract that gives the bank 100% of the rights, and the other party nil, nothing ... zero?"

And so ask all of us.

We look forward with interest to Judge Yekiso's reply. **W**

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Let them **not** eat Norwegian salmon!

Sea Point electrician Frank Chilchik risks jail because he can't afford the lavish lifestyle his ex demands for his two sons. When does maintenance become malevolence? asks **Lin Sampson**

FRANK CHILCHIK has spent two years of his life fighting maintenance claims that have got out of hand. He has been dragged through the High Court, insulted by magistrates, had attachment orders served on him, his friends and family subpoenaed and there seems no end to a situation that is more about revenge than rands.

Frank Chilchik hasn't eaten Norwegian salmon since September last year.

This is because in the long, exhausting maintenance trial he has been involved in with his former wife, Janine Rose Ressel, the magistrate of the maintenance court, Acting Magistrate Rosa Scalabrino (described as a "loose cannon" by a fellow advocate) told him sternly that if he could afford Norwegian salmon, he could afford to shell out more for his children.

She queried his income.

"I find this [income] difficult to believe – if you are only earning R23,000 per annum you should ask Raymond Ackerman for a job. I find this disgusting."

She also noted: "You and your wife live in Bordeaux [on the Sea Point sea front]; That is a prestigious building."

He consulted an advocate who said he should seek her recusal. The law indicates that if there is a reasonable perception of bias on the judge's or magistrate's part, he or she must recuse herself.

"She painted me," says Frank, "even before the matter had been cleared in court, as devious and irresponsible." In November last year Frank's counsel brought an application asking Scalabrino to recuse herself from the case. She refused.

Frank is a mild man who looks a little

ambushed and admits that he lacks ambition. He has always been content to earn a reasonable living, take a back seat, and let life wash over him. His life has been dominated by strong women. First his mother, who started Service Electrical in Regent Road, opposite New York Bagel in Sea Point, to help keep her son, an electrician, employed. (His own electrical business had gone into liquidation several years ago and he had been sequestered in the process.)

Then his ex-wife, an enthusiast when it comes to extracting her pound of flesh; and now his second wife, Nicki, who sits beside him proprietorially, her eyes shining like wet water melon pips and who is expecting their first child in July.

Where Frank tends to gloss the facts, Nicki is scrupulous on detail. "No Frank, you left her. It was not an agreement coming from both sides."

"Co-rrect," he says meekly bowing to her superior knowledge. "Co-rrect."

Nicki and Frank live in the heart of the Jewish community in Sea Point, next door to the shul and a stone's throw from the Sea Point Hebrew Community Hall. The flat is plush, with cushions on points, a lot of beige and black and gold.

Like all maintenance stories, Frank's is complex, labyrinthine, filled with blame, false tales, innuendo and perfidy. Like most divorces it rattles with revenge, a heavy, overwhelming freight that in the 13 years they have been apart seems not to have diminished.

"I think," he says, "it has just got progressively worse."

When he divorced Janine Rose Ressel (her maiden name) in 1992 after an eight-year marriage, the original

consent paper was a disgrace, full of pathways to disaster. It stipulated, unwisely, that Frank would be responsible to pay for "all extramural activities". Perhaps that was before extramural activities included things like long walks in the Hindu Kush and spells in Italy learning about Michelangelo.

And it was exactly one of these so-called extramural activities that sparked off an unprecedented and uncharacteristic gesture on Frank's part.

Last year Janine wanted her elder son to go on a trip to Israel, a sort of pilgrimage to the promised land. Cost: R18 grand plus pocket money and incidentals. She classed it as an extramural activity and Frank was asked to pay.

Frank refused. "I just got fed up."

"It was," says Nicki, "the first time in his life he had said 'no'." Janine had never had cause to go to the maintenance courts before.

The result of this refusal was the sheriff of the court arriving with an attachment order for the contents of the flat.

But it wasn't Frank's furniture they wanted, it was Nicki's. The flat was bought for her by her father: "We are not married in community of property. If we were, my whole world would have been taken away. It was possibly the most scary time of my life. You have no idea what we went through."

This led to a fight in the High Court where Frank, lacking money for an attorney, represented himself. The case was a waste of everyone's time. Judge Nel ruled that there was no way a trip to Israel could be classed as an extramural activity and set the writ

aside. He suggested Frank approach the maintenance court for assistance with his other problems.

But instead of putting paid to this low-intensive warfare, the fight intensified, with a few manoeuvres on the flank, a couple of rear end assaults, sporadic artillery fire.

In July last year, Frank applied to the maintenance court for relief: a reduction of the monthly maintenance figure he is obliged to pay; clarification of his other obligations. His job situation was flimsy. He and his sister have inherited Service Electrical and are battling to pay off the R80,000 overdraft that came with it.

His filed IRP forms reflect a fluctuating income, frequently as little as R3,000 per month. "With the advent of new South Africa," he says, "I lost a lot of tenders."

However, he never failed to pay maintenance.

"I paid voluntarily a lot more than the R1,500 stipulated on the original consent order."

Frank had managed because his mother, his new wife and her father all helped. All the school cheques were signed by his mother, until her death a few months ago.

"Whenever the kids needed, we paid. Now the facts have changed. Now we are having a child of our own."

Nicki pats her stomach. Yep, things have changed.

According to Nicki, apart from the R1,500 a month and his portion of the school fees, Frank footed medical bills, chemist's bills, school books, school uniforms. He did this voluntarily. "Whenever she goes to the doctor she sends the bill. Whenever she goes to the chemist she sends the bill. You should see the chemist bills. It's been like that forever and more often than not she will phone him to take the kids to the doctor or to get the medicine."

It was also deemed fitting for the eldest son to have a swanky Barmitzvah costing R89,000 (of which Frank's mother paid R40,000).

Frank, it seems, has a talent for finding partners with rich parents, which is, after all, what women have been doing for years. Ressel's parents own the clothing shop – "dress salon" – Lilian Salmon in Rondebosch, the suburban housewife's temple, emporium of lilac angora twin sets and afternoon dresses with pussy bows.

When Janine and Frank were married, she worked as a regional marketing manager for Telkom where she earned R23,000 a month plus

bonuses (in August 2005 Telkom paid her an extra R47,000). Late last year she took a voluntary severance package, which paid out nearly R250,000. In the process she also got to cash in R292,000 of her pension payout.

Her subpoenaed bank accounts reveal some serious money filtering through: more than R1.3m in a 20-month period.

She also gets R7,000 a month from her house in Milnerton and has recently married a very rich man.

She lives in Camps Bay in what she describes as a "six-bedroomed winged house". The boys each have a wing and a housekeeper to look after them. Each boy

that at 18 he needs his independence ... gets represented for niks?

A lawyer who often works in the maintenance court calls it bizarre.

I asked the attorney in question, Anton Neethling (he declined to let us talk to his client) why a woman who drives a Pajero, has a million bucks pass through her account in 20 months, needs an attorney for free.

His reply is inventive: "Because of the way our courts are working or not working, these maintenance officers are overworked. They will do anything to keep things running smoothly. If a maintenance officer had to have run

The boys each have **a wing and a housekeeper** to look after them. Each has a phone in his room and a cell phone

has a phone in his room and a cell phone; their call charges total R1,550 a month.

Ex Mrs C is described by Frank as "having the gift of the gab".

"She is dramatical," he says – Nicki corrects him – "theatrical".

"Co-rrect," says Frank.

The ex Mrs C is prone to outbursts in court. She often sobs.

"She's very convincing," says Nicki, "She's extremely convincing. But in court she looks like this hard-done-by little girl."

It is this gift of gab and drama that she has also put to another use: to get a pro bono lawyer from Bowman Gilfillan. A woman who lives in a winged house in Camps Bay, drives a pale blue Pajero (she said in court that this belonged to her husband), who has a million rand going through her bank account, who bought her school-going son an Audi A3 for R125,000 (plus R650 a month to insure it) – she explained to the court

this trial, put in the hours that I am putting in, the whole system full of people who can't afford an attorney would be clogged up."

Frank, on the other hand, has borrowed R100,000 from a friend, which he is spending on legal fees. "This is an investment in the future. We just can't go on like this."

There is a lot more than mere maintenance involved in this story. Apart from the obvious revenge that constantly erupts from its steamy innards, the case brings up a question that has never received the right attention: Should second wives or husbands be obliged to foot unreasonable bills for children from previous marriages? When a first wife is bent on revenge, it can spike a second marriage through its fiscal heart.

In the matter of Frank Chilchik and Janine Ressel, revenge has not only been allowed to run all over the

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place like a ripe cheese, it appears to be sanctioned by a magistrate who seemed biased from the start. The matter drags on. Nicki and Frank have been asked to produce all their grocery slips, bank accounts. This is where Norwegian salmon comes in, deemed an extreme luxury that nobody should be allowed. (Ms Scalabrino came upon it when carefully perusing one of Frank's Pick'nPay grocery chits.) Another contentious issue is a 1999 Mercedes left to Frank by his mother and which, according to court papers, is more than partly owned by Absa bank.

There is also a flat (worth about R1.3m, but on which a mortgage debt of R700,000 is still owing), left to Frank and his sister, jointly, by their mother. Scalabrino, in her by now familiar beat-him-down style, had this to say about it: "If necessary I will attach any property you may have inherited and pay the money over to the children."

The complainant murmured, "Thank you."

In the meantime subpoenas have been flying. "My friends, my friend's accountant, Nicki, have all been summoned to court [by Mrs Ressel to appear for questioning]. I mean it's a joke."

And then there are the constant delaying tactics, documents received but re-requested, documents not timeously returned, postponements requested ...

I finally got hold of Acting Magistrate Scalabrino whose first words were, "Where did you get my cell number?" I told her I was writing about the matter of Chilchik vs Ressel and asked her if she thought that eating Norwegian salmon was an unacceptable luxury. "I am not prepared to talk to you," she said. Snap went the phone.

However, revenge treads a wily path. It can turn like a worm and administer a few swift bites to the backside. When Frank and Janine got divorced, the children were not yet of school-going age, but the shoddy divorce order stipulated simply that Frank would pay school fees. When the time came, the ex Mrs C opted not for a government school like Camps Bay or SACS, but for Herzlia – that comes at R2,500-plus a month for each child. However, on account of Frank being broke, the children received a remission on the account (he paid the R2,500 per month for both boys) and all was well.

Until that trip to Israel (which Janine finally paid for herself, but for which she is still fighting to be reimbursed) put paid to the remission in mid-2004. "You can afford to go to Israel, you pay

full fees," said the school, more than reasonably. As far as the school is concerned, father and mother are both liable. Frank informed the school he would pay his half until the end of 2004 – which he did. The ex Mrs C refused to transfer the boys to Camps Bay, but paid not one cent. By the end of last year, the outstanding bill to Herzlia totalled more than R80,000 and the boys were "deregistered". Finally, the ex Mrs C paid.

A sophisticated society should be able to weigh relative morality rather than take refuge in crude absolutes. Attorney Anton Neethling says himself: "What you must remember is that, when it comes to maintenance for children, each parent must pay pro rata according to their own respective means. The means of new spouses are, in fact, irrelevant."

Well, thank you Mr Neethling. That is exactly what this is all about.

It is ridiculous that Frank Chilchik has to face bankruptcy once more, take

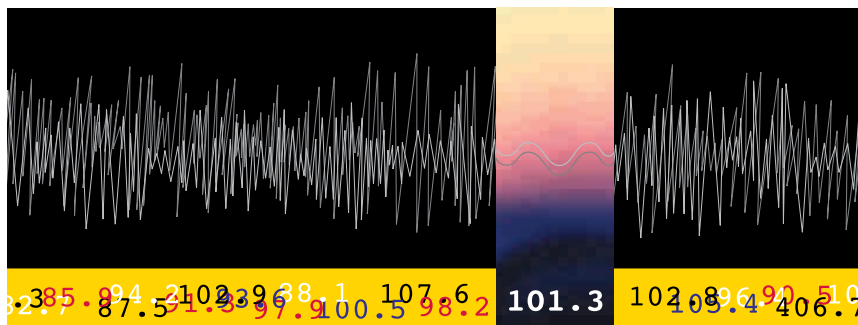
from his wife's parents and borrow from friends, to pay towards two school-going sons whose monthly personal phone bills (R1,550), pocket money (R900), entertainment expenses (R2,000), and "gifts" and holiday allowances (R1,240) exceed what he earns.

When does the baby come? "In July," Frank says, "I'll probably be in jail by then."

"I'm not joking. If I can't afford to pay maintenance, what can I do?"

■ *Maintenance Court proceedings are, officially, in camera, and may as a rule not be published. After giving the matter some serious consideration, we have concluded that in this case the public interest is clearly not served by secrecy. If anything, secrecy may have prompted abuse. We have, therefore, decided to publish this report – in the cause of Frank Chilchik's continued liberty, in the interests of his soon-to-be born child, and for the sake of common sense and general public sanity. – Ed. ▣*

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Cops crawling all over the Pink Palace

THERE'S A nigh-on round-the-clock bustle at the Pink Palace in leafy Bryanston these days, with armed police coming and going at all hours on Lorraine (Surgeon & Safari) Melvill's property – most emphatically without her consent.

Readers will recall Melvill's battle with her "quirky" Uncle Gerald. Some years back the divorced mother of two signed an agreement allowing her long-lost American uncle, wealthy Gerald Mahoney, to build a cottage for himself on her property (*noses65&68*).

But a subsequent fallout saw uncle and niece in and out of court – Melvill objecting to the cottage's lurid pink-and-green colour scheme and globe-trotting Uncle Gerald claiming that Melvill was making a small fortune renting out "his" cottage in his absences.

Now Melvill claims that 64-year-old Uncle Gerald has "infiltrated" the officers and senior staff at Sandton police station by offering them rent-free accommodation at the Pink Palace. Mahoney's justification is that he needs the presence of armed police "to deter further vandalism" – a dig at his "neurotic niece", whom he has accused of removing or breaking 19 items from the Pink Palace, including a mop and ironing board.

Originally Mahoney valued the missing items, which he said included a 24-carat gold toothbrush, at R100,000. But after *nose68* revealed that the gold molar-scrubber was made of gold-plated plastic and worth perhaps R50, Mahoney trimmed the R100,000 claim to around R9,000. The case is yet to be heard.

Melvill believes that giving the cops round-the-clock access to her prop-

erty is Uncle Gerald's latest prank to make her life hell. Recently, armed police in her garden roused her at 1.20am to advise her that her front door was not locked. "So what, I've slept with my front door open for years," retorted a furious Melvill.

She claims that Uncle Gerald has one of the Sandton cops on permanent standby to satisfy his every whim. A desperate Melvill has been advised by her attorney that she can do nothing, since the officers are guests of the gay old blade.

noseweek delivered a list of questions to director James Mboweni at Sandton police station. Have any of his officers taken up Mahoney's offer of free accommodation? Is he aware that the owner of the Mount Street property is most unhappy about the deal they have with her occasionally resident uncle? Is Officer Paulus moonlighting as some sort of part-time house guard for Uncle Gerald? No response.

From Dubai, an email to *noseweek* from Uncle Gerald! He's busy shopping at the annual Sales Festival – "a worldwide unique event, not to be missed by any serious shopper". Uncle Gerald was not prepared to respond to our question whether his throwing open the Pink Palace to the cops was a public-spirited gesture, or the latest round in the feud with his niece. He has appointed a public relations person to write his side of the story.

Says Lorraine Melvill of Uncle Gerald's latest caper with the cops: "He feeds off my energy." But, despite the police "siege", she remains focused on Surgeon & Safari, her business that offers plastic surgery and a recovery safari to wealthy Americans and Brits.

"I've just had the most marvellous woman out here from the UK, an 82-year-old," enthuses Melvill. "Betty was an absolute treat. She had a facelift and dental implants. She told me: 'Lorraine, you've given me the ability to express



TICKLED PINK: Uncle Gerald flocks together with a well-plumed pal



PALACE OF PAIN: The garish 'guest house' that is getting under the skin of Surgeon & Safari's Lorraine Melvill

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Cape Town University's battle of wills

The government has gone to court seeking to sanitise a 'discriminatory' will made by Dr Edmund Scarbrow of Green Point in 1920. If Big Brother wins, will it be worth writing a will any more?

ONLY WHITES, males and non-Jews may apply! The minister choked on his cornflakes when he saw this ad in the *Saturday Argus*. Headed "Bursaries for Post-Graduate Overseas Study", it invited students or past students at the University of Cape Town who wanted to complete their studies at overseas universities to apply to the trustees of the Scarbrow Bursary Fund for funding.

However, applicants should not only be matriculants of "limited or no means", they should also be "of European descent, male and gentile".

The will of Dr Edmund Scarbrow, a medical man who lived in Cape Town's Green Point until his death in the early 1920s, is being challenged in the Cape High Court by the education minister – first in the form of Kader Asmal (who spotted the ad in the *Saturday Argus* of 30 March 2002) and now his successor Naledi Pandor – and the University of Cape Town.

They claim that the discriminatory provisions of the trust created by Scarbrow violate the Constitution, and have produced consequences Dr Scarbrow did not foresee, which are in conflict with public interest. They want the discriminatory restrictions in the will struck out so that all students may apply for a slice of the good doctor's legacy.

At issue is the freedom of testation. Under common law this allows anyone to leave their money to whoever or whatever they want. The reality, however, is that freedom of testation has never been absolute. The crucial question is whether public policy in South Africa today is such that discriminatory trust conditions such as those at issue

in the Scarbrow case can no longer be condoned.

The minister's advocate, Gilbert Marcus SC, argues that it is the court's duty to develop the common law to promote the spirit, purport and objects of the Bill of Rights, including the right to equality.

Hardly anything is known about Dr Edmund Scarbrow, except that he had a wife, two sons and a daughter. In his will, executed on 23 April 1920, the doctor left his wife Sarah his household furniture, pictures and plate and the right to occupy Pine Grove, their house in Green Point. She also enjoyed the income from the estate's capital until her death. The income then passed to the couple's two sons, Edmund Francis and Reginald.

The will stated that should both sons die without leaving lawful issue, the Scarbrow Bursary Fund should be formed to provide "bursaries for deserving students with limited or no means of either sex (but of European descent only) of the University of Cape Town..."

Nearly eight months later, on 2 December 1920, Dr Scarbrow scrawled a handwritten codicil saying that "persons of Jewish decent (sic) and females of all nationalities" were not to be eligible to compete for such scholarships.

Scarbrow died a couple of years after penning his stipulations. Wife Sarah died in 1937 and Reginald and Edmund Francis in 1953 and 1965 respectively.

Neither son left issue, so the Scarbrow Bursary Fund was duly established in 1965, with the Council of UCT, in line with Dr Scarbrow's wishes, to have "sole discretion and control" over which students would be awarded bursaries.

The university, while happy for its students to be sole beneficiaries, was uneasy about administering the allocation of bursaries to a favoured few. In 1969 it decided it could not accept the duty of allotting the bursaries, because of the discriminatory conditions.

Syfrets Trust was trustee of the now controversial Scarbrow Bursary Fund, and it took over the fund's administration, including the selection of the bursary recipients – based on Dr Scarbrow's narrow profile. (Syfrets Trust has since been absorbed into Nedcor's BoE Trust.)

Papers filed in court show that between 1983 and 2004 the Scarbrow Bursary Fund made awards to more than 60 white, male, non-Jewish students or past students of UCT. In the 1980s the awards were modest: typically between R2,000 and R7,000. But in the 1990s they rocketed. In 1996 Mr A D Meneghetti received R80,000 and Mr T P Hutton R74,000. In 1998 Messrs C G Briggs and B Cole each collected R75,000.

Also in 1998 a Mr N Kerton-Johnson drew a record R150,000, while Mr M Bilbe got R90,000. In 2000 Mr M Crede was awarded R144,000. And in 2004 – the last year when the fund paid out anything – the above-named Mr N Kerton-Johnson collected a further R75,000.

The later big awards are surprising, for *noseweek* has established that the capital in the Scarbrow Bursary Fund is only around R1m – a lot of money when Dr Scarbrow penned his will 86 years ago, but a modest sum today. Bursaries come from the interest on the capital, which is unlikely to be much more than R60,000 a year.

Asked to explain, for example, Kerton-Johnson's 1998 award of R150,000, BoE Trust's head of fiduciary products David Knott says: "It's probably an accumulation of interest. Bursaries haven't been granted every year because suitable candidates haven't been found."

BoE Trust, conscious of the vilification that will be poured on it if it openly opposes the minister's application, has slipped into the wings in the present litigation. It says it will "abide by the decision of the court".

However, it has successfully promoted the appointment by the court of a *curator ad litem* – an independent lawyer – to represent the interests of the Scarbrow will trust in court.

Last month the *curator ad litem*, advocate John Heunis SC, argued in court: "Regardless of how distasteful we may find the conditions imposed by the founder of the trust back in 1920, in the particular context within which this delicate balance between equality and property rights must be struck, the right to equality should not be allowed to prevail over the right to property, where that would overturn the express wishes of the founder of a privately funded and administered trust."

In other words, the minister's application should be kicked out of touch.

In his counter-application, the curator is now seeking to have the UCT Council formally replaced as administrator of the Scarbrow Bursary Fund. And in a letter to the state attorney, BoE's attorney Geoffrey Carter has offered to apply to the revenue service to have the fund's tax benefits revoked. (As a Public Benefit Organisation, the Scarbrow Bursary Fund presently enjoys exemption from income tax.)

But the university's registrar, Hugh Amoore, says that the suggestion that the university's role should be "eliminated" is unacceptable. UCT wishes to resume full participation in the administration of the scholarships should the "repugnant" discriminatory provisions attached to it be struck out.

UCT also opposes BoE Trust's offer to have the Scarbrow Bursary Fund's tax benefits revoked. The loss of the tax break would mean that the fund stands to lose 40% of any annual revenue that would otherwise be available for student bursaries.

Gilbert Marcus said in court: "The [BoE] Trust is prepared to abandon the fund's tax-exempt status to preserve its racist and bigoted nature." Says UCT's Amoore, "They're saying if the fund ceases to have tax exemption then it's

not in the public domain and everyone can keep out of their business."

But BoE Trust executives warn that Kader Asmal and his co-applicants are taking a simplistic view. "The trust has pointed out to the minister and the court that they're opening up a can of unimaginable consequences," BoE's David Knott tells *noseweek*. "There are any number of other wills restrictively intended for limited classes of people."

"There is a conflict between common law and the Constitution. Common law supports the freedom of testation and the freedom to hold property and the freedom to dispose of property as you wish. On the other hand, the minister is saying, 'I think you should dispose of your property to everybody.'"

Judge Ben Griessel's judgment is eagerly awaited. If the judge finds that Dr Scarbrow's will must be re-written to allow any needy student to benefit, regardless of gender, creed or colour, what will happen to all the other trusts providing funds and bursaries to specified groups? Examples cited by Advocate Heunis in court papers:

■ GH and A Cotton Memorial Trust ("to institutions which encourage the development of art in children, preferably white children").

■ Frederic Fish Trust Fund ("assisting European persons living within the Cape Peninsula with small advances of money...").

■ Agar Hamilton Trust ("to provide bursaries for English-speaking male South Africans of predominantly British descent and who are members of the Anglican Church").

■ Louise & Nellie Herman Trust ("to provide bursaries for deserving Jewish persons of both sexes to receive a university education").

■ Ivy & Bert Lacey Education Trust

("To provide bursaries for certain white persons to study at any tertiary institution in the RSA").

■ The David Waddle Bursary ("bursaries to deserving needy white students").

■ The David Irving Bursary Fund ("engineering bursaries to needy students, to be awarded on merits to Christian white males and females").

■ The Isaac Greenberg Bursary ("bursaries to one needy Afrikaans and one needy English student of Jewish origin, tradition and descent").

Gilbert Marcus considers that producing these examples in court and David Knott's warning are ill-considered. "What distinguishes this case from others is that the very terms of the Scarbrow will are exclusionary and denigrating of blacks, women and Jews," says Marcus.

"The Scarbrow Bursary Fund is to be contrasted with those which seek to promote particular interests, such as Catholic education or abused women, which would probably be legitimate in terms of the Constitution."

Of course, discrimination can cut both ways. The Percy Stewart Horne Wills Trust Non-European Students Fund offers bursaries to "needy non-white students on merit". And The Donald McGregor Scholarships provide bursaries to "deserving needy black students".

Does this mean that a government victory in the Scarbrow case will force trusts for "non-whites" to open their coffers to poor white students? No, it seems that discrimination in favour of blacks is OK. "You can justify those under the Bill of Rights, which allows you to make restitution [for past oppression]" explains UCT's carefully "PC" Hugh Amoore. ■



"This might not be ethical. Is that a problem for anybody?"

Someone old, someone new & someone blue

Love, life, liberty, ladies and luck within Donny Gordon's clan

AFTER 47 years of marriage, billionaire Donny Gordon and his wife Peggy have parted. Johannesburg celebrity lawyer Billy Gundelfinger was summoned recently to London – where both live – to draw up a generous separation settlement for the tycoon's long-suffering wife.

The Liberty Life founder, now aged 75, married the former Peggy Cowan in 1958. They have two sons – Richard and Graham – and a daughter, Wendy, who is married to Liberty Foundation head Hylton Appelbaum.

Now Sir and Lady Gordon following the award of a knighthood last June, Donny and Peggy are today living in separate flats in the British capital.

These days Gordon's great love, along with opera and the ballet, is the shapely Countess of Chichester, a trustee of the Royal Opera House, Covent Garden. Friends say they have been romancing for several years, but now that Peggy is off his hands the relationship is more open.

Lady Chichester remains on friendly terms with her longer-standing partner, the 9th Earl, and they have been spotted with Donny Gordon as a bizarre threesome on the London social scene. The Earl and his countess married in 1975 and have one daughter.

The Countess likes the London life, but her 61-year-old husband prefers to potter around at 17th century Little Dumford Manor, his stately seat on 1,900 acres in Wiltshire. The Earl is little-known in Britain, save for his eccentricity – five years ago he gave his wife a camel as a show of his affection.

Last year Donny Gordon and his

FAMILY AFFAIRS Clockwise (starting picture right): Richard and Suzette Gordon on their ill-fated wedding day; Sir Donny Gordon dances all night at Covent Garden with his latest paramour, Lady Chichester; and Lady Chichester with friends



Picture: PA/EMPICS



family were ranked 46th richest in Britain, at £860m (more than R8.6bn), in the London *Sunday Times* Rich List.

When he married Peggy nearly half a century ago Gordon was a struggling chartered accountant in Johannesburg. They wed in community of property, so when the end came Peggy was more than kind not to have gone the divorce route, which would have yielded her a gigantic divorce settlement.

Certainly, Sir Donny was relieved to get away with a less-costly separation arrangement. Or is it simply a case of his having learned a thing or two from his son Richard's recent divorce experience?

Richard Gordon, 47, met his wife Suzette, who comes from modest circumstances in the Free State, when she was working in a Johannesburg fast food outlet in the late 1990s. They were married in a lavish ceremony at Gallagher Estate and have two young children, a son and a daughter.

When they tied the knot, Richard Gordon – or was it his canny father? – insisted on a pre-nuptial contract that guaranteed Suzette just R1m in the event of a divorce. The couple started married life in a hilltop mansion which Gordon had built in Johannesburg's Westcliff. But more than a decade ago they quit South Africa for London after becoming victims of a hijacking.

Richard set up a property company in the British capital, but the couple became involved in a fast set that inevitably put a strain on their marriage.

In the end, Suzette initiated divorce proceedings in London. Her London lawyers demanded a divorce settlement of £10m (more than R100m) from Richard – more in line with accepted British practice than the insulting R1m provided for in their pre-nuptial agreement.

Richard Gordon – or was it his still canny father? – quickly realised this required a more-than-ordinary defence. He fired *his* London lawyers and called in – you've guessed it – Johannesburg's own Billy Gundelfinger, who flew over and succeeded in negotiating Suzette's megademand down to a "more manageable" figure, said to be closer to £5m, in a secret settlement. That's still R50m – eat your heart out Sally Davison – enough to keep her in hat pins.

Donny's heir is now back in Johannesburg, where he has a property development company with his old friend Irwin Schmidt.

These days Richard

To page 29

Unfinished bus

Danish architect Jorn Utzon has designed only a couple of major public buildings. One happens to be the Sydney Opera House – a building he was forced to desert in mid-construction following political interference. Some 30 years after its opening, writes **Geraldine Brooks**, he has been invited back to take up where he left off

FIFTY YEARS ago, the state government of New South Wales, in Australia, announced a competition for the design of an opera house to occupy a sandstone headland in Sydney Harbour. Two hundred and thirty three entries were submitted, of which the most arresting was by a little-known architect from Denmark. Jorn Utzon worked out of a studio near a house he had designed for his young family in the small seaside township of Hellebaek. He had won several competitions but had built nothing larger than a pair of modest housing projects. The son of a naval architect, he studied the Sydney site from nautical

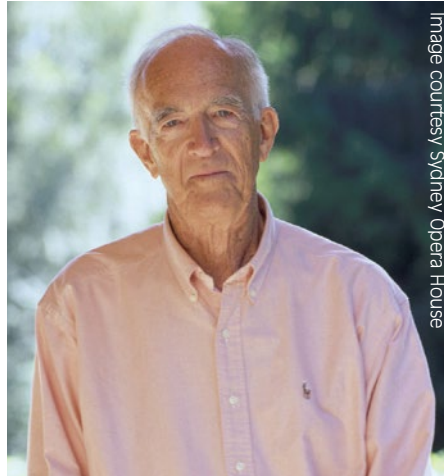


Image courtesy Sydney Opera House

LONG TIME, NO SEE: Jorn Utzon, the architect of the Sydney Opera House, one of the iconic buildings of the 20th century, left Australia with the building incomplete and his reputation tarnished

charts purchased at a marine bookstore in Copenhagen, to get a feel for the action of winds and tides against the landform.

His design evoked sails, shells and gull wings. Alone among the entrants, Utzon had recognised that the building would be seen from all perspectives; when looked down upon from the Sydney Harbour Bridge and the buildings nearby, it would have, in effect, a “fifth facade”. Eero Saarinen, the most distinguished of the competition judges, called the design “a work of genius”. Utzon had disregarded competition rules, using gold on drawings that were supposed to be black and white, and neglecting to include a required perspective of the building in its harbour setting. Saarinen himself took up pastels and completed two large sketches to fill the gap. In the end, the judges’ decision was unanimous, and Utzon began work on one of the most famous architectural designs of the twentieth century. The architect Louis I Kahn remarked, “The sun did not know how beautiful its light was until it was reflected off this building.”



iness

David Wall/Alamy/The Bigger Picture



Yet the Sydney Opera House, instead of making Utzon's career, almost ruined it. After he had worked for a decade and settled his family in Australia, conflict with the state government of New South Wales forced him to leave, with the project only two-thirds finished. The building was completed without regard for his intentions. Utzon went back to Denmark with his reputation tarnished. He became reclusive, declining to speak about his work. When the Opera House finally opened, in 1973, he refused an invitation to the ceremony. He has never returned to Sydney.

Last year, however, without fanfare a sign went up over construction scaffolding on the Opera House site. It read: "Western Loggia Project Architect Jorn Utzon"

Rifts between architects and their clients are commonplace, reconciliations rare. But, thanks to the building's need for a refurbishment and to intense lobbying by a group of dedicated supporters, Utzon, at the age of 87, is bringing his vision to bear on elements of the design that were changed or spoiled after he left.

Throughout the long estrangement, Utzon has said, he never stopped thinking about the Opera House for a single day: "I have the building in my head like a composer has his symphony." He has already remodelled the interior of one small reception room. Construction has started on revision of the building's foyers and on its loggia. Behind high hoardings, construction workers are punching large holes through the granite-faced podium walls, to bring light and views of the harbour into the previously dingy drama theatre foyers. Utzon is also redesigning the interior of one of the two main halls, and has completed a set of design principles that will guide future alterations, long after

IMPRESSION: An artist's view through the new ceremonial colonnade, part of Utzon's Opera House renovations to be opened this month



Image courtesy Sydney Opera House

South Africa's cultural locales: Not much to sing about

By design guru Adam Levin

BOLD A choice as it may have been for city planners in 1965, the benefits of Utzon's imaginative design for Sydney have been indisputable: The Opera House is as iconic to Australia as the koala bear. The same can be said of the Eiffel Tower, or more recently, of Frank Gehry's Guggenheim Museum in a city one had never heard of – Bilbao. Their bold, sculptural forms have made these buildings symbols of their cities, luring curious, dosh-dishing tourists and engendering a unique sense of identity.

What can one say of South Africa's cultural locales? Tshwane's State Theatre and Cape Town's Artscape share an uncharismatic and featureless Modernism, surpassed only by the expensive revamp of Johannesburg's Civic Theatre – a building that is not only forgettable, but uninviting. All these buildings reek of bureaucracy, and are devoid of any expressive character one would hope to find in cultural institutions. Anything vaguely monumental is either so enduringly identified with Apartheid (The Taal or Voortrekker monuments) or in such grimy, hazardous locales (Ponte City or the Hillbrow Tower) they have been rendered impotent. Recent public buildings, such as Jozi's much lauded Constitutional Court can hardly be described as iconic, while the city's proposed new Government Precinct offers little more hope.

The persistent development of faux-anything-and-everything, low-rise office parks does nothing to create a recognisable skyline for Africa's supposed metropolis. For a nation in the throes of forging a new identity, we could sure do with some exciting, contemporary architectural expression. What made Oscar Niemeyer's visions in Brazil so unforgettable is their simplicity: He doodled the outlines of both Brasilia and Rio's spaceship-like Art Museum with an ink pen on his sketch-pad. Is there any South African building that resonates such evocative and instantly identifiable purity of form? Yeah, one. Only it happens to be a flat-topped mountain. **IZ**

he is gone, to an edifice likely to stand for centuries. Perhaps for the first time in history, an architect is designing spaces he will never see for a building in which he has never set foot.

When Utzon entered the Opera House competition, he went sailing around Hamlet's castle, Kronborg, at Elsinore, which seems to float upon a promontory similar to the Opera House site. He came up with the idea of a massive podium that would form the base of the building, echoing Sydney's sandstone headlands while cunningly accommodating all the backstage operations. Soaring above this would be two performance halls. He vividly imagined the way people would use and inhabit the spaces. "The audience is assembled from cars, trains and ferries and led like a festive procession into the respective halls," he wrote in his competition entry.

In an article written in 1965, he compared the effect he sought to that of a Gothic church: "You never finish with it while you move around it or see it against the sky. This interplay with the sun, the light, the clouds is so important that it makes the building into a living thing."

Now that the city of Sydney is instantly identified by the Opera House, it is hard to imagine the place as it was in the 1950s: its sparkle often shrouded by the belching of ill-sited factories, its downtown foreshore cluttered with boxy, unimaginative office buildings. The mood of the time was conservative, and Sydney seemed an unlikely city to embrace a radical and extravagant architectural experiment, especially one dedicated to the arts. Australians were slowly shrugging off an inferiority complex dubbed the "cultural cringe", which was a residue of the country's penal-settlement origins and its recent status as an outpost of the British Empire. Sport ruled, and at least four of the building's future tenants – Opera Australia, the Australian Ballet Company, the Sydney Dance Company, and the Sydney Theatre Company – didn't yet exist.

But change was coming, driven in part by postwar immigration from Europe that had suddenly swollen Sydney's population. The newcomers

scrambled to find housing. "We were a family of four crammed into a one-bedroom flat, and we rented out the bedroom," recalls Joseph Skrzynski, who until recently was the chairman of the Sydney Opera House Trust and a principal figure in effecting the reconciliation with Utzon. Skrzynski, the son of an aristocrat Polish landowner, cavalry officer, and concentration-camp survivor, arrived with his family in 1950.

The cultural expectations of such immigrants expanded the audience for the Sydney Symphony Orchestra, which had hundreds on a waiting list for seats in the city's cramped Town Hall. Its conductor, Eugene Goossens, approached the state premier with the suggestion that Sydney build a venue expressly for music. Unexpectedly, the premier, Joe Cahill, a Labour Party politician and former railway worker,



Image courtesy Sydney Opera House

agreed. Cahill's own tastes in entertainment ran to works such as the *Donkey Serenade* and the *Lux Radio Theatre*, but he advocated tenaciously for the Opera House. In forcing the project through a reluctant Cabinet, he vastly understated its likely cost, which eventually grew to 10 times his estimate. By insisting that work commence on the building even before Utzon had resolved key design elements, Cahill gave the project a momentum that proved irreversible.

But Cahill's enthusiasm for the project also contributed to a series of construction delays for which Utzon was blamed. The premature start meant, for instance, that piers needed to support the roof were sunk in place before the roof design was resolved.

The large curves of the hulls in his father's Danish shipyard gave Utzon the idea that all of the Opera House's

roof shells could be generated from a single sphere. The solution was not only buildable; it allowed complex elements to be prefabricated using a small number of simple forms. Excited, he returned to his studio and explained the idea to an assistant by cutting all the necessary shell-shaped segments from the skin of a single orange. However, the impact of the new design on the Sydney site was rather less elegant: the piers weren't in the right places to bear the loads imposed by the new geometry. For several days, downtown Sydney shook from the explosions as the piers were blasted out and redone.

In 1963, as work on the site accelerated, Utzon moved to Australia with his wife and three children. Shunning the society of the local elite, the Utzons

bought a large tract of gum-tree-shaded land an hour north of the city, between a wide ocean beach and a tranquil harbour,

where their neighbours were boat builders and beachcombing bohemians. Utzon set up a studio in a nearby boat shed and hired

a number of bright young Australian architects, who became, in effect, disciples. One of them, Peter Myers, recalled being on-site when the plywood forms were removed from the concrete beams that are up on either side of the northern foyers like the ribs of a fan. "The concrete was perfect, the edges were pure, there wasn't a blemish."

Myers says that Utzon's perfectionism and his refusal to be rushed into anything were summed up in an anecdote – "I must have heard him tell it fifteen times" – about the Danish furniture designer Kaare Klint. "Someone comes to Klint's studio and asks him, 'What are you working on?' Klint replies, 'I'm working on a chair.' Eighteen months later, the same man visits again and asks Klint what he is working on. 'I told you,' Klint says, 'I'm working on a chair.'"

The roof tiles of the Sydney Opera House were Utzon's version of the chair. Developing them and the method for laying them took more than three years. While Utzon was out of Australia making his studies, the engineers and others on-site grew frustrated. Communications between Europe and Australia were difficult in those days – calls had to be booked through an operator a day in advance – and sometimes Utzon couldn't be reached for consultations.

Premier Cahill had died suddenly in 1959, leaving Utzon without his chief political backer. In the 1965 elections, the costs and delays of Utzon's project were a campaign issue, and the more conservative Liberal Party, which claimed that the project had got out of hand, won power. Utzon found himself reporting to Davis Hughes, a rural politician whose country constituents were unsympathetic to the extravagant urban edifice. As minister for public works, Hughes "was champing at the bit to shut (Utzon) down", Joseph Skrzynski recalls.

tive bidding. His view was a reasonable one in the context of any standard public building project. Utzon, however, maintained that drawings couldn't be done until prototypes had been tested, and asserted scornfully that there was no point in putting the job to tender, as only Symonds had a factory equipped to make the vast plywood sheets required. "He wanted the best possible idea," Skrzynski recalls, whereas Hughes "wanted the best idea you can have by Friday".

Determined to force Utzon to comply, Hughes withheld the fees from which the architect paid his staff. By February 1966, Utzon faced a cash crisis. He warned that if the money wasn't paid he would have no alternative but to close his office and leave the project. Given its complexity and the advanced stage of construction, Utzon was confident that Hughes couldn't let him go. He miscalculated. Hughes interpreted the move as Utzon's resignation, and announced it to the press.

Thousands, including many of Australia's most noted artists and writ-

Utzon was confident that Hughes couldn't let him go. He miscalculated

The main structure was nearing completion and Utzon had turned to the design of the theatre interiors. His vision was to have a sudden shift of mood from the processional approach to the theatres to a performance space that glittered with festive promise. The effect Utzon wanted was "a climax in colour" that would "uplift you in that festive mood, away from daily life, that you expect when you go to the theatre." He was experimenting with intense, Sung-dynasty reds and shimmering gold leaf in one hall; peacock emeralds and blues highlighted with silver in the other. The halls would stand out "like a big exotic bird". Each hall would have an elaborately curvaceous, acoustically ingenious plywood ceiling – "hanging like a cloud in the sky".

The architect was working, as was his style, with a single supplier, a Sydney plywood manufacturer named Ralph Symonds, who shared his willingness to experiment almost endlessly. The new minister of public works, however, felt that the time for experiments, was past, and wanted drawings that could be put to competi-

ers, rallied in support of Utzon. Martin Sharp, an iconoclastic Sydney painter, created cartoons lampooning Hughes. In one, the minister delivers a stream-of-consciousness rant against Utzon: "Brilliant move forcing that Danish prima donna to resign, he'd want to sing his own bloody operas if we'd let him stay." But the conservative Royal Australian Institute of Architects refused to call for a boycott, and Hughes was able to hand the design to a team of architects who worked directly under his control. The brief for the building was revised, discarding the idea of having the large hall serve both opera and concerts, making it a concert hall only. Opera was shoehorned into the smaller second half that had been intended for drama, and the drama theatre was crammed into the podium, which had been intended to house only backstage operations. Millions of dollars' worth of specially designed stage equipment had to be scrapped. The contractor charged with that task likened it to "cutting up a live deer".

Utzon gathered his family and left for Denmark, travelling secretly to



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avoid the press. He journeyed via Mexico, and sent an insouciant postcard to one of his supporters: "Went to Yucatan. The ruins are wonderful so why worry? Sydney Opera House becomes a ruin one day." Utzon still believed that the architects Hughes had appointed would stumble, and that he would be recalled. He was right only on the first count. His replacement was Peter Hall, a 35-year-old architect who had already been working for Hughes's department. Hall was a talented designer in the Brutalist mainstream, which made him a disastrous choice for picking up the threads of Utzon's style, which was, in the end, not so much a style as a manner of working: understanding the site, drawing ideas from nature and ancient buildings, then synthesising forms that emphasised human comfort and delight.

Costs soared as Hall struggled to find solutions for the interiors. The concert hall became a pedestrian, Lincoln Centre-style venue, the opera theatre an aesthetic and practical disaster. Instead of the festive climax Utzon had envisioned, its walls are stark and forbidding black, with tiers of boxes in Brutalist concrete, many of which have limited sight lines. The acoustics in the cramped orchestra pit are so bad that musicians risk going deaf if they play there for an extended period. After the Opera House, Hall's practice didn't thrive. He died, alcoholic and beset by debts, in 1995.

Utzon, meanwhile, had found his reception back in Denmark distinctly chilly. The president of the Danish Association of Architects told him that, having abandoned one job, he couldn't expect to get work from the government there, and he never did.

After Sydney, Utzon worked on only one commission of a scale similar to that of the Opera House. In 1971, he designed the Kuwait National Assembly, on a site on the Persian Gulf. The design incorporated many ideas from Arab and Islamic tradition; a vast concrete form that recalls the billowing tents of the Bedouin, it provides a majlis, or meeting place, where the emir can receive his subjects. Offices and departments are arranged along an internal "street", evoking a souk, or bazaar. But the emir's commitment to democracy proved weak, and the parliament that the building was meant to house was suspended for several years. When it was finally built, the Assembly was a lesser building than Utzon had designed. And, when, in 1991, the departing Iraqi Army torched

it, the interior was refurbished in a glitzy, Louis Farouk style that was the diametric opposite of Utzon's clean, restrained original.

Of all the family, his daughter Lin retained the strongest ties with Sydney. It was on one of Lin's visits to Sydney, in 1998, that the idea of asking Utzon to return to work on the Opera House was first broached. She met with Joseph Skrzynski, who had become the chairman of the Sydney Opera House Trust two years earlier, and he mentioned his concern that, as the building aged, refurbishments were being made on an ad-hoc basis. He wondered what Utzon would do, given the opportunity to revisit his design with all the technological advances of the last three decades at his disposal. He explained to Lin that he was afraid that calls to list the building as a World Heritage site might lead to its being preserved with all the mutilations to its original design locked in place forever.

At first, Lin was hesitant, unwilling to expose her father to further disappointment, but Skrzynski won her trust. Skrzynski, believing that the proposal should come from a fellow-architect, commissioned Richard Johnson, an award-winning Sydney designer, who had got his attention in 1998 during a meeting to discuss the conservation of the building. Johnson had taken the proposed master plan and thrown it on the floor, declaring: "The architect is still alive. The most 'conservative' thing is to go back and reinforce his ideas."

Utzon agreed to cooperate, asking that his son Jan travel to Sydney on his behalf to work with Johnson. "I grew up with this building," Jan says. "There was barely a day at home when it wasn't discussed." After 30 years' experience working on his father's projects, Jan is adept at translating his ideas and sketches into detailed drawings.

Utzon's judgment is sought on details large and small. Samples of finishes and material are sent to Denmark for his consideration. For the recently remodelled reception-hall floor, he chose Australian southern blue gum, and instructed that it be finished unconventionally: rubbed with soap flakes to give it a soft sheen.

Skrzynski fielded only one negative reaction to the news of Utzon's return. A gravel-voiced Davis Hughes, who has since died, called from his retirement home and delivered a 45-minute harangue, saying that Utzon had been incapable of finishing the Opera House the first time and shouldn't be offered a second chance to waste public funds.

He told Skrzynski, "I did Utzon a favour. I put him out of his misery like you put down a dog."

"We understand that it's an ongoing process," Jan said of the work on the building. "It might take 30 or even 60 years to get to the desired result." Joe Skrzynski spelled it out more plainly. "We have five million to spend on the design work while Utzon is around – we've got that approved – to warehouse his intellect, his thinking."

In 2003, in a decision prompted in part by the reconciliation, Utzon was awarded the Pritzker Prize, architecture's highest accolade. The reconciliation, Lin says, has marked the beginning of "a happy period for my parents, and for all of us". Her father "is at peace, working again on his ideas".


Bob Carr, until recently the state premier, has a letter that Utzon had written to him in 2003, in which he said he had "of course often wondered if I could have acted differently back then, in a way which would have allowed me to continue the work".

In the letter he concludes that the decision was "out of my hands".

"The main thing is that it even happened," he says now. "First, that they would give a foreign young fellow the responsibility to undertake such a thing – the most exciting and the most difficult project you could imagine." Nothing comparable, he said, could have happened in Europe. "We had 450 different trades working on that site. It was fantastic ballet every day. Huge elements, 10-ton pieces of concrete. They would raise them up into the air, and they would meet on the millimetre.

"Everyone was doing more than their best. How can you express this? I asked a Finnish carpenter and he said the word in Finnish is *sisu*, the desire for something extra that you pull out of yourself." Designing the Opera House had been a great opportunity, he concluded, in which not one hour had been spent in vain.

He recalls something that the engineer on the project, Ove Arup, had said to encourage him as difficulties began to mount. He said it is like when you climb Everest. You get a glimpse of Everest, and then it disappears. For a long time, all you see are the rows of hills in your way, and you can't imagine that you will ever get there. And then, suddenly, you see Everest again, sparkling in the sunshine.

■ *This is a much-shortened version of an article that first appeared in The New Yorker. Copyright 2005 The Condé Nast Publications, Inc. *



NO WAY: Anti-toll activist Keith Fawcett

of Chapman's Peak Drive ensures that Entilini will "capture" every vehicle venturing onto Chappies, even just to a nearby picnic or fishing site – for the next 30 years. (The current temporary toll plaza is positioned to allow the public to drive up to the top viewing point and only pay if they cross over to the other side.)

Entilini was clearly not thrilled when one of the local anti-toll activists, Keith Fawcett, managed to get the "raw" traffic data for Chapman's Peak Drive and analyse it – enabling him to demonstrate that Chappies should not be a toll road.

Based on Fawcett's analysis, the coalition claims Entilini's application for a toll road is "fatally flawed" because it is based on predicted traffic statistics that, Fawcett says, have been grossly overestimated. This "mistake", argues the coalition, has already cost taxpayers millions, and may cost many more if the company is allowed to go ahead with the new, additional toll plazas.

noseweek has been unable to assess the figures independently as Malcolm Watters, land transport manager for the provincial government's Road Infrastructure Branch, threatened to take legal action if Fawcett releases any of these statistics.

But it does immediately raise the question: Why would anyone want to keep the actual number of vehicles that cross Chappies a secret? Or, more to the point, whose interest did it serve to keep these statistics under wraps in a

Chapman's pique

Disquiet surrounds the granting of the contract to run one of Cape Town's most spectacular scenic routes as a toll road

CRITICS OF the conversion of the spectacularly scenic, but sometimes dangerous, Chapman's Peak Drive into a "public-private" toll road, have unearthed some disturbing information about the actual amount of traffic using the scenic route – and the gravy-train political motives of the Cape ANC leadership who still support retaining its toll-road status.

Entilini – a consortium with strong ANC links set up specifically to bid for the 30-year Public/Private Partnership (PPP) contract – punt the Chapman's Peak toll project as a viable venture that "adds value for all parties involved". But as it turns out, Entilini's government partner, the Provincial Administration for the Western Cape (PAWC), may end up forking out more public money than it originally bargained for to buffer the consortium's profit margins.

The entire project is expected to cost R350m: R150m for the first phase involving the road works and toll plazas and R200m over 30 years for operating

costs, maintenance and road repairs. Entilini paid just over half (about R80m) of the capital costs for the first phase, with the provincial government picking up the balance.

From the outset, a public coalition of eight Hout Bay-based NGOs and 10 residents has been challenging Entilini's role, its toll tariffs, its impact on the environment and the positioning and size of the toll plazas. This culminated in a legal challenge, and the Department of Environmental Affairs and Tourism (DEAT) calling for an Environmental Impact Assessment (EIA).

The call for the EIA caused a serious headache for Entilini, which is unable to go ahead with the planned construction of two mega toll plazas until the EIA is given final approval.

Receiving permission to build two toll plazas in the "right" places is crucial to Entilini's bottom line. The consortium will earn a sizeable profit from the actual construction plus, having a toll booth on the lower reaches of each side

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Picture: Melany Behr

pre-election period?

Enter the shareholders of the Entilini consortium: Concor Holdings (55%), Marib Holdings (10%) and Haw & Ingles (15%). Until last year, Thebe Investments held a 20% stake, but pulled out for “various reasons”.

Even though Concor is a big player in the toll road business (having previously secured contracts for the N1 Huguenot Toll Tunnel, the Tsitsikamma Toll Road and the National Route N2), the company’s directorship is a bit too pale to fit government’s BEE requirement for PPPs. Step in Thebe Investments (the BEE company formed in 1992 by prominent ANC members) and Marib Holdings, with which Concor previously formed a joint venture for the Tsitsikamma Toll Road project.

Marib Holding’s list of directors reads like a who’s who of those prominent ANC-linked BEE players most active in the Western Cape. First there’s Reverend Lionel Louw, chief of staff for ANC luminary and Western Cape Premier (at the time of going to print), Ebrahim Rasool.

Then there’s Professor Brian Figaji, former head of Pentech who managed to score himself a whopping R2m-

technikon merged with Cape Tech last year. (Readers will remember Figaji from *nose58* as the beneficiary of 90,000 shares in the GrandWest Casino saga. ANC “money man” Hassen Adams had earlier bragged how the majority of GrandWest shares would benefit “the disadvantaged”.) Figaji is now rumoured to offer his consulting services to Rasool’s office from time to time.

Another big BEE player said to have strong ANC connections is self-made businessman Patrick Parring. Listed as a director of 24 companies, Parring is the founder of Marib Holdings and managing director of Exel Project and Events Management – the company contracted to provide “project management” for Entilini and the Concor/Marib Tsitsikamma Toll Road project. (Parring was also one of the beneficiaries of the Big Bay scandal last year, where prime properties owned by the Cape Town City Council that were supposed to be sold off at discounted prices to “disadvantaged” BEE companies were sold to a few very advantaged individuals.)

(Incidentally, Figaji, Louw and Parring are old chums from their days on the Pentech council. *noseweek* will return to the Pentech trio’s “academic” interests at a later stage.)

Marib’s other directors are Blum Khan, CEO of Metropolitan Health Group, who enjoys rubbing shoulders with ANC bigwigs on the golf course from time to time, and Hildagrade Ndude, former ANC Western Cape MP

member.

All these well-connected names and the tales of some of their self-serving business tactics in the past, as well as the many unanswered questions about the Chapman’s Peak Community Trust which was supposed to have benefited yet more disadvantaged communities (see box), has caused us to take a closer look at why Chapman’s Peak Drive was declared a toll road in the first place and who stands to profit.

Sometime after Chappies was closed in 2000 because a boulder landed on an unfortunate passer-by, Concor submitted an unsolicited bid to PAWC proposing to reopen Chapman’s Peak Drive as a toll road. Watters claims PAWC “did not entertain” Concor’s unsolicited bid, but it remains suspicious that PAWC issued a Government Gazette Notice “Proposed Declaration of Toll Road on Chapman’s Peak Drive” shortly afterwards, and that the Concor-led Entilini consortium then emerged as the successful bidder in May 2002.

To propose a toll road, PAWC must have had traffic data that would warrant the need for one ... which begs the question: Which traffic statistics did PAWC base its toll proposal on? And who supplied those statistics?

(We’re also puzzled as to why PAWC refused to consider a R35m low-cost proposal that met international safety standards, supposedly just because it did not include a toll-road option. Might someone with influence at Premier Rasool’s office have ensured that only the more lucrative, toll-road options were entertained?)

At the time Entilini was awarded the 30-year contract, the only traffic statistics available were “limited traffic counts performed on CPD since March 1995” and nine 24-hour electronic counts between 1995 and 1999. Entilini used these “limited” traffic statistics and a few surveys to create a model that justified its R350m proposal.

Fawcett was always suspicious of Entilini’s traffic predictions, but it was only after receiving the actual traffic data for the period 21 December 2003 to 16 July 2005 that he knew exactly how off the mark these predictions were.

Watters sent Fawcett the raw traffic data after the deadline for EIA appeals had passed, once again reinforcing suspicions about the provincial government’s motives. Nevertheless, Fawcett requested that he be allowed to show his analysis to Environment and Tourism Minister Marthinus van Schalkwyk. Watters then threatened

Déjà vu again? So what’s new?

ACCORDING TO the conditions of the environmental impact assessment, Entilini was obliged to demonstrate that the Chapman’s Peak project would also benefit the disadvantaged communities in the surrounding areas.

As a result, the Entilini-inspired Chapman’s Peak Community Trust was established under the direction of the good Reverend Louw. Plenty of lip service has been paid to the trust, which is supposed to aid community development and support community-based projects. But two years down the line there are still no major results.

(If you’re getting a feeling of déjà vu, we think you get the picture.)

These community development projects are supposed to be funded by the profit from the dividends of shares Entilini gives to the Trust. To date, only 3% of the shareholding has been allocated to the trust, and these shares are

being “warehoused” until 18 months after the completion of the permanent toll plazas.

Meanwhile, the shareholders of Entilini have apparently donated R50,000 to the Trust to “procure business equipment to assist community members in their business efforts”. *noseweek* received no response to requests for further proof of this donation — details of which businesses received the “business equipment”, and how these businesses were selected as the beneficiaries.

Meanwhile, there have been grumbings from members of the “beneficiary” communities who say they were not given any choice as to who the community representatives appointed to the Trust would be. Rumours are rife that representatives who are “sympathetic” to Entilini’s cause were handpicked.

At least one of the appointees, Mark Jacobs, representing the Hangberg Civic Association, is employed by Entilini ...

legal action.

Fawcett reacted by kicking up a fuss in the media during December 2005 – a very inopportune time for Entilini as Van Schalkwyk was set to make his final decision on January 16, which he has now postponed.

Entilini's spindoctors were forced to move swiftly to put out Fawcett's fires. They quickly released an "overall" traffic figure, along with a list of excuses as to why this was lower than the original prediction. Fawcett is still barred from releasing his detailed analysis, but Entilini's admission that only 1.5m vehicles used Chappies since it opened compared to the 2.4m predicted, supports Fawcett's claims of "major discrepancies".

Entilini's bosses still insist the toll road is viable. General manager, Nick Meyer, says the overall drop in traffic

Meyer told *noseweek* that Fawcett's analysis was "faulty" since he had not taken peak traffic volumes into account. But then Meyer, too, had not viewed the full report.

"I have analysed everything – including the peak traffic volumes," insists Fawcett, who says he will be more than happy to release his complete analysis to the public and have it scrutinised by privately appointed experts – if Watters drops his threat of legal action.

Meyer also dismisses the notion that Entilini will be making a profit from the toll road at taxpayers' expense. "Entilini has invested heavily into CPD and will take a financial loss if the toll does not cover expenses," he reckons.

This seems logical, but on closer inspection it appears there are various loopholes in the PPP agreement that

Entilini's spindoctors were forced to move swiftly to put out Fawcett's fires

volume does not affect the minister's decision, as the peak traffic volumes have not changed and these peaks alone warrant the construction of the toll plazas.

To back up this statement and to put an end to Fawcett's media campaigning, Watters commissioned an "independent" traffic engineer, Dr John Sampson, to review Fawcett's analysis. Dr Sampson's conclusion, which was sent to Van Schalkwyk for good measure, read: "It is my professional opinion that all relevant information has been provided to the Department of the Environment and Tourism as well as interested and affected parties and that the fact that CPD is carrying less traffic than predicted does not alter the need nor proposed design in any way."

Dr Sampson's conclusion echoes Meyer's earlier statement to *noseweek*. Like Meyer, Dr Sampson dismisses Fawcett's analysis without ever having seen the full report. (Fawcett has to date only released snippets of his analysis to Watters for review.)

allow Entilini to recoup losses from the provincial administration.

Because the permanent toll plazas were not up by August 2003 (due to delays caused by the environmental impact assessment), Entilini's shareholders claimed they were losing toll revenue. To recoup this loss, they pulled up a clause that obliged the provincial administration to compensate the consortium for the exact revenue shown in its Financial Base Case – which was inflated because of the overestimated traffic predictions.

Under the same agreement, the provincial administration was obliged to pay all construction costs for the temporary toll plazas, as well as any additional costs relating to operating the temporary toll plazas! The province also agreed to pay half of the R1.7m cost of the impact assessment process, which objectors say is grossly unfair since the assessment was only commissioned because Entilini had not followed correct procedures.

Then there's the R5m PAWC contributed towards repairs after heavy rains in 2004 caused damage, as well as an additional R1.9m in compensation because the road had to be closed for 55 days.

Many questions remain unanswered, but one thing seems clear: Entilini's

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Picture: Melia Berdik

Justus is done

F **LAMBOYANT ARCHITECT** Justus van der Hoven (*noses*47, 51 and 55) was described as “arrogant” in the Johannesburg magistrate’s court, when last month he was sentenced to five years’ imprisonment (suspended for five years) and fined R300,000 for demolishing a protected historical building in Parktown North.

Magistrate Elmarie Tise said she hoped the punishment would deter other architects and developers from knocking down protected buildings in defiance of the National Heritage Resources Act.

The case is believed to be the first criminal prosecution under the Act since it came into force in April 2000.

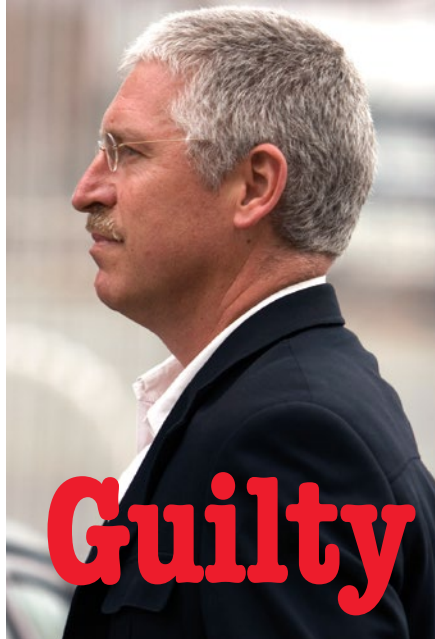
In *nose*47 we told how Van der Hoven, 47, knocked down Dudley Court, an art deco block of flats, to make way for his R11.4m development of offices and flats. Van der Hoven’s friend and “sleeping financing partner” in the project was Theunie Lategan, chief executive officer FNB Corporate.

The illegal demolition took place around the end of 2000. Sahra (South African Heritage Resources Agency) laid charges, and Van der Hoven was arrested and charged with illegal demolition.

He first appeared in court on 7 February 2001 and, through a long series of postponed hearings, had been on R2,000 bail until recently, when he was found guilty, appearing in court last month for sentence only.

Section 51 of the National Heritage Resources Act allows for anyone convicted of action resulting in damage or alteration to a protected heritage resource to be ordered to put right the damage (ie. rebuild Dudley Court). Or pay to Sahra a sum equivalent to the cost of making good.

Sahra was seeking a penalty of R4.5m, which it said was the cost of restoring the old building



IN AND OUT OF COURTS: Architect Justus van der Hoven (above) and the building (below) that illegally replaced Dudley Court, a protected art deco block

to its original state.

However, Magistrate Tise said Van der Hoven was a family man. And, while the architect had shown arrogance in knocking down Dudley Court after he had been told he did not have the required permission; that he had ignored a stop-work order and acted with total disregard for the law, the court was “not here to break any person”. “The court needs to deter people from committing such offences, but the court does not look for retribution,” said the magistrate.

Before the February 21 sentencing began, prosecutor Steven Rubin stunned those present when he told them that, “in the interests of justice”, the magistrate had decided to hold the proceedings in camera. However, after vigorous protests from *noseweek* and a representative from Bowman Gilfillan, the law firm observing proceedings on behalf of Sahra, Magistrate Tise changed her mind and the court remained open.

Van der Hoven was given until September 29 2006 to pay the R300,000 penalty to Sahra.

After the hearing, architect Herbert

Prins, chairman of the Egoli Heritage Foundation, commented: “I think the sentence is reasonably punitive. I was afraid he was going to get a slap on the wrist. Now he does have a criminal record and a fairly hefty amount to find.”

Will the suspended prison sentence and R300,000 penalty deter other developers from knocking down protected buildings? “If you’re putting up a R500m project and you’ve got to pay R300,000 for doing a naughty thing, it’s hardly a deterrent,” said Prins. “But, coupled with a criminal record, I think it will deter a lot of people from chancing their arm.” **EW**



Old, new and blue

From page 19 Gordon's partner at home in his Westcliff mansion is Teorema Hinde, former wife of Paddy Hinde, the grandson of "Mr Toyota" Pat Hinde, the Benoni car distributor who died last year.

Suzette is also back in South Africa. At present she's living in Plettenberg Bay with their two children and a new husband, a colourful commodities dealer named Paul Maine. "I'm not back permanently yet, sort of in between the two," Suzette tells *noseweek*.

How much exactly did she get in her divorce settlement? "I don't think I want to speak about that," she says. "It's something very private – and nobody knows. It's between Richard and I. We're great friends today and that's where the story ends."

Back in Britain, Richard's father Donny Gordon has not been shy to use his great wealth to assist his entrée into high society. But he wasn't happy being a mere Mister and yearned for a title. Last year he realised this dream and became Sir Donald after making a donation of £10m to the Royal Opera House and a similar amount to the Wales Millenium Centre. The handouts, announced in late 2003, were described as one of the largest single donations to the performing arts in the UK.

Many in the arts world were surprised at Gordon's largesse. The magnate confessed at the time that he had only been a lover of opera for the last four years. The London *Evening Standard* speculated wickedly: "Some say the donation is down to the Countess of Chichester, a member of the board at the Royal Opera House, who has wooed the 10 million from Gordon with trips to Covent Garden and some sweet talking."

Others reckoned £20m was simply the price the old roué was prepared to pay for a knighthood.

Shortly after his knighthood, Gordon spoke to journalist Lindsay Williams about his imminent retirement: "I've been building up my hobbies, that's where the performing arts come in — the opera, the ballet and things like that. I think it's a great area to give one's attention to — and many other things of a different kind. I think there are innumerable situations I will find myself in." He was, we suspect, already "in a situation".

Donny Gordon is the founder of SA's insurance giant, Liberty Life. He

retired in 1999, and moved to London to hurl his considerable energies into Liberty International plc, where he was chairman and chief executive. Libint, listed in Johannesburg and London, is now Europe's largest developer of shopping centres, with property assets of £7.1bn. Group pre-tax profit for 2005 was up 16% to

£526.9m. In five years, Gordon has built up his and his family's stake in Libint shares from 4% to 22.5%, and the value of their holding from R600m to R7bn.

He stepped down as Libint's chairman and chief executive on his 75th birthday last June. He holds the title (Sir) President for Life. **W**



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Builders claim R7m from homeowner for defamation

LUXURY SANDTON home developer MKB has launched a R7.7m defamation action against Liz Griffin over comments the disgruntled 38-year-old graphic designer made to *noseweek* about the group's work on her new home.

The summons names no fewer than 10 plaintiffs – MKB Group and nine subsidiary companies: MKB Cabinetry, MKB Plumbing, MKB Aviation, etc.

Of the R7.7m claimed, R3.2m is in respect of a lost tender to build a house in Bryanston and R3.5m for a lost tender for a cluster development in Morningside. Liz Griffin's "defamatory statements" are held to blame.

The action follows the Griffins' own R1.8m writ against MKB, issued last September, for the cost of rectifying alleged defects in the construction of their R3.25m house in Johannesburg's exclusive Atholl. Remember the tumbling Alessi loo? (*nose74*).

MKB has said it will finish the Griffins' house if the couple pay the R488,000 it claims they owe.

Now lawyers are working overtime as the Griffins respond to MKB's defamation action with a counter defamation suit for an undisclosed sum. They claim that their reputation has been damaged after MKB's MD Jonathan Killick described them in *noseweek* as "unhappy clients who don't have any money". Entrepreneur Michael Griffin owns a company providing satellite airtime, mainly to customers in Angola.

The Griffins hope that their main witness in both of their actions will be Durban-based Inspect-a-Home, which they commissioned to produce a report listing construction defects at their new home. The 21-page report concluded: "This house overall has been constructed with minimal supervision and attention to detail."

However, within days of *nose74* appearing last December, Inspect-a-Home received a phone call from Killick, offering a contract to inspect all MKB's houses under construction.

Says Inspect-a-Home MD Eric Bell: "My guy who took the call was quite



SITTING TIGHT: Michael Griffin is unfazed by homebuilders MKB's court action against his wife, Liz

apprehensive. He thought they were going to eat him because it wasn't a very complimentary sort of situation. The amazing thing was that they were so impressed with our report that they've now appointed us to do inspections on all their houses."

Inspect-a-Home is now busy inspecting and reporting on five MKB houses nearing completion, for a fee approaching R5,000 apiece.

While Inspect-a-Home says it will stand by its withering report on the Griffin house in the coming court trials, Bell says: "We don't want to screw up our relationship with MKB. The Griffins' case study is just a drop in the ocean. Trying to get the quality that the client requires is almost impossible today without having an independent person going around and making sure that things happen the way they should.

"Between you and me, the Griffins are yuppies and they've tried to poke MKB in the eye. But everything in our report is totally factual and the

cost of R1.8m is what it would cost the Griffins to get another contractor in to rectify MKB's fuck-up."

Could working for both of the warring parties not create a conflict of interest? "I don't see it," says Bell. "What I'm doing for MKB now is helping them not to go through the same problems they went through with the Griffins. MKB told us categorically that they weren't happy with the quality that they'd produced."

Bell's co-author of Inspect-a-Home's report on the Griffin home, Johann Ollewagen, says: "We're quality experts for the Griffins and for MKB. We can be an expert witness for whoever wants us."

While Michael Griffin, 29, has taken MKB's R7.7m defamation writ in his stride, friends say that his artistic wife Liz, who is named in this summons, is in a highly emotional tizz. The couple decline to discuss their counter-defamation action, or how much they are seeking in it.

MKB's Killick is more forthcoming. "I'm sick and tired of being slandered by people," he says. Killick has a gracious word of thanks to *noseweek* for our stories chronicling his company's hiccups. "It does a lot for us, because although we employ only 800 people it makes us out to be a really big company, which is nice and I appreciate that."

And those two other complaints about MKB's building standards aired in *noseweek* – from Adriana Bertheil and the Griffins' neighbour, Swiss banker Paul Baird? The colourful Adriana is now apparently bosom friends with MKB and has written to the company praising its "gentlemanly manner" and "honourable way you have dealt with me" in fixing the snag list at her R5m Sandhurst cluster home.

As for Baird, Jonathan Killick explains that the Swiss banker's English is not too good and Baird hadn't meant what he said to *noseweek*. "He's told us he's terribly sorry, he knows he's got a great house and he thanks us for everything we did." ■

St Stithian's McLachlan heads for drier pastures

AN MCLACHLAN, controversial headmaster of St Stithian's Boys' College, has resigned. McLachlan announced his intended departure to pupils of the famous Methodist Church school at morning chapel on January 27. The disciplinarian head is off to sort out the rumbustious youngsters of the Royal Bafokeng Nation.

It was just a year ago that *nose65* told the story of how McLachlan expelled six matric boys for drinking during an eve of Valentine's Day sleepover at St Stithian's. Parents complained, and a Pastoral Commission of inquiry was set up by Bishop Paul Verryn, Methodist Bishop of Johannesburg. *noseweek* reported the commission's secret findings, which revealed a deep rift between McLachlan and Stephen Lowry, rector of the five St Stithian's schools.

Lowry told the commission: "The way in which the matter was dealt with, and the severity of the sanctions, raises questions about the kind of ethos and human rights culture to which this school aspires."

McLachlan said in evidence: "The rector's statement has in fact caused a severe division between the office of the rector and the boys' college executive."

Deputy head and then headmaster of the boys' college since 1999, McLachlan is to take up a newly-created position as director of the Education Institute for the Royal Bafokeng Nation. The Royal Bafokeng, some 300,000 strong, live

in a traditionally-governed platinum-rich community in the Rustenburg area under their hereditary Kgosi (King) Leruo Tshekedi Molotlegi.

As a young prince, Kgosi Leruo attended Hilton College in the 1980s, when McLachlan was teaching science

there. Teacher and pupil maintained contact over two decades. Now, the King has signed up McLachlan to come and shake up his nation's 50-odd primary, middle and secondary schools. He will leave St Stithian's at the end of the year. **W**



"Since you have already been convicted by the media, I imagine we can wrap this up pretty quickly."

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THE AIR THAT THEY BREATHE: Oxygen therapy, Taiwan-style

The road to Hell

ENVIRONMENTALISTS LOVE doom-and-gloom scenarios, and we at NoseArk are no exception. Gloating knowingly about the impending End Of The World is our favourite thing. Don't give us tjoklits 'n blommetjies and films like *Love Actually* – we want rapid, unstoppable climate change like in *The Day After Tomorrow*, spiked with a dose of large-scale overnight Amazonian deforestation. We want massive extinction, just like zillions of years ago when an asteroid wiped out most life on Earth and left lots of fossils behind. We want slow-flowing dead rivers that smell like drains, translucently sulphur-enhanced air, and vast acreages of soil soaked through with carcinogenic nuclear missile fuel. We want infants dying mysterious deaths. We're the biggest bunch of sicko killjoys you don't want your daughter to marry, and the saddest thing about us is that our eternal hysterical pessimism serves no other purpose than to make you, dear reader, feel so n-n-nervous, upset and unsure of your future that you'll stop having babies, buy our overpriced glossy magazines, and then donate your life savings to our corporate-style conservation NGO benefactors before hanging yourself from a recycled hemp rope...

On that note, allow us to introduce

Please hold your breath as we gleefully present the winner of our Dystopia-of-the-Month competition...

this month's featured fantasy hellzone, a place where the air is so bad that pollution masks are multicoloured fashion items sold on every street corner. Some days you can't see to the end of the block, the sun is a dull orange golf ball in a uniformly grey-brown sky and the capital's international airport gets closed because the planes can't see to land. The country's electricity comes from a series of nuclear power plants that are often subject to violent earthquakes. Waste from these plants is stored in a bunker next to a village of uneducated native people, who say the government told them they were building innocuous aquarium facilities in the hillside. The nation's vast forests, once holding thousands of giant cypress and cedar trees each thousands of years old, have been levelled by a succession of autocratic military regimes and turned into dining tables and railway sleepers. Scrubby secondary forest, invaded by alien species, is all that is left. Rivers run grey and stinking. The government, to support the local cement industry, encases rivers in concrete "so that they don't pose a flood risk" – but this actually makes them flood harder and faster when the tropical rains come down, bursting their banks and taking streamside houses into the water. This inspires more casting of concrete (by

politically-connected firms) to prevent the same thing happening next time.

Don't ask. Electronics and plastics factories discharge effluent that contains chemicals that mimic strong female hormones into these rivers. These "gender-bender" chemicals cause male fish and shellfish to develop female sex organs. Many species are on the edge of extinction. Much of the seafood sold in local markets is so filled with toxins that it is unfit for human consumption – but the state allows it to be eaten because they don't want fishermen to lose their jobs. The large mammals that used to roam the hills – bear and spectacular Clouded Leopard – are extinct or about to become so. Most of the population has never walked in nature, as they are scared senseless by the notion of "dirty" places where lethal bugs and deadly beasts supposedly roam. As a result most children live surrounded by grimy concrete and scrape their knees on tatty Astroturf playgrounds. Extinction is not a problem to these people because they've never seen a real wild animal and the Discovery Channel will always be there, even if the subjects of their movies won't.

As you might have guessed by now, this month's featured hellzone is no fantasy – it is a real place, and one of the NoseArkners recently lived there for almost a year. Moreover, this country is held up as one of the best models for development, where a dirt-poor agrarian population was lifted out of their backwardness in less than two generations by super-rapid economic growth. Taiwan is one of the Asian countries whose growth models, if the pundits are to be believed, have inspired the new Accelerated and Shared Growth Initiative of South Africa (ASGISA) that is meant to halve unemployment and poverty by 2014 and help deliver our nation into a shiny, happy future. Deputy President Phumzile "Jet" Mlambo-Ngcuka, chair of the ASGISA task team, introduced ASGISA to the media at a parliamentary briefing on the 6th of February. A read-through of the press release reveals few useful details on ASGISA other than R372bn of taxpayers' money is involved, and Phumzile needs a competent proof-reader even more than we do. If the Dep Pres's grammar is an indicator of the quality of her work, she'd better resign fast. In between quoting King Thabo, she let slip that ASGISA, as a top priority, aimed to increase the contribution of tourism to the national GDP from the current 8% to

14%. *Business Day's* front page lead on ASGISA mentioned nothing about tourism, but said that most of the R372bn would be splurged on infrastructure projects; a transport corridor between Durban and Gauteng, wireless broadband Internet (Yippee! Google Earth for the masses!), and the planned De Hoop dam on a tributary of the Olifants River, just upstream from the Kruger Park. The De Hoop dam's primary purpose is to supply water for new platinum mines in Limpopo Province. While we have no doubt that these mines will provide miserable, lung-clogging jobs for some workers, make piles of dosh for their BEE-kosher owners, and pollute their surrounds, we're a little confused as to how they're going to integrate with ASGISA's priority goal to radically ramp up tourism in SA. You see, the De Hoop dam is likely to cause the Olifants River to regularly stop flowing in the dry season, as it did last year for the first time because of growing demands on its water. It is one of the main rivers crossing the Kruger Park. The Kruger Park is one of SA's big-

has suffered so obviously, and people's quality of life has declined so much in some areas, that the government has recently begun to consider deducting "environmental damage costs" from their approximately 9% per annum GDP growth. Chinese government experts estimate this will reduce the GDP growth figures by about 2% per annum. Some western experts consider this to be too small a reduction. The Chinese government has made a massive step forward in admitting that economic growth can have serious negative consequences, and attempting to quantify these.

Our government, however, is still in growth-at-all-costs mode. There's no sign they've done a proper cost-benefit analysis on the De Hoop dam, looking at how it might impact tourism and other economic sectors. Building tourism is about creating fantastic all-round experiences for visitors, not just providing a series of isolated attractions. A surly immigration official can indelibly stain a trip, as can scarred landscapes on the edge of national parks and unnaturally dry rivers

Tourists don't endure long,
expensive flights to come
and watch **starving beasts**
look for water in parched riverbeds

gest tourist draw cards. Tourists don't endure long, wallet-thrashing, vein-blocking international flights to come and watch starving beasts forlornly look for water in parched riverbeds while mine pollution streaks overhead. SANParks have, to their credit, recognised this and are opposing both the Department of Environmental Affairs and Tourism and the Department of Water Affairs who have respectively approved the dam and will build it.

Someone should tell Mlambo-Ngcuka that if you follow a modern Asian growth-at-all-costs model, you will get a modern Asian-style ecological disaster zone. Taiwan is not an isolated case, and anyone who has travelled Asia recently can attest to the massive pollution and deforestation that has resulted from the region's recent industrialisation.

"Mainland" China's environment

within them. The best publicity tourist destinations can receive is word-of-mouth from satisfied visitors – glossy brochures with pretty pics of wilderness can't override the badmouthing of SA by visitors who have had expensively disappointing holidays. ASGISA ignores this fact at its, and our, peril.

Mlambo-Ngcuka might also research Taiwan's plummeting birth rate, now the world's second lowest, and the reasons for it. Survey after survey has shown that, despite their newfound wealth, Taiwanese couples don't want kids because it's become too expensive and difficult. The future is insecure. Life is too stressful. As we've said before, the creation of wealth means the creation of illth (as opposed to health, for those who missed it). Before we embark on the former we should be pretty damn sure it's going to outweigh the latter. **W**

Lurid lurking among the vines

SEX, SCANDAL, skinner and sport – so runs the motto proclaimed in discreet pride by one of the new tabloids. Given the splendid success of these publications, one of which I read about in the last *noseweek*, I'm wondering if these obsessions shouldn't also guide this column (given that nobody is really all that interested in wine). Of course, *noseweek* is too high-minded to adopt the motto wholesale (in its pious pursuit of lofty concerns like the sordid contrivances of the Baroness von Bullshit); but perhaps this already rather anomalous column could get away with it and bring in many thousand eager new readers, to the secret austere delight of the editor. We could even replace the implausible sketch that accompanies the column with something no less misleading but rather more lubricious.

Given that it is now harvest-time, a sex-related story might well involve peering between the oaken cellar doors of a certain gracious Cape-Dutch *domaine* in Stellenbosch, to be salaciously shocked at the romplings of some boisterous young winemakers

The goatish old cellar master was **having his evil way** with a nubile young French lass

come from Europe to get harvest experience down south. Experience, indeed! The goatish old cellar master having his evil way among the barrels with a nubile young French lass, who'd only asked innocently in her best Franglish whether she could assist at the disposal of his press-juice.

Not a true tale, of course (as far as I know), but that is surely in the spirit of such things?

Scandal should be sadly easy to find. The appalling wages and living conditions of most wine-workers, for example. Only last week one of the rare farmers with a genuine concern for the people on his recently acquired property told me with depressed bemusement of the friendly advice he'd received from a neighbour: "Keep the workers' hous-



Tim James hits the bottle

ing as bad as possible", he was told; "because when [sic!] you evict them, the bloody law now says you have to provide them with something of equal standard..." (And that one is a true tale.)

But we don't really want to hear about such things. More entertainingly, perhaps, there are always the KWV and Distell behemoths to consider – the latter at least, for example, still pushing its products onto restaurant lists in ways that some consider disreputable and barely legal, though we can hope the former is no longer bolstering flavours with illegal additives.

Talking of which (now that you mention it) – the sacked KWV winemakers who thus "improved" their sauvignon blancs are still at large, it occurs to me. They got new jobs pretty damn quick, though I'm quite sure the malicious rumours that they also got substantial rewards in exchange for keeping quiet (about what, after all?) are totally unfounded. On the other hand, why

haven't they yet been charged for their law-breaking activities? Surely the outraged KWV management would have reported the crime to the relevant authorities?

It's not only the big guys with scandals, of course, though it's doubtful whether we can maintain last year's standard of good old-fashioned family stories – like suspiciously childless estate-owners disinheriting nephews (Meerlust), fathers and suspiciously childless sons fighting in court (Rust en Vrede), and even that truly tragic tale of the bullying and then murder of the suspiciously childless owner of Veenwouden – though what I most remember about the latter is the story of the marketer, with two corpses virtually still warm, sending out emails to assure people that, whatever had happened, it was business as usual when it came to selling the wine.

Looks like we could deal with skinner at the same time as scandal, not to mention a smattering of sex, at least by innuendo, which seems fair enough.

The sports scene in these viticultural valleys is also bound to make for pretty exciting copy. For a start, golf these days has probably overtaken viticulture as one of the more egregious ways of wasting the Western Cape's limited water supplies. Moreover, of the wine-makers who look to France rather than Australia as inspiration for excellence, many may be seen, beret at a jaunty angle and a sweaty baguette under one arm, tossing pétanque balls across an irregular pitch of Franschoek sand. Triumphant cries of *parbleu!* (or despairing ones of *merde!*) float across the vines, depending on the players' success in getting their steel boules closest to the target ball, charmingly called the *cochonnet* ("piglet").

The sporting climax of the wine year is the annual pétanque and golf day of the Cape Winemakers Guild. This could prove a rich mine of material for a populist column – especially as I'm persuaded that a little digging could reveal some accompanying sex and scandal, and a good deal of skinner.

So – unless editorial good taste prevails, watch this space. **W**

Magic mushrooms in the shires of KZN

By Steve Hargreaves

PEOPLE DON'T call them "kaffirs" so much around here any more. They prefer "mushrooms". Not because they keep piling shit on them; the last thing they'd want is for the mushrooms to proliferate. A bit like an unwanted fungus.

It's not that "kaffirs" has gone completely out of vogue. You still hear it when there aren't any of them around. "Munts" is still quite popular. "Blacks" from time to time when there are liberals around, and "Afs" too. Mostly it's just "them", a pregnant pronoun that conjures visions of vicious blackness.

But now we're surrounded by "mushrooms". I kid you not. We're at a braai, and this woman starts hyperventilating about how many little black kids are in the neighbourhood. "They're all over the place, like bloody mushrooms ... mushroomsmushroomsmushrooms." She blamed it on the farm school down the road. A mushroom breeding ground. Her solution: No school, no mushrooms.

We were new in the neighbourhood; townies chasing a bucolic fantasy. One of the first dreams we thought we could make real was to get the farm school fixed up. The thatching job on the roof had been abandoned by a delinquent contractor. A call to a connection in the education department got that sorted out, 10 months late and after the rainy season had done its damage. All the farm hands send their kids there. They know the school's falling down, and the teachers are rubbish. They know their children aren't learning anything but it's the only education they're going to get.

So we hatched a plan. Why don't we start a fund and get all the farmers around to contribute. We could renovate the school with ease, and raise enough money to pay for an extra teacher. Another complaint to the education department meant the malingering master who arrived at school after 10am would be replaced anyway. Being white can still be a magic wand. We also wrote to the minister suggesting adult education classes as a way to save the school.

Dream on. This part of the world is a palimpsest. Africa got rubbed out long ago, replaced by Scottish glens

and English hills. Victorian architecture lives on in secure new "lifestyle villages". Maybe once the golf estates have obliterated the last vestiges of African grassland the Tuscan look will take hold too as it has in the suburbs. The "land" has already been turned into "countryside". Land is what blacks live on. Countryside is what whites frolic in.

We didn't know this when we moved. I have a wife who likes to grow veg and needed more space for the cows who found our one-acre backyard too cramped. Some of our neighbours are cool. They'd be upset if we accused them of ethnic cleansing. They're big on indigenous. Exotics get short shrift. Everyone enthuses about heritage, undoing the damage of the past. Bring indigenous species back, they say, shoot the poachers. It's easier now that all the blacks have been booted off or bought off with an RDP house. Without ethnics to contaminate the countryside, it's being repopulated with Nguni cattle to provide that forgotten feel of authentic Africa. No locals to spoil the view.

I love it here. I haven't been killed yet and life feels, well, authentic. We're starting to live off the soil. We're living a dream. But every day as I drive around, I'm haunted by something in Jonny Steinberg's book *Midlands*. People around here didn't think much of it. But he captures perfectly the image of dispossessed people being forced daily to walk past a world looted from them, the thieves protected by a law that says finder's keepers.

Whatever our politics, and whatever our intentions, we remain thieves. The complicity that flourished with apartheid endures. If it hadn't been for the *cordon sanitaire* we whites threw around ourselves, this land I now occupy would not have been available.

Does it matter that we don't talk about kaffirs and mushrooms? Not really. It's politeness that we don't. Not that we would. It would matter even less if everywhere we went wasn't being sold as Little England on the Veld, every sale effacing a little bit more an Africa beyond imagination. There's no magic without the mushrooms. No bullshit. **■**

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Bottom feeder

BY HAROLD STRACHAN



DON'T KNOW about drawing lines.

Never have known. Yet it has ever been my ironic fate to attract people who draw them about myself in such a manner as to suggest they are

pronouncing some ancient natural law of great morality. Like Mother Nature is moral and I'm unnatural, or what?

So I'm on the rocks near the old harbour mouth at Port Shepstone, and I've found one of those sweet little gullies where the water has a nice chop to it, a handy refuge from the heavily pounding surf that makes life difficult for both angler and prey. But not too placid; for some reason shad don't like calm water, I dare say because it makes them visible to the little pinkies and things on whom they wish to feed. Yet you'd think by the same logic that they should thus like the wild seething surf, for that should conceal them from the big kob and sharks and things that wish to feed on them in turn, but it is not so. That's another thing I don't know about.

Well, anyway, there's nobody else around on such a nasty rough day and I can pick my best spot at this dinky little bay, with back of me a handy cleft in amongst the basalt rocks, just deep enough to get filled by an occasional slosh of spray, but not so big that I'll have trouble grabbing my shad again if I dump them in there to stay alive awhile.

It looks like lure water, a small spoon. That'll need skill, but I have it, and rig a small centre-pin reel on a light rod with 3kg line, and sure enough SLAM! at cast six or so. I work her into a corner of the rocks and grip her in the gills and launch her in the little freshness-pool. You couldn't do this with normal shad tackle, so I'm really cocky now as I ply my craft, and after an hour or so I've got four in the puddle and #5 on the line, my permissible maximum. I unhook her and put her in my bag and go to the puddle.

My fish are gone! There's an old lady standing nearby, wringing water from a cloth hat. Did you see who nicked my fish?! I cry. I draw the line at what you have done here, she declares with pursed-up lips like she's drinking vinegar through a straw, I released them back into the wild, where they belong.

Release them back into your mother's arse, you stupid old bloody cow, I cry, you stole my shad! Furthermore, she declares, I draw the line at the foul language and insulting imagery you have just used.

But stay cool! There were other shad, and other days.

So I'm back at PS another day, on the beach this time, and Don't-Delay Pillay has got a shad for live bait threaded through with a steel trace and a five-oh hook on

his great big Garrick rod, with 400 metres of 15kg line on his biggest reel, and she's swimming about 100 metres offshore looking edible to something else edible, but big.

Down the beach a dude with light tackle gives a mighty strike and starts reeling in, and pretty well at the same time DD feels something at his live bait and tenses himself and waits for the garrick to get it right in his mouth, then strikes, hard. But it doesn't put up much of a struggle, and he realises he's hauling it in backwards and it's his own live bait that has eaten the bait sardine of the dude down the way. A shad is only a system of reflexes, teeth and guts. Dumb, frenzied.

So they stand with this thing suspended between them, and claim possession with some heat, and I am in the middle in the role of Solomon, to dispense wisdom and justice on this dangling fish. And as I ponder this I notice a certain khaki uniform and bush hat approaching, and loosen the slipknot on DD's line with my thumbnail because he already has his five shad, which is to say this one goes to the sardine man, and DD wants to kill me. But he's sharpish, you know, and grins when the Conservation Officer comes up to this dude and asks to see his angling permit and count his fish. Sardine-bait cries injustice and points at DD.

The dreadful old woman with the cloth hat appears from nowhere, picks up the shad and pulls all the hooks and things out of its flesh while the debate flares. The officer is mightily confused, turns to her. Madam, says he, is that your fish? Yes, she replies, I am about to return it to the wild, where it belongs. It is dead, and you were about to eat it, he replies. Show me your angling permit, please. He writes her name in his Offences Book.

DD grins. She turns on him, nostrils flared. I draw the line at what you have done here today! she cries. Madam, says he, why you don't go home, you, draw lines on your mother's arse? **W**

The dreadful old woman with the cloth hat appears from nowhere, picks up the shad and pulls all the hooks and things out of its flesh

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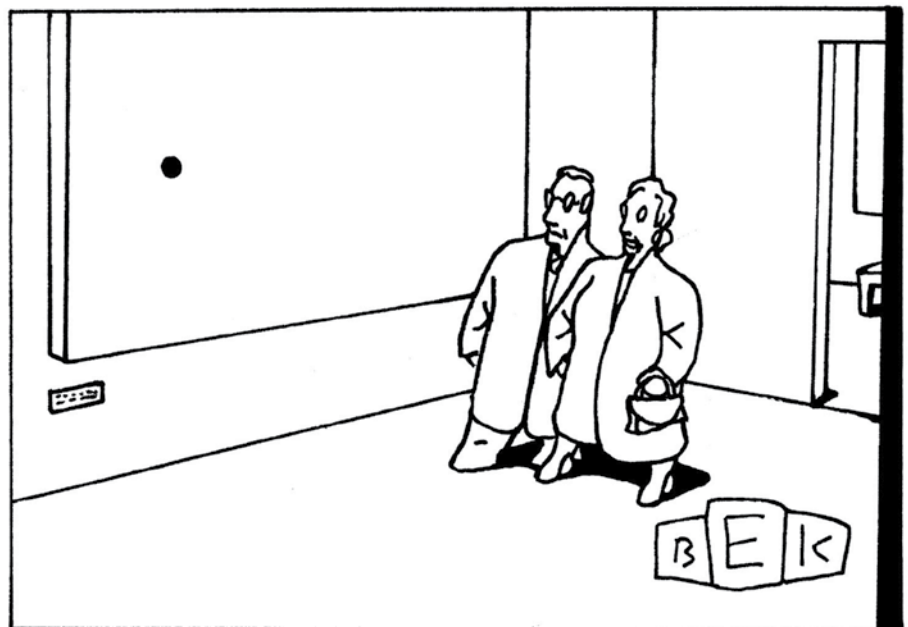
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