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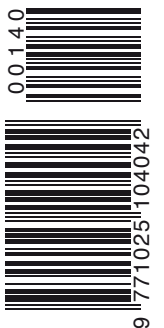
SA GLAMOUR SLAMMER

DEWANI HAS NOTHING TO FEAR



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LAUGHING ALL THE WAY TO THE CLINK

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On the prowl

Your article on Zuma and the Chinese tiger (*Nose*139) ignores the more interesting and significant facts.

China's Sovereign Fund is reported to be worth about \$3 trillion – the dollar profits from sales in the USA almost certainly paid for in paper dollars, not in commodity money – silver and gold. That's despite having spent a king's ransom investing in US Government Bonds, property and assets of whatever kind. They still have that \$3-trillion problem.

They have to find a profitable home for it – hence their buying elsewhere (even in the RSA) whatever they can and need – with those same US paper dollars. Oil from the Sudan, timber, minerals and food... The Olympic extravaganza consumed a little but not nearly enough.

Some readers may be interested in Federal Reserve Governor Ben Bernanke's \$9 trillion "quantitative easing". By paying that so-called "paper money" to distressed banks, insurance outfits (such as AIG) and sundry businesses, such as GM, as well as lowering the interest rate to next to zero, they put all that "money" into circulation, hoping the public will spend it and borrow – creating more debt to pay the banks more interest – to buy more Chinese goods. And just maybe, hopefully, some US production!

Pitt
East London

It's a hectic game of musical chairs; we just have to be careful that we don't end up the ones without a cushion when the music stops. – Ed

Speedy departure

Reader Kelly Picken refers to her experiences at Mercedes Bryanston, and mentions that the work was eventually done by her "father's mechanic" at a much lower cost (*nose*139).

I have parted with huge amounts of money to Mercedes Bryanston, and would dearly like to get the

■ We have a Merc sedan and a Vito and we love them. But having read *Noseweek*, I'm afraid it's a case of "hey-ho, hey-ho, it's off da merc I go" – they give you a good car but rip you off when things go wrong. They deserve to see their market share go south.

Can you tell readers which is the best value car? With *Noseweek's* unbiased approach and

Noseweek Towers needs to update their prejudices beyond 1975. I'd like to point out that I am both a poofter and a *Noseweek* subscriber; and my house doesn't look anything like Robert Mugabe's.

David S
By email

As a regular Noseweek reader you will know that homophobia is not one of our faults. "Poofter" was retrieved from antiquity for its offensive sound as an – admittedly risky – ironic reference to Mugabe who has ugly prejudices related to gays and any number of other classes of persons.

I had hoped that would be clear. – Ed.

Frackastrophy

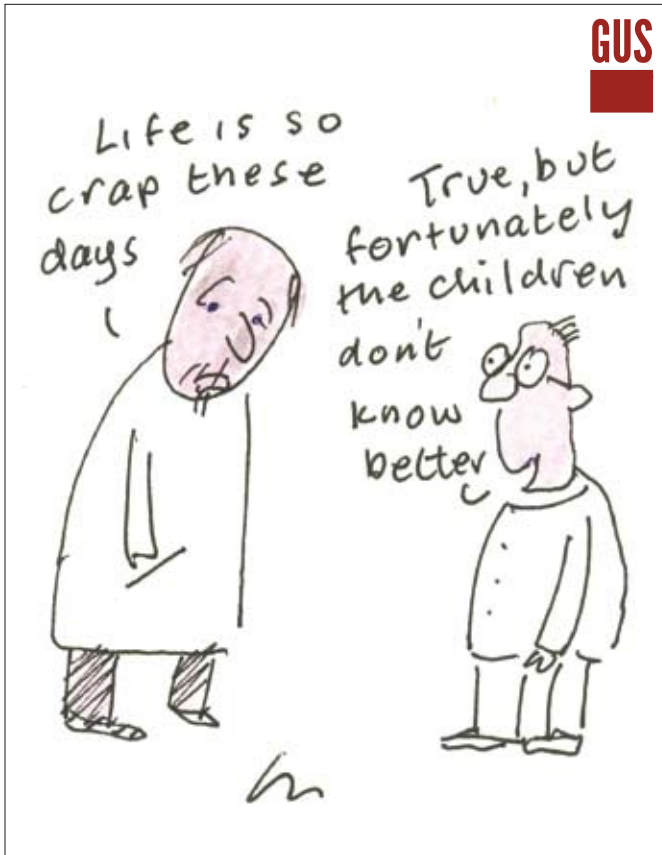
It would be a pity to see the old F-word (*nose*138) marginalised by the new. Fracking has certainly got the land in a tizz (see *nose*139) – but it's not new to South Africa. In the mid-80s, the Department of Water Affairs imported a hydraulic fracturing machine, as the old method of throwing a stick of dynamite down boreholes (true) proved to be both disastrous and dangerous.

This machine has stood idle in a yard in Pretoria for more than a decade. Testing the technique in the Karoo and elsewhere showed hydraulic fracturing could not change a poor borehole into a good one, but it did improve the yield of some very weak boreholes to yields that could support stock farming or small communities.

Admittedly, this work was done at depths less than 100m below ground, while Shell aims to go to 2,000m and more.

Roger Parsons
Pringle Bay

■ As usual, congratulations, most especially on



contact details of "Dad's mechanic". Can you help?

Greg King
By email

Number provided. See also Page 22 – Ed

■ Despite all the ranting about Mercedes, I wish to say that I have nothing but praise for Mercedes Benz Claremont, where I have always received excellent service.

Geoff Stroebel
Constantia

Lucky man! – Ed.

genuine quest for the truth, it would be valuable information.

Marc de Chalain
Durban

A Noseweek motoring section... now there's a thought! – Ed.

P for prejudice

Enough with the disparaging "poofter" comments (Editorial, "Things are not what the seem", *nose*139). Sounds like someone at

the Shell fracking report. We are all up in arms to stop this catastrophe.

Pat
McGregor

Touchy tender

The City of Cape Town would like to correct inaccuracies in your article “Something Fishy” (*nose139*), in which it was alleged that the city “illegally” awarded a R400 million IRT tender to ICT Works, although their bid had been disqualified. This is not true. The awarding of this tender was legal and the bid was not disqualified.

At the tender opening session, the official in charge could not initially locate ICT Works’ offer form and the bid was declared non-responsive. However, before the session closed, the official examined the tender more carefully and located the relevant form. Although representatives from Lumen Technologies (Lumen) had left the session, this inspection took place in the presence of all relevant officials while the meeting was still open to the public. The ICT Works bid was found valid before the meeting was adjourned. It was not “revalidated” later as suggested.

The city acknowledges a communication error after the tender opening session – and apologises for this – but this had no bearing on

the tender’s validity. Lumen enquired about the status of ICT Works’ bid and were incorrectly informed by a city official [*Ian Bindeman, the city’s manager in charge of tenders, no less* – Ed.] that it had been disqualified.

However, on realising his mistake, the official wrote to Lumen [*nearly a year later, as we reported* – Ed.] advising that the tender was indeed valid. The city’s Chief Financial Officer followed up with a written explanation.

Despite this, Lumen lodged an appeal to the City Manager, who consulted two lawyers for their legal opinion – both of whom reached the same conclusion independently: the administrative errors were not material and would not have affected the outcome of the tender.

City officials met with Lumen representatives to answer their questions. The entire process was transparent and it is unclear why the article suggests that no one from the city provided answers.

Lumen submitted a defective tender for the same bid, but they failed to tender for the operational costs for years 2-6 of the tender period and made unauthorised amendments to the Schedule of Quantities. These significant failings forced the city to declare the bid non-responsive.

The city takes the

allegation of intimidation very seriously and appeals to the complainant to report this to the City Manager in order that it can be investigated. The city is not aware of any such incidents by its staff or consultants.

All tender processes are strictly adjudicated and the minutes of these meetings and reports tabled are available to the public. The article suggests that the Auditor General “crack the whip” to impose propriety – yet every step of the tender process has been transparent and fair.

Kylie Hatton
Media Manager
City of Cape Town

Your account of the tender opening session does not accord with the account provided to us by others actually present – see our original report. – Ed.

Into the f*ray

Even here in Poland the arrival of *Noseweek* is a highlight of the month.

I’m actually writing to correct an error in the concluding sentence of your amusing essay (in *nose138*) on the word fuck – namely that in Afrikaans it appears no longer to signify the sexual act, its original meaning.

The standard Afrikaans dictionary, HAT, lists it not only as a verb and a noun signifying the act of intercourse, but also

meaning the person with whom one performs the act, as in “She’s my fuck”. Interesting; I’ve never actually heard it said.

By the way, *fok* is a handy example of a word that occurs in both Dutch and Afrikaans, while not having exactly the same meaning in both: in Dutch it means to breed animals. In Holland no-one is likely to be seriously offended if he is referred to as a *kippe-fokker* – which is simply a chicken breeder.

Fanie Olivier
Poznan, Poland

All the way from fucking Poland! – Ed.

■ *Nose138* was fabulous and gave me something to laugh at in these bad news days!

To add to the vocab:

Fuckheads – those are my neighbours,

Fuckwits – they are the Management.

By the way, my spellcheck queried fuckheads but not fuckwits... seems someone was here before me!

Pam
by email

Pro-probity

Next time you ask your readers for ratings, could you please add a box that reads “frustration levels at corruption and incompetence within government and corporates”?

Thank you
Amber Land



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Hofmeyr



Ex-chairman of Cliffe Dekker Hofmeyr, Dines Gihwala, and (opposite) his successor Chris Ewing

IN JANUARY this year, acting on instructions from Swiss-based investment bankers Montague Goldsmith AG, Johannesburg attorney Ian Small-Smith – more generally known as a criminal defence attorney – made a formal report to the police authorities in terms of the Prevention and Combating of Corruption Act. In the report, Small-Smith laid criminal complaints of fraud, theft and various statutory criminal breaches, involving the misappropriation of millions of rands, against well-known Cape Town attorney Dines Chandra Manilal Gihwala.

Also named as suspects for investigation in the report are the trustees of the Dines Gihwala Family Trust, Gihwala's business associate, Rivonia businessman Lance Manala, and the auditors and directors of two companies of which Gihwala and Manala were directors: Seena Marena Investments, and Ngatana Property Investments.

At the bottom of the list of those it is suggested should be criminally charged is the well-known law firm Hofmeyr, Herbststein Gihwala Inc (more recently re-incorporated

as Cliffe Dekker, Hofmeyrs) of which Dines Gihwala was “at all material times” the chairman.

(Cliffe Dekker Hofmeyr earlier this year quietly “removed” Gihwala as their chairman. At the time of going to press he was still a partner in the firm, but sources close to the firm said they were frantically negotiating a “parting of the ways”.)

These developments should come as no surprise to *Noseweek* readers: they have long known Dines Gihwala to be unscrupulous and a disreputable opportunist – see opposite page.

However, current events make it all the more urgent that the Financial Services Board should explain how, given Gihwala's reputation, it came to recommend to the Western Cape High Court that it appoint him as joint curator of Fidentia, the financial services group that, *inter alia*, controls (or once controlled) a R1 billion fund for the benefit of the widows and orphans of South African mine workers.

And why, bizarrely, the FSB went a step further and recommended that Gihwala be

THE HUNTER BECOMES THE HUNTED



Who's Who online still lists Dines Gihwala (facing page) as Chair, Disciplinary Committee of the Public Accountants' & Auditors' Board; Deputy Chair, Free State University Council and Chair, Hofmeyr Herbstein & Gihwala (now Cliffe Dekker Hofmeyr), but ...

the Cape bench, Gihwala heard the case of Standard Bank vs Eileen Friedman. The issue: whether or not a bank has the right to raise interest rates on existing home loans at will and at short notice. Just one of the arguments against banks having such a right is the fact that borrowers are at an unfair disadvantage: encumbered with a mortgage bond over their homes, it is near impossible for them to terminate the loan and seek cheaper finance elsewhere each time their bank decides to up the interest rate. In reality, the borrower is so defenceless that banks don't even bother to ask – they simply give notice of such increases.

Acting Judge Gihwala gravely heard argument, then promptly gave his judgment – in favour of Standard Bank. What he failed to divulge was that his firm is – and has for some time been – on a retainer from Standard Bank, making the bank one of his firm's biggest fee-paying clients. The fact that Acting Judge Gihwala did not have the sense to recuse himself from the case is scandalous.

■ **nose28 – Jan 2000:**

Another scandal: this time about the improper involvement of Dines Gihwala, by then chairman of mega law firm Hofmeyr Van der Merwe, in the cases of hundreds of Macassar residents with claims against the chemical giant AECl,

resulting from a sulphur fire that broke out at the company's premises in December 1995.

Hofmeyrs were, until very recently, AECl's attorneys, defending all the claims arising from the Macassar incident. *Noseweek* has now discovered how Gihwala secretly gained access to – and control of – the attorney's files of more than 600 of these Macassar claimants, while his firm still acted for AECl.

The conflict of interest could seriously prejudice the conduct of their cases and could constitute a fraud on the claimants, or on AECl, or on both.

■ **nose30 – Aug 2000:**

In 1988 Cape Town attorneys Faizal Noor and Dines Ghiwala decided it would be a good idea to go abroad to raise money for the poor and oppressed of South Africa.

This represented a remarkable and praiseworthy conversion, as neither man had previously shown any particular concern for the lot of the poor and oppressed.

They travelled to London (where they stayed at the five-star Dorchester Hotel and called on the luminaries of the Regent's Park Mosque for introductions to rich Arabs), then flew to New York by Concorde. They saw various well-connected people to whom they promised 25% commission on any money they could raise for this cause. How much money they raised and what causes benefitted, we don't know. ■

CHAMPION OF THE POOR

ON THE facing page we reveal that South Africa's elite commercial crimes unit, The Hawks, is preparing to pounce on Fidentia curator Dines Gihwala for alleged fraud and various other misdemeanours relating to millions of rands entrusted to his care by a Swiss finance house.

More than a decade ago, regular *Noseweek* readers already knew that Dines Gihwala was a man not to be trusted. Now the question is: did the Financial Services Board nominate Gihwala to administer nearly a billion rand put aside for the support of widows and orphans *despite* what they knew about him... or *because* of what they knew about him? In short: was their priority to destroy Fidentia boss Arthur Brown, or to protect the savings of the weak and vulnerable?

Incredibly, they went as far as to ask the Western Cape High Court to excuse Gihwala from having to provide the customary surety bond from a recognised insurer to cover any losses that might result from dishonesty or lapses in his curatorship of those funds. And, it is now emerging, as each day goes by, that those lapses have been many – and serious.

Here's a recap of what we long ago knew about Dines Gihwala:

■ **nose24 – October 1998:**

Dines Gihwala, was recently made an acting Judge of the Western Cape High Court. You may be surprised that we include

him in our list of pals given jobs by the (since-deceased) Minister of Justice Dullah Omar. Gihwala was, after all, for many years Dullah's arch-opponent; one of those men of colour happy to serve on the ethnic "management" committees set up by the apartheid regime; the sort of "coloured" lawyer who did not want to get involved with defending "political". In fact, just the sort of attorney of colour who, in the new era, would have his law firm amalgamate with the ultimate in Broederbond firms, Hofmeyr Van der Merwe.

So why should Gihwala now have received the nod from the minister and have been appointed an acting judge?

Speculation is that the minister's pride has been satisfied by Gihwala's acknowledgement of his leadership. Gihwala has not only made a donation of R50,000 to ANC funds, but earlier this year persuaded the Hindu Association of Rylands Estate to throw a festive bash in honour of the minister. Great stuff in an election year. Not that everyone is that thrilled with the new-found affection between the two old enemies – unnamed "elements" in the Thornhill Residents' Association (ANC stronghold of the Omar clan) expressed their disapproval by distributing a scurrilous pamphlet about Gihwala in their neighbourhood... more online.

■ **nose26 – May 1999:**

During his stint as an acting judge on

excused from providing the surety bond which candidates are otherwise required to provide before they can be appointed as a curator or trustee. Effectively an insurance policy, a surety bond protects vulnerable creditors and investors from losses that might result from the curator's possible negligence – or criminal acts.

The investors and creditors of Fidentia – amongst them those unfortunate widows and orphans – now have no such protection. And the signs are everywhere that the curatorship has been disastrous. (See below for some examples.)

Curatorship is normally used as a means to restore a potentially viable financial institution to good health – or to rescue at least those parts of the business that are viable. Here, by appointing a man of Gihwala's reputation, the impression is, the FSB may have had another, more sinister, agenda. Did it in fact wish to ensure that Fidentia never rose again? An intriguing question for another day.

The matters canvassed in Montague Goldsmith's (MG's) criminal complaint against Gihwala ostensibly have no bearing on his curatorship of Fidentia – other than a reputational one. Except for one disturbing bit of evidence:

When, at an earlier stage of their business dealings, Montague Goldsmith first became concerned about Gihwala's probity and the security of their investment, they demanded an accounting from Gihwala for the R10 million they had been persuaded to invest in one of his ventures – and payment of the proceeds. A settlement agreement was reached and Gihwala refunded the R10m, claiming – falsely – that he had not been able to make the originally planned investment.

Not long thereafter it was discovered in the course of a forensic audit of Fidentia's accounts that the R10m refund to MG was not made from Gihwala's attorneys' trust account – where it ought to have been; it was made from Fidentia's bank account, prompting the auditor to pose the question: was the R10m payment in settlement of a legitimate claim for curatorship fees – or was Gihwala simply using Fidentia's bank account as a convenient source of funds to settle his private debts?

Montague Goldsmith CEO Karim Mawji declares in an affidavit that Gihwala and Manala “repeatedly, seemingly by design” provided inadequate records to try to mislead MG and their clients with regard to what

they actually did with the monies they received from MG. On more than one occasion they were obliged to obtain court orders from the Western Cape High Court to compel them to render a “full and proper” account.

Despite this, they never did. When Mawji eventually gained access to company records, “a picture of fraud and deceit by Gihwala and Manala began to unfold”. MG and its clients were not told of dividends that were due to them; instead these dividends were simply appropriated by Gihwala (or his family trust) and Manala, “in itself theft and fraud on their part”.

A January 2009 memorandum drawn up by Gihwala “fraudulently sought to persuade the complainants into accepting a greatly inferior settlement by misstating facts and painting a very bleak picture of the Republic of South Africa”. Various dividend allotments

A picture of fraud and deceit began to unfold



were allegedly manipulated, with the collusion of the auditors, in order to deprive Montague Goldsmith's clients of their share.

It emerged from the 2010 draft accounts of Seena – “effectively a dormant company with a single investment” – that Gihwala and Manala had awarded themselves R5.5m in “directors' fees” and a further R1.1m each as “administration fees” – simply so as to avoid the declaration of a dividend in which other shareholders would share.

“This is a clear case of theft,” Mawji declares in an affidavit handed to the police.

Mawji further states: “Hofmeyr Herbstein Gihwala trust account records reveal that, on 8 August 2005, Gihwala fraudulently used R21,073.82 of the complainant's [MG's] money to pay tuition fees at the University of Stellenbosch, and transferred a

[further] amount of R57,182.66 to the Dines Gihwala Family Trust's account. It seems clear... that Hofmeyrs facilitated the use of its trust account as Gihwala's personal bank account.” Page after page of such details follow.

In the light of the above revelations, consider just the following two (of many such) items taken from the forensic audit done on Fidentia's affairs while under Gihwala's curatorship:

Antheru Beleggings Trust, which invested millions in Fidentia, has applied to the Western Cape High Court for the company to be put into liquidation, rather than remain under the joint curatorship of Dines Gihwala and George Papadakis. In support of the application, the Antheru trustees allege that the curators have sold assets (purchased by Fidentia with investors' funds) to their friends for amounts far below their true market value and have helped themselves to millions in fees.

They point to specific transactions that they want a liquidator to investigate; among them the sales by the curators of Manning Rangers Soccer Club, Software Futures, Automated Outsourcing Solutions and Thaba Manzi Farm.

Manning Rangers, (valued by Ernst & Young and more recently forensic auditor Nico van Rensburg at R12.5m), was sold for? ...well, the November 2007 curators' report says R2.5m, but their March 2009 report says it was sold for R3.2m, while in the March 2010 curators' report they sold it for R3m.

Antheru allege that not only was the price way too low, but the curators sold the club on 26th March 2007, before the High Court had confirmed their appointment. Provisionally appointed curators and trustees are precluded from selling any assets before the FSB has approved their appointment. The FSB says it was never informed of the sale by the curators.

Now the fun bit: The Professional Soccer League (PSL) injected roughly R10m into all Mvela League teams shortly before the Soccer World Cup. The benefactor of the urgent sale not only got a nice discount but benefited from an additional R10m bonus. What irks Antheru most is that the shelf company that bagged such a nice windfall in buying the soccer club for a R10m discount plus a R10m cash bonus, is said to be “particularly closely associated with Dinesh Gihwala”. ■

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Issue 140

More shots in Liliesleaf gunfight

AFTER a month of hype, a roomful of potential bidders, and two international buyers on the line, not a single bid was made at last month's Summer Place auction of the Rivonia house under which Nelson Mandela's gun is said to be buried. No one was prepared to put in an opening bid of R2 million.

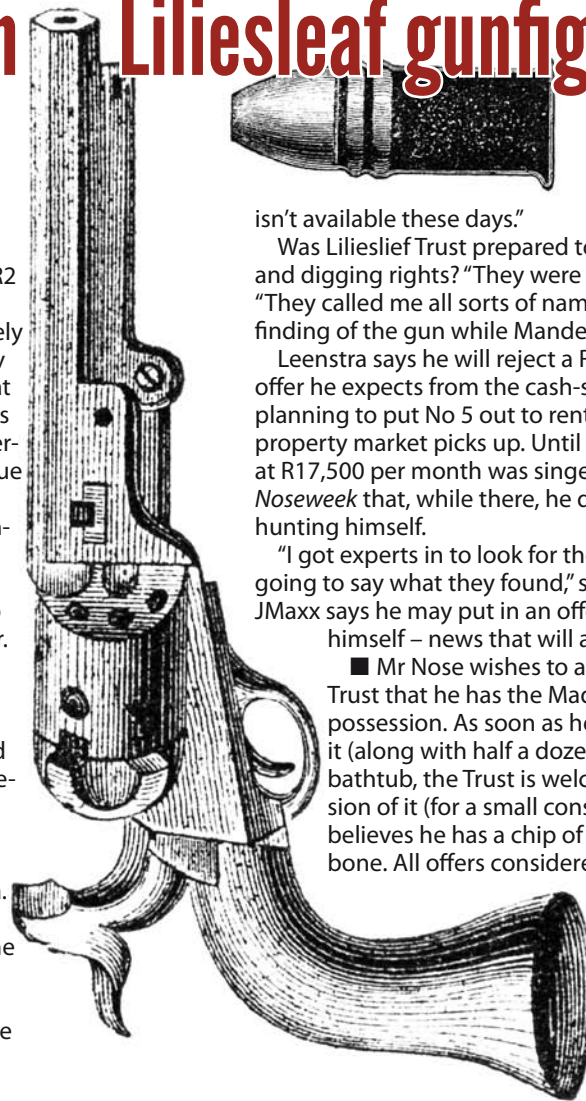
Last August, *Noseweek* broke the story of the likely whereabouts of the 9mm semi-automatic Makarov – buried by Madiba nearly 49 years ago under what is now No 5 George Avenue, Rivonia. The story was lifted and republished around the world – and international collectors estimated the historic gun's value at as much as \$3m (around R21m).

The Liliesleaf Trust, which has restored the neighbouring old farmhouse, its outbuildings and the thatched cottage where the ANC leadership were arrested on 11 July 1963, has long been wanting to buy No 5, demolish it and dig up the icon's shooter. But the trust has no funds to take up the R3.4m option they obtained three years ago from the owner of the house, Alle Leenstra.

Now relations between 78-year-old Leenstra and the trust's chief executive Nicholas Wolpe are somewhat strained.

"A month ago Nick came to me and said they wanted permission to bring sophisticated equipment into the house to find the gun," says Leenstra. "They wanted permission to dig wherever the gun is – under the lounge, kitchen or wherever – get the Makarov out, and they would put everything back the way it was.

"But that's easier said than done. Material that we used when we built the house nearly 40 years ago



isn't available these days."

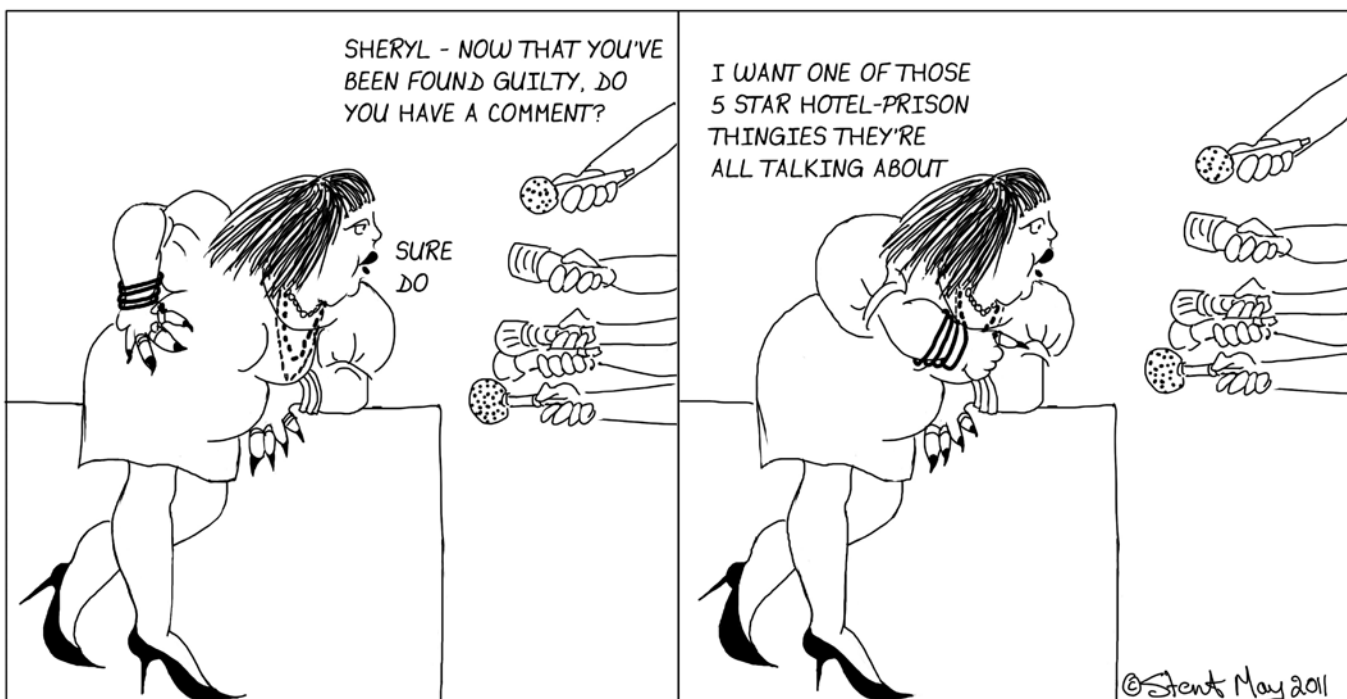
Was Liliesleaf Trust prepared to pay him for access and digging rights? "They were not," says Leenstra. "They called me all sorts of names for holding up the finding of the gun while Mandela is still alive."

Leenstra says he will reject a R2m post-auction offer he expects from the cash-strapped trust; he's planning to put No 5 out to rent again until the property market picks up. Until recently, its tenant at R17,500 per month was singer JMaxx, who tells *Noseweek* that, while there, he did a spot of gun-hunting himself.

"I got experts in to look for the pistol, but I'm not going to say what they found," says the crooner. JMaxx says he may put in an offer for the house

himself – news that will alarm Liliesleaf Trust.

■ Mr Nose wishes to advise the Liliesleaf Trust that he has the Madiba Makarov in his possession. As soon as he's finished rusting it (along with half a dozen others) in his bathtub, the Trust is welcome to take possession of it (for a small consideration). He also believes he has a chip of St Theresa's thigh-bone. All offers considered.



STENT

SOUTH AFRICA'S

GLAMOUR SLAMMER



**Some
lucky jailbirds
land up in
five-star jails**

THE INSPECTING Judge of Prisons, Judge Deon Hurter van Zyl, has been taking some stick in the media for his evidence on oath at the continuing London extradition hearing of Shrien Dewani. If Dewani is returned to South Africa to face trial for the honeymoon murder of his young bride Anni, he has no need to fear gang rape from crazed HIV-infected criminals, maintained Judge van Zyl in the witness box. While awaiting trial, Dewani would be held in a single cell in the hospital section of Goodwood, a "new generation prison in a class of its own". If convicted, he would be transferred to the Malmesbury Medium A prison, which the judge likened to "a five-star hotel".

Oh yeah, responded Dewani's barrister, Clare Montgomery QC, whose main argument for resisting her client's extradition is that gangsterism

and rape are part of prison culture in South Africa and whatever prison sentence Dewani got would be turned into "an almost certain death sentence" by "Aids-infected gangsters".

Into the fray jumped Wits Justice Project director Jeremy Gordin in the *Saturday Star*: "Come on Judge van Zyl, surely you know there are no five-star SA jails" was the headline in his opinion piece. Why, demanded Gordin, did the judge paint this "bizarre and untrue" picture of South African prison conditions?

Because it's true, that's why! At least in a few showcase slammers, such as the Cape's Malmesbury and Gauteng's Zonderwater prisons, to where foreign fact-seekers and human-rights observers are routinely conducted to witness what wonderful places our prisons really are.

ZONDERWATER is better than a five-star prison, it's a holiday camp, declares one of its delighted recent inmates – who range from struck-off lawyers and doctors to murderers and bank robbers. Alumni from its grim apartheid years include bank robbers Andre Stander, Patrick Lee McCall and Allan Heyl. (Stander and McCall pulled off a dramatic escape during a visit to a physiotherapist in 1983.)

The prison was rebuilt in 1990 and, in the kinder post-1994 climate, slowly morphed into the model "new generation" nick that it is today.

So what's life like for the 1,000-odd prisoners in Zonderwater – a life similar to that which could conceivably be faced by Shrien Dewani at its sister prison in Malmesbury?

A new arrival is faced with the usual fences and security measures. This

is, after all, a prison confining many hardened killers and lifers. When you're booked in, you're issued with two (brand new) sets of the universal orange uniforms as well as socks, shoes, toothbrush, toothpaste, packet of washing powder and soap. (On discharge, you are invited personally to incinerate your uniform in the prison boiler).

Zonderwater's Medium A section is for "lifers", and B is for prisoners serving up to 10 years. In Medium B, each new arrival is allocated to a section. If you choose to work, you go to Sections A or B. If you choose to study, you go to Sections C or D. If you just want to stay banged up in a mass cell with 30-plus others each and every day – a surprising number of black inmates choose this option – you go to Section E.

Say you choose to work. Again, the choice of job is yours – and the selection is almost limitless. There's a furniture factory, a panel-beating shop with spray booth, a stainless steel factory churning out mugs and plates. There's a farm, raising cattle and growing vegetables, an abattoir, a poultry farm, a butchery, a supermarket, a petrol station. There's the Italian War Museum (the prison was once an Italian PoW camp) and there's the library.

"I didn't know I was going to a model prison," says an ex-con we'll call David. "It was a fantastic surprise. I chose to work – first in the tool room of the metal section, then I learnt how to cut meat in the butchery. I learnt to drive a tractor. I applied, they gave me training. You have to write an exam and do the practical. Then you're on the tractor and off you go.

"Fun? It was fantastic! I had a holiday there! You can either plough the fields or deliver milk to the mental home and the drug rehab unit. You take a tractor and drive out of the prison! There are more than eight tractors, all R1-million machines, such as John Deeres. I worked in the supermarket; I was a pump jockey at the petrol station...

"A lot of inmates choose not to work, because they're bitter with the system. They are locked up in mass cells of 30 to 40 people. You start off in a mass cell. You get taken to your section by a warder, who sits you down in a room and explains the rules: no smoking in the cell; you cannot swear or assault. No fights. No racism. And they tell you



“Fun? It was fantastic! I had a holiday there!”

the consequences: you will be charged and taken off to court in Cullinan. If guilty, your sentence for that offence will be served first, then you continue serving your original sentence.

"If you become problematic they send you back to where you came from, which could be Pretoria Central or, in my case, Diepkloof Prison – Sun City. I'm white, and of the 1,000 prisoners in Medium B, more than 100 are white. I didn't even dream about problems of rape. I was in a mass cell at Sun City and had no problems there. I can tell you now that there's less racism in prison than there is outside.

"I find it very difficult to comprehend that people get raped. In what I call the corrupt prisons, like Sun City, the black guys do welcome you, because you represent money. They say: 'Instead of sleeping on the floor you can have that bed over there,

and the blankets, but give me R20'. I cannot comment on prisons like Pollsmoor and I have no doubt that there are some bad prisons.

"The evidence of these South African prison experts at Dewani's extradition hearing in London about prison rape – they're talking absolute garbage. At the top prisons, like Malmesbury and Zonderwater, you have all sorts: doctors, accountants, lawyers, orthopaedic surgeons, bank robbers, murderers. But, in my experience, rape in prison really does not happen. There's an emergency bell in each cell, a panic button. You press it and can speak to a warder.

"Consensual sex between men does take place. But it's forbidden and if they find out they take you straight to court."

David is Jewish and he found a sympathetic ear in the enlightened and trail-blazing head of Medium B, Dawie van der Merwe who, as an orphaned child in a small town, was taken in and brought up by a Jewish couple. Jewish prisoners at Zonderwater can apply for kosher food; Muslims are entitled to halal. There's a vegetarian diet, and a sect called the Israelites – a band of Afrikaners – get their peanuts and raisins. The Rastafarians get their special diet but their request for ganja, which is part of their religion, was turned down.

The Jews prepared their own food, and there was no limit on the amount of kosher boerewors they produced or on their roast potatoes, kingklip and hake. So sumptuous and plentiful were their repasts that a horde of black prisoners, though fed well-enough on pap, meat, chicken and fruit, announced they were converting to Judaism to get their share of the kosher nosh. The rabbi handled that by listing two prior requirements: converts must be circumcised and be able to read Hebrew. No one converted.

There were – and doubtless still are – two Taiwanese inmates who made headlines in 2002 when they were jailed for life and 35 years – "those were the two that fed that woman to the lions and the police found her hand in the Fourways Lion Park. She borrowed R80,000 and didn't pay." They wanted their own food but were told that being Chinese was not a religion. However, the pair found the South African rice particularly unpalatable so they took the matter to court, and won. The judge ruled that they, too, should be given food privileges

and they were allotted a budget. They imported Taiwanese rice and other delicacies. “They ate a lot of lobster, crayfish, shrimps and prawns – all brought in.”

David soon graduated to a private single cell with TV, video, hot-water shower, and toilet. He was appointed to the trouble-shooting, complaint-solving PMC (Participatory Management Committee) and had the run of the prison, with immediate access to the office of head of Medium

B, Dawie van der Merwe.

For inmates who choose to study, the options are endless. The uneducated start off with basic education and progress from grade 10 to matric. Attorney prisoners are recruited as teachers and there’s a lavishly equipped computer room – although no access to email or the internet.

All prisoners at Zonderwater have their own social worker, whom they see every week to have their progress monitored. Family visits are frequent:

five per month for an hour, with extra visits on public holidays and at Christmas. Every September there’s a family day, all day, with inmates manning the braai.

Some time ago, Dawie van der Merwe was transferred to “Zon” Medium A, to weave his upliftment magic among its hard-core lifers. His successor at Medium B is Tivani Makesane, who is generally regarded as “a reasonable head of prison”.

Sporting facilities at the holiday camp prison are unending. There’s a plethora of soccer teams, welded into a league with full kit, courtesy of the Sports Trust. The Sports Club office bulges with trophies its teams have won against visitors. There’s rugby, cricket – with away matches – boxing, weights, chess. Oh, and basketball,



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“I needed a pair of sheepskin slippers for comfort. I got them!”



table tennis, darts, snooker, billiards and pool. Not forgetting (phew!) the gospel choirs and gumboot dancers.

“There’s a fantastic library, with lovely new books and the latest magazines,” says David. “I wanted to spend time in the library and I told a warder I needed a dressing gown and sheepskin slippers. I got them!”

“It’s a complete middle-class lifestyle and many of the prisoners could never have anything like it outside. Some guys protest when they’re paroled. They don’t want to leave and as soon as they’re out the door, they’re stealing at the supermarket to come back within a week!”

David says he even got two weeks off to visit his family.

Mr Nose was pleased to learn they’ve reserved a special place for him. ■

SOFT CELL

THE WORLD'S CUSHIEST CLINKS



COSY: U.S. gangster Al Capone enjoyed a clubby interior at Eastern State Penitentiary in 1929. The whitewash may be a bit flaky now, but you get the picture

OSCAR WILDE, thou should'st be living at this hour. That soulful chronicler of the rigours of Victorian prison life would have choked on incredulous epigrams at latter-day developments in jail comforts.

Judge van Zyl's effusions on the cushy appointments awaiting Dewani, if the UK extradition finding goes against him, are impressive. And astonishing, given the learned judge's previous revelations of the horrors of ordinary South African durance vile.

Well, this Republic may boast of a few comfy slammers, but the current international competition is strong. In fact, it could be argued that many foreign prisons provide accommodation superior to anything your average con has experienced in civil life.

An American defence attorney named Allan Ellis has penned the *Federal Prison Guide*, which takes in the most desirable facilities, including e-mail and on-site substance abuse treatment, a sentence-reducing initiative that has seen a string of seemingly sober white-collar types claiming addictions. Some villains are offered a choice of prisons.

The notorious fraudster Bernard Madoff, sentenced to forever or 115 years in jail, chose Otisville N.Y., which boasts kosher food and regular access to a rabbi. Which has its ironies, since his nefarious activities nearly collapsed sundry Jewish charities and bankrupted a multitude of individuals.

While Europe and America vie with each other for chic new designer prisons, it should be noted that prison privileges have been known over the centuries. Money and power provided enormous perks behind bars for a range of cons from the dawn of penology to Dickensian malefactors and Al Capone (see picture). ■



1. SLEEK: Personal TV, the latest minimalist furniture and a good gym. Who could ask for anything more in Austria's Leoben Prison?

2. COMFORT: Family visitors can be accommodated overnight in a free-standing two-bedroom house at Leoben. The plan is to turn the 252 hard core inmates into well-behaved citizens. Cells are cheerful.



3. PLEASING: Underfloor heating, flatscreen TV sets, a good library and dining hall. Halden Prison in Norway is determined to rehabilitate prisoners.

4. PAY-AS-YOU-GO: For a few dollars more ... Otago Corrections Facility, South Otago, provides superior accommodation for those who are prepared to cough up \$75 to \$127 a day.





FROM RUSSIA WITH LOVE

Wicked
Home Affairs
is spoiling the
fairy tale of the
billionaire and
the stripper

HE IS A telecoms billionaire who, in just a handful of years, built his company into Africa's leading satellite and telecommunications group, servicing half a billion people in 40 countries. She is a once-penniless "exotic dancer" from the Baltic, who peeled off her clothes down to a demeaning G-string to perform lap dances for cash in a Cape Town strip joint.

Many, if not most, of the young ladies from the Eastern bloc who come to ply their trade in South Africa perhaps do so in the hope of meeting and marrying a prosperous local. But this is a true love story, although the price both partners have had to pay for it is high.

Today Peter Gbedemah is no longer the famed London-based chief executive of Gateway Communications. And Russian-born Nelli Sokolova is banned from South Africa and their R4.3-million Camps Bay love nest.

Over the past four years Gbedemah has spent a small fortune and a great deal of his time and energy conducting a running battle against the Department of Home Affairs in a vain attempt to secure residence status for Sokolova in South Africa. At the height of the battle, Gbedemah and his co-founder of Gateway, Julian McIntyre, sold the group they started in 2001 to Vodacom for a whopping \$700m (around R4.7 billion). Part of

the deal was that their executive team, including Peter Gbedemah, would be retained and that Gateway would be managed as a separate entity.

But as Sokolova's courtroom battle – unreported in the media – heated up and Gbedemah devoted an ever-increasing amount of time to fighting for his lady, the boardroom knives flashed – and on 26 November 2009 the Registrar of Companies in the UK was suddenly informed that Peter Gbedemah's directorship of Gateway Communications had been "terminated".

Peter Gbedemah is 46, a keen scuba diver and Africa traveller. His father hails from Ghana, his mother is British, as is he. Before Gateway Communications, he held senior executive positions with Citigroup and British Telecommunications.

Nelli Sokolova, now 31, was born in Russia's Krasnodarsky Kray, a popular holiday region of towns and villages bordering the Black Sea. When she was 16 she left its clement Mediterranean climate for Moscow to study for a diploma in tourism. In 2004, when she was 24, she was recruited by a talent agent to work as an "exotic dancer" at a club in Lugano, Switzerland. That six-month engagement earned enough pay for her studies and helped to settle family debts.

This, Sokolova decided, was the way to go. "My intention to take up work in foreign countries as an exotic dancer was motivated altogether by the prospect of making money, way in excess of what I was capable of earning in Russia," she explains in an affidavit.

"I was 24 and although I found absolutely no dignity in working as an exotic dancer – sometimes under strange and humiliating conditions – my earnings would enable me to progress financially toward personal independence."

Back in Moscow after Lugano, Sokolova met Russian strippers who had returned from Cape Town, where they had worked at Mavericks, a so-called upmarket strip club complete with a Platinum VIP lounge with private lap dance booths (R200 a bounce). She applied and was offered a one-year contract as a corporate worker.

Sokolova arrived in South Africa on 1 November 2005. "I began my contract immediately," continues her affidavit. "I continued dancing at Mavericks, was treated well, earned my expected



Peter Gbedemah

Sokolova had other things on her mind than spinning around a pole at Mavericks

income and decided to return to Moscow on holiday on 4 June 2006. My holiday was agreed to be two months, but I returned after three months, on 5 September 2006."

Overstaying her holiday by an extra month did not please Mavericks who were late in applying for renewal of her work permit, so she was fined R1,000 in the Cape Town Magistrate's Court for overstaying her time in the country.

But by now Sokolova had other things on her mind than spinning

around a pole at Mavericks – that October she had met Peter Gbedemah when the telecoms tycoon was visiting Mavericks with a group of business colleagues.

"I had never seen him there before. Although my job at Mavericks was to entertain its customers, my interaction with Peter on the first occasion was very unusual." (Sokolova does not go into details). "We found an instant attraction for one another."

Six months after they met, Gbedemah paid R4.3m for a luxury triplex, a three-floor apartment in the exclusive Roodeberg complex at Camps Bay, with breathtaking sea views from its terraces. Sokolova was installed there, with an allowance of \$1,500 (R10,000) a month from her benefactor.

Mavericks finally got around to filing a fresh work permit application for Sokolova, and while this was under consideration, Home Affairs gave her authorisation to remain for a couple of months. But Sokolova had no intention of returning to the club.

"I realised that my relationship to Mavericks was over and I believed it was in my best interests to obtain alternative employment and a new immigration status."

This decision regrettably led Sokolova and Gbedemah, early in 2007, to a man in Johannesburg named William Abraham Barnard, who had assisted other strippers with work



Peter Gbedemah's Camps Bay love nest

simultaneous talks in Johannesburg and London on Vodacom's pending \$700m acquisition of Gbedemah's Gateway Communications. The deal, announced in August 2008, was consummated at the end of the year. In December the lovers needed a break. "Peter and I decided to go on holiday to Thailand as we were both emotionally exhausted," says Sokolova's affidavit.

At Johannesburg's Oliver Tambo International airport an immigration control official examined Sokolova's passport, declared that her page 17 work permit looked fake and drew a line through it. He added: Cancelled.

The couple were allowed to proceed to Thailand where, in Sokolova's words, she found herself "trapped and my freedom of movement curtailed". She lamented: "I cannot accompany Peter, my life partner, to the UK, the place of his usual residence and nationality. Nor can I return to South Africa where I wish to continue to reside and to be with Peter on his frequent visits there. I have made Peter's house in Camps Bay my home, since I do not have a home anywhere else in the world."

Gbedemah retained a Cape Town immigration lawyer, Gary Eisenberg, to have Sokolova's prohibited person status lifted. Eisenberg flew to Tel Aviv to take Sokolova's affidavit. But Home Affairs' heart was hardened. Its chief director of legal services, Deon Erasmus, wrote saying Sokolova had remained illegally in South Africa between 16 January 2007 and June that year; she had not worked since leaving Mavericks; she had never worked for William Barnard's Entertaining Promotion (SA) and indeed, that enterprise did not exist.

As the finishing touches were put to Vodacom's buy-out of his company, Gbedemah initiated a criminal prosecution of Barnard. However, because Sokolova was not allowed to enter South Africa, it was impossible for her to testify against him.

In November 2009 Home Affairs Minister Dr Nkosazana Dlamini Zuma wrote: "Ms Sokolova has not demonstrated good cause to declare her not to be a prohibited person. The chief director's conclusion that there is a strong possibility that Ms Sokolova colluded with Barnard to obtain the fraudulent permit is a plausible inference."

This April Peter Gbedemah funded a fresh application to the South Gauteng High Court in Johannesburg seeking an order that Home Affairs be compelled to issue Sokolova with

permit problems and was reputed to be a lawyer.

Barnard told Gbedemah that he ran several entertainment establishments similar to Mavericks and would resolve Sokolova's immigration problems by getting a work permit and employing her. His fee: R12,000 – R9,000 in advance.

Gbedemah paid up the R9,000 and some months later Barnard returned Sokolova's passport, page 17 of which now bore a Home Affairs work permit – valid for three years until 4 April 2010 – entitling her to take up employment with Barnard's Entertaining Promotion (SA) as a "Roving Entertainer". This, explained Barnard, would allow Sokolova to work as and when she felt like it.

But there was never any employment from Barnard. Sokolova claims that she thought the new permit was legal. Certainly, she encountered no problems with passport control when she left and re-entered South Africa in her new jet-setting lifestyle. In 2007 she flew twice to Moscow to visit her family.

But the storm clouds were gathering. "Peter and I found ourselves cohabiting as life partners and our relationship had strengthened to the degree (that) Peter decided to take me with him to London to introduce me to his parents," reads Sokolova's affidavit.

Her application to the British Consulate-General in Cape Town for visitor entry clearance was refused – insufficient details on her financial position. Two months later she reapplied, disclosing her \$1,500-a-

An immigration official said Sokolova's work permit looked fake and drew a line through it

month allowance from Gbedemah; her Standard Bank statements showing further deposits by Gbedemah; plus two cash deposits of R24,000 and R13,000. And R70,000 in savings.

Again, her application was refused. This time the British official was "satisfied to a high degree of probability" that Sokolova's South African temporary residence permit was a fake.

Gbedemah retained top UK law firm Simons Muirhead & Burton who made a third application for Sokolova's visitor entry clearance. It was again refused, this time because Sokolova had not demonstrated her intention to depart the UK at the end of her visit.

While all this was going on, there were

a permit to enter the country to give evidence against Barnard and an ex-Home Affairs official named Vincent Chiloane. Home Affairs filed an opposing answering affidavit and the hearing was postponed to give Sokolova's attorney time to file a replying affidavit.

Earlier, Barnard and Chiloane had appeared at the Johannesburg Magistrate's Court on charges relating to Sokolova's "fake" permit. Magistrate Johan Budricks struck the matter from the roll, saying that Sokolova was a crucial witness "but would not be allowed to enter the country for reasons which I can only speculate on".

Says Home Affairs' legal services chief director Deon Erasmus: "I would think she wants to come into the country again using another avenue. We are opposing the application vehemently."

Sokolova's attorney Gary Eisenberg refuses to tell *Noseweek* the whereabouts of Gbedemah or Sokolova. In a written statement he says: "Our client Sokolova was the victim of fraud, perpetrated upon her by a criminal syndicate. Whichever way the litigation plays out, this is the nucleus of the matter. You will also note that the Department of Home Affairs itself, through one of its officials, was part of

that criminal syndicate."

At the Grosvenor Street headquarters of Gateway Communications in London's fashionable Mayfair, what do Peter Gbedemah's colleagues and co-directors make of Nelli Sokolova and their chief executive's abrupt departure? Nobody's saying. Indeed, a study of the group's newsletter, *Talking Drums*, at the time he left, merely adds to the mystery.

Vodacom's takeover of Gateway, remember, was completed at the end of 2008, with a pledge that the Gateway team headed by Gbedemah would remain in place. In February 2009, in his *Talking Drums* chief executive's slot, Gbedemah declared that 2009 was going to be "Gateway's most exciting year yet... I look forward to working with you all as we see further transformations in African telecommunications".

In *Talking Drums* for July 2009 he's still there, reflecting proudly on Gateway's recent win of SatCom's Satellite Provider of the Year award as well as the prestigious GTB Innovation Award.

But in the next issue, for November 2009, there's no Peter Gbedemah anywhere. Just an item headed "Organisational change", followed by a bald announcement that Mike van den

Bergh, who had led strategic development in the carrier markets over the past seven years, had been appointed CEO of Gateway.

Today, in Gateway's Joburg office, Karen Slocum, PA to new chief executive Van den Bergh, will only say: "Peter took a leave of absence".

In London, Gateway's marketing director Tom Tudor comes up with an unconvincing explanation for the top man's departure. "Peter Gbedemah no longer works with Gateway Communications," he tells *Noseweek*. "In the telecoms industry, people are more interested in tomorrow than yesterday, so it is good marketing/PR practice to announce the arrival of a new CEO with plans for the future, and not to refer to the past. There is nothing more to it than this."

Today the Camps Bay love nest is deserted. "He lives overseas," says a fellow resident.

Noseweek emailed the tycoon: Are you still determined to spend the rest of your life with Sokolova? Where are you these days? Where is Sokolova? When did you last see her? In court papers you declare you are unmarried. Why don't you just marry Sokolova, then she can travel freely anywhere, as your wife?

No response. ■

NUMBERS DON'T JUST GO MISSING

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SLIPPERY CAR DEALERS AHEAD

**Mercedes
bows to the
client who just
wouldn't lie
down**

EXPERIENCE the road as never before. Agility and effortlessness. Your safety is our greatest motivation. It was these sales puffs that helped persuade Keith Radue, an IT specialist from Johannesburg, to part with nearly a half a million rand for a Mercedes Benz C220 CDI Avantgarde in September 2007. But they turned out to be hollow promises, and now he regrets having been so gullible.

In buying the car, he also paid for a full extended warranty which stipulated that all service and repair work must be done by an approved Daimler AG dealership or MBSA themselves.

Soon after Radue picked up his car, after a routine service that included having the brake pads changed last year, he realised that his ride was behaving abnormally – when idling, the brake pedal was going flat to the floorboard in under four seconds without any hint of halting the car.

“Fearing for my safety and that of other road users, I had it towed to MBSA Centurion where their technicians recorded the behaviour of the brake.”

The technician provided him with details of the inspection. Headed “Technical Concerns”, it said: “Braking issue where the brake pedal goes all the way down to the floorboard and it seems that the brakes do not have pressure.”

Radue told *Noseweek* that the technicians made several attempts to fix the problem – apparently in communication with Daimler AG – to no avail. Several days later, MBSA instructed that the vehicle be taken to Cargo Motors, Bedfordview, where the brake problem would be fixed under their supervision. He was however barred from witnessing whatever they were doing to his car.

Not having much to do, Radue decided to look into the law regarding brakes – and discovered that the South African Bureau of Standards (SABS) document SANS 10047:2009, which spells out the national standards for “testing of motor vehicles for roadworthiness”.

It says no roadworthiness certificate will be issued if “in the case of hydraulic system, there is sponginess or the pedal creeps down when a light, firm pressure is maintained on the pedal...” Radue’s brake problem was worse than that, so he immediately alerted MBSA to what the law says. That was his mistake; nearly four weeks after his car was checked into Cargo Motors, MBSA sent him an email: “...As per your concerns with regards to the braking system on the above vehicle, various tests have been conducted by our Mercedes-Benz South Africa Engineers in consultation with Daimler AG.

“Please also note that an independent brake test was conducted

by East Rand Testing Station. We would like to conclude and advise that your vehicle is within Mercedes-Benz specifications and is performing as designed.

“We would like to advise that we as Mercedes-Benz South Africa now consider this matter as closed. No further communication will be entered into unless done through the Motor Industry Ombudsman of South Africa.”

Of course MBSA knows how toothless the industry ombudsman is. After all, if the SABS – as it transpired – had been aware of the braking system issues with Benz models that had chassis numbers beginning WDD204*** from as early as mid-2007, and had failed to demand a recall, what would the ombudsman do?

Stuck with a dangerous, if classy ride, Radue took the vehicle to a state-approved roadworthiness test facility in Kempton Park, which failed the car because of its brake system. He told *Noseweek*, “The inspector recommended that a company called Rand Brake should have a look at the brake.”

A vehicle that MBSA engineers “in consultation with Daimler AG” had declared to be working as designed could not pass a roadworthy test. Nonetheless Radue decided to heed to the recommendation and delivered the car to Rand Brake, without disclosing the earlier claims by MBSA.

On the Mercedes-Benz, Model W204, VIN No. WDD204***, Rand Brake’s engineer reported in a letter dated 8 April 2011: “After inspecting the above-mentioned vehicle, it is my opinion that there is a fault with the brakes. The brake pedal fades as the brake is applied while not in motion. It could either be the master cylinder bypassing, or the ABS valve bank. Without being allowed to work on the car, it is impossible to identify which one is faulty.

Not prepared to have his supposedly

executive ride sent to some scrapyard, Radue took it to the National Regulator for Compulsory Specifications (NRCS) for inspection.

The NRCS reported: “Following the concerns by Mr Radue about the Mercedes-Benz C220 CDI with VIN WDD204*** regarding the faulty braking pedal, an inspection was conducted on 7 April 2011 at the SABS buildings by the NRCS in view to confirm that the brake pedal crept down when the pressure was applied and maintained on the pedal.

“The NRCS hereby confirm that the brake pedal as fitted on the vehicle in question crept down when a light pressure was applied on the brake pedal.”

Regardless, MBSA stood their ground and ignored any further requests from Radue to have another go at the problem. Having read “Driven round the Benz” in *Nose 138*, he decided to contact *Noseweek*.

He also used his IT expertise to publicise his nightmarish experience on the web – which paid off with some good advice, particularly from the online community mbworld.org where a barrage of similar complaints were being posted. The pressure and embarrassment must have convinced MBSA to try a different tack with their tricky customer.

A few days after looking into the matter, *Noseweek* had a call from a jubilant Radue: “They sent a tow truck this morning to collect the car.”

A week later, MBSA returned his car, which had had its ABS system replaced at a cost of R16,000 – covered by MBSA. The company has, however, refused to disclose to Radue whether any action has been taken against their engineers, who had been wrong all along.

MBSA has ignored all *Noseweek*’s queries. It’s understandable that Radue is instituting legal proceedings against the company for all the time he had to waste on the problem. ■

The pressure must have convinced Mercedes to try a different tack with their tricky customer



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At last!
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MTN RINGS IN CHANGES

MOBILE phone subscribers are still at the mercy of unscrupulous content providers who debit their cell phone accounts for unauthorised services – despite the new Consumer Protection Act. But MTN has finally heeded the many desperate calls from its customers and implemented

safeguards to protect them from at least one such provider – T-Mobile SA.

A few weeks ago, MTN's system went wild when T-Mobile SA (trading as Wireless Connect) arbitrarily sent out tens of thousands of debit requests valued at over half a million rand in the space of just a week.

Kevin Jacobson, MTN SA's general manager: business indirect sales, said his network had decided to alert its subscribers by sending a text message notification for the impending debit: "Yello! T-Mobile debited your account for R5.00 for content 'Inspirational Quotes'..." and subscribers were asked to verify their acceptance of the offer with either MTN or T-Mobile.

One MTN subscriber, Carin Swart, who was among the first to bring this to *Noseweek's* attention, doubted its authenticity. She wrote: "I can only guess that the chances of that happening are very small and that hundreds, if not thousands, of the same SMS has been sent to MTN SP subscribers."

That's how sceptical consumers have become of big corporations; it was just too good to be true, and was most probably a spam text from MTN. But – along with other subscribers in the same boat – she later discovered that her account had indeed been debited for R5.00.

Suspicious at the number of debit requests MTN was receiving from T-Mobile, the network decided not to wait for "stop" requests from subscribers and promptly suspended the operation of the rogue content provider from their network then set about reversing payments that had already gone through.



MTN also kept customers informed about what was happening. The second lot of text messages to affected subscribers read: "Dear Customer, your account was deducted by content provider TMobile. Upon investigation, we found such deduction to be irregular. We are in the process of reversing the deduction and taking action against the provider."

This must be a first for South Africa – a cell phone corporation taking a pre-emptive measure to protect its clients is something everyone, including *Noseweek*, has been urging for some time. When *Noseweek* contacted MTN, Jacobson shared with us their frustrations in dealing with TMobile SA.

He told us: "The same Wireless Application Provider (TMobile) had previously been suspended by MTN for unauthorised billing events. The suspension was lifted with the proviso that TMobile implemented a double opt-in for their customers."

However, it would appear that as soon as the ban was lifted, TMobile decided to recover the revenue lost during the suspension with a mass-collection of R5.00 from every MTN subscriber on their database.

Jacobson said MTN customers were now provided with a free SMS billing notification advising them of the debits by TMobile and an opt-out option to stop the transaction. He said MTN call centres and stores had been flooded by thousands of subscribers complaining that they had never requested any content from TMobile, so the company

had decided to undertake an internal audit – which had revealed that the content provider had, in the space of 10 days, sent out debit requests worth more than R500,000. Next, the company was going through its systems to ascertain exactly how much

It must be a first for SA – a cellphone corporation taking a pre-emptive measure to protect clients



had been lost by MTN subscribers to TMobile.

He said that MTN had also lodged a complaint with – and submitted a recommendation to – Waspa (the Wireless Application Service Providers' Association) for the permanent expulsion of TMobile.

MTN has also demanded, through Waspa, reimbursement of all amounts illegally charged by the provider. And *Noseweek* has learnt that there may be criminal proceedings in the offing.

TMobile SA was registered in 2008, listing the now-28-year-old Masilu Peter Lebepe as its sole director. At the time of registration Lebepe worked for another content service provider, SMSnet-SA.

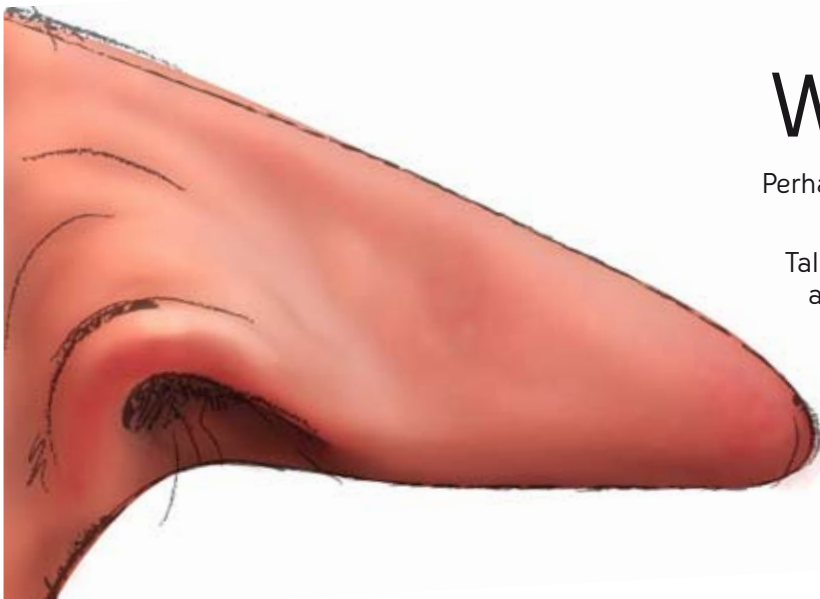
On its website, wirels.com, TMobile claims to be a member of several umbrella organisations including Icasa (Independent Communication Authority of South Africa).

Aware that Icasa does not allow private membership, *Noseweek* contacted the authority, which confirmed that the R5.00 deductions would be investigated.

When *Noseweek* called TMobile's listed phone number, an automated message said: "Thanks for calling Wireless Connect, please hold on for an agent to answer your call". A follow-up call a few minutes later was answered by the same voice – this time in person – a voice that turned out to belong to Peter Lebepe.

Asked about his company's attempt to defraud MTN subscribers Lebepe told *Noseweek*: "You should leave a message for my call centre manager Susan Jacobs, who will answer all your queries."

Reminded that he was the registered director of the company which appears not to have a call centre, Lebepe, alias Tsoko Informat Masilu, hung up. ■



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A BOLLYWOOD drama starring Rafik Bhana and directed by Enver Motala: *A Licence to Steal*. That's how one SC describes the age-old practice of conferring Senior Counsel status on any advocate who's been around a bit – and who hasn't messed up too badly (see page 26)

This story comes in instalments. In *nose113* "Mugabe's fag king", John Bredenkamp, put his company, Masters International Tobacco Manufacturing, into voluntary liquidation then made sure that the controversial and very well-connected liquidator, Enver Motala, was appointed provisional liquidator.

Motala quickly started selling off the company's assets by private auction – evidently to ensure that the company's largest creditor, Sars (which had a cool R60-million claim) didn't get its hands on those assets. Incensed, Sars went to court to have Motala removed as provisional liquidator and to have the company put into forced, rather than voluntary, liquidation (*nose126*). Although Sars succeeded, Motala wasn't about to give up. He managed to

get himself appointed a joint final liquidator (together with one Y Ebrahim and one S Kalian) at the first meeting of creditors.

Then Motala really had some fun. For starters, he submitted a so-called intromission account so that he could pocket R238,000 in fees – 10% of the amount he collected from creditors. (The fact that he only collected R2.3m, when he should have collected R4.8m, was itself a sore point with Sars).

Motala illegally paid certain concurrent creditors, without authority, apparently to keep them sweet so they'd endorse his appointment in future liquidations. He passed lots of legal work to a chosen-few law firms, including his personal favourite, Knowles Hussain Lindsay. And he paid salaries and rentals that Sars maintained he shouldn't have paid. He also made a large unexplained loan to a cigarette company.

It transpires that Motala also instructed an attorney, Elmarie Verster, to conduct an insolvency enquiry into the company. She briefed Advocate Rafik Bhana SC, with whom Verster is

now in dispute because she has failed to pay him.

Verster has lodged a complaint about Bhana with various parties: Craig Watt-Pringle SC, chairperson of the fees committee of the Johannesburg Society of Advocates; Neil de Villiers, secretary of the Professional Sub-Committee of the society; the Law Society of the Northern Provinces; and the Master of the North Gauteng High Court. She starts off quite politely by saying she wishes to “formally raise a fee dispute and report the conduct of Bhana”. She ends by being a lot more direct: “Bhana over-reached [and] Bhana charged for work he did not perform”.

The complaint makes it clear that this thing is pretty damn unpleasant. Says Verster: “In the course of acrimonious communications between Bhana and myself, Bhana has accused me of bad faith, pursuing an ulterior purpose and not acting in the best interests of my client”. She talks of “an unpleasant meeting at the chambers of Bhana – at which Motala was present – on 9 December 2010, when Bhana threatened to sequester me and accused me of having defrauded the estate”.

She goes on to talk of a letter from Bhana dated 21 February 2011, in which, she says, he again threatened to liquidate her if she didn’t pay the amount owing. This, despite the fact that “Bhana is fully aware that I have not been put in funds to do this by the joint liquidators because of the dispute, and because Mr Kalian [joint final liquidator] is of the view that this matter should be resolved before the Fees Committee... I do not believe that Bhana has called on the clients (liquidators) direct for payment but has chosen to use me as his stalking horse to achieve payment”.

So what exactly is the problem? Well, Verster has attached a schedule of Bhana’s charges: between 16 March 2010 to 30 August 2010 he charged R1,256,580. And he continued doing work despite his being aware at the end of May 2010 that Verster had issues with his account.

Just how did Bhana rack up such a hefty bill? Largely by “reading and considering” it seems. Yes readers, lawyers charge their clients their normal hourly rate for reading the papers they need to, to handle the case. And in this case, Bhana seems to have done an extraordinary amount of reading. This is how Verster puts it: “I point out, for instance, on 16 May 2010, Sunday, Bhana

allegedly worked 13.5 hours at R2,800 an hour. On 6 July 2010 he charged for 19.5 hours. On 2 June, he says, he read and considered documents for nine hours, and the following day, 3 June, he charges for 15.75 hours for reading time. On Saturday 12 June 2010, the day after the opening of the World Cup, he says he read and prepared for 15 hours”.

All this reading is quite amazing, says Verster, because “although Bhana insisted he be furnished with all files

representative, because Bhana “had a working relationship with Sars”.

As a consequence of all this, says Verster, “the reading that Bhana had to undertake was not enormous”. And, not only did Berlowitz have to do most of the work, but Bhana gave him a really hard time. Berlowitz, says Verster, was “unfairly and unjustly criticised because he was not the junior Bhana wanted to work with from the outset... I was privy to his unfortunate behaviour and high-handedness in this regard”.

Astute readers may have picked up that there may be something of a difference of opinion between the liquidators. Kalian wanted Bhana’s fees looked at, but what of the other two? Well Y Ebrahim isn’t mentioned, but our old friend Mr Motala certainly is.


Says Verster: “I must point out that my complaints *vis a vis* Bhana’s actions and overcharging, whilst initially carrying with it (or so I understood) the sanction of Mr Motala, has not been approved of by Mr Motala, who has pertinently “instructed” me not to pursue this. On the other hand, Mr Kalian is of the view that I do so... this and similar dichotomies have bedevilled my ability to discharge my mandate”.

Why this difference of opinion? Well, it may just be because – as Verster mentions in what is almost a throw-away line – Rafik Bhana SC is Enver Motala’s cousin.

And it was Motala “who insisted on his being briefed from the outset” – which sounds about par for the course for Enver Motala.

At the time of writing, Verster had received an acknowledgment from the Johannesburg Society of Advocates – but nothing more.

Bhana didn’t return *Noseweek’s* calla. ■



Motala illegally paid creditors, apparently to keep them sweet

relating to Masters, the vast majority thereof was not in his remit”. That’s because Bhana was assisted by a Junior Counsel, one J K Berlowitz, who was to concentrate on the files relating to the other debtors. And even though Bhana was to concentrate on the Sars aspect of the case, Berlowitz actually had to do the questioning of Sars’



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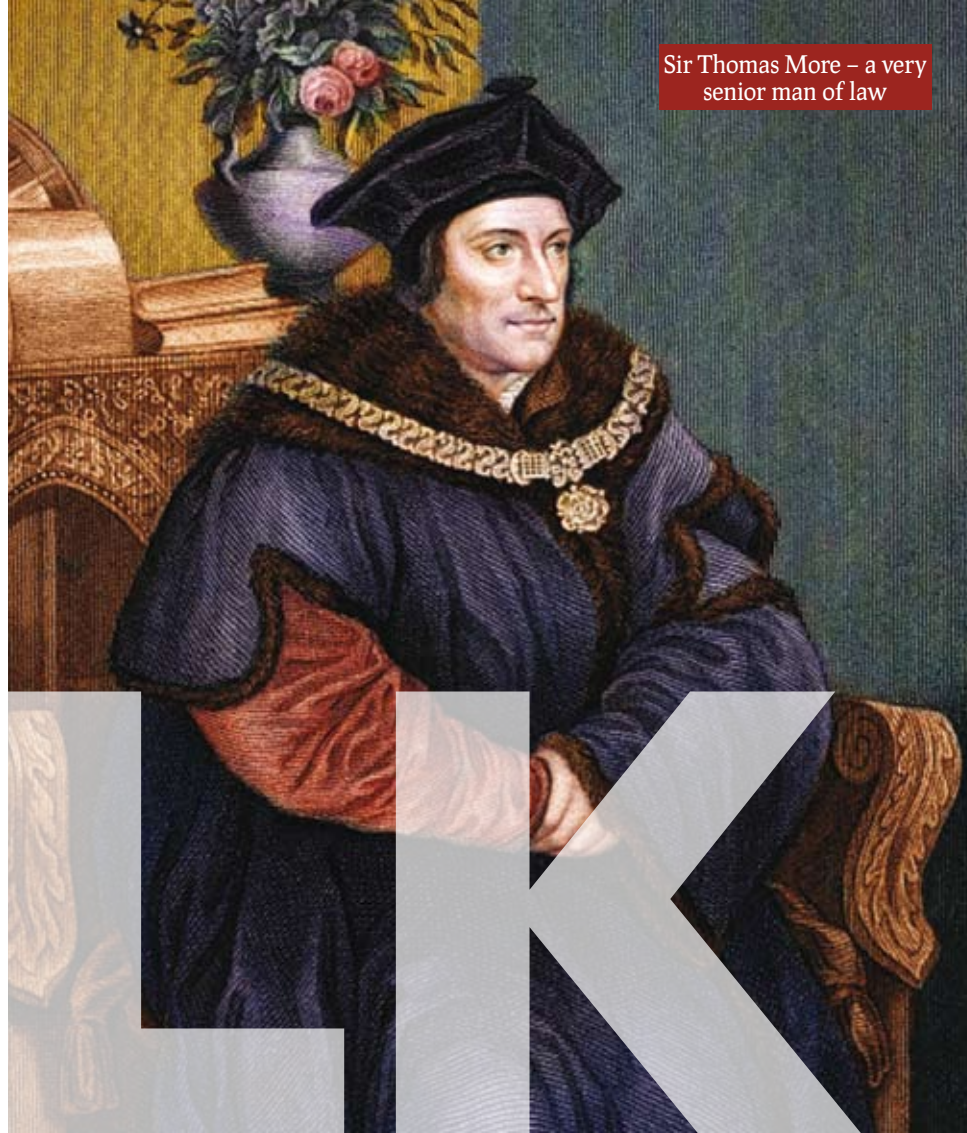
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(Hout Bay & Llandudno)

Is a colonial legal tradition hanging by a thread?

SILK



THAT MYSTERIOUS legal creature called the silk, aka Senior Counsel (SC) is basically an advocate who's been around the block a few times, and who's been rewarded for their effort by being allowed to "take silk". (When you have a problem you see an attorney, whereas the lawyer the attorney briefs to represent you in court is an advocate.) To add to the mystique, the advocate practises at a particular "bar". For example, the Johannesburg Bar, is part of a group rather than a firm, and operates from "chambers" rather than offices.)

Silks are accorded huge respect and, until fairly recently, all our judges came from the ranks of SCs – although the net now covers attorneys and legal academics too, primarily to ensure that the Bench doesn't remain lily-white.

Even today an attorney will seldom start a case of any significance without first getting a favourable opinion from an SC. And a corporation or government department needing advice will often insist on an opinion from an SC. Of course this reverence is often

misplaced – it's worth bearing in mind that in every case there's a loser, often represented by an SC – and that it was an SC, Roelof du Plessis, who was taken to the cleaners by that intellectual lightweight, Julius Malema, in the *Shoot the Boer* case. (You might want to read the piece elsewhere in this magazine about Rafik Bhana SC, which confirms the view of many that taking silk is like getting a licence to print money.)

Taking silk is what advocates strive for. But not all are in favour of the system, and the issue of whether we actually need the SC flares up from time to time. It was debated back in 2004 when Owen Rogers SC made the case for the abolitionists, calling the system "elitist" and a "colonial relic". He argued that it serves no practical purpose because the selection of advocates is all about referral, and that no-one briefs an SC simply because they have those letters after their name.

Putting the case for the traditionalists was Advocate Seth Nthai who, although recognising that more

transparency is required in the selection process, argued that the system should be retained because the prospect of taking silk raises standards among junior counsel, and creates a reservoir of aspirant judges.

But now the ante has been raised considerably by Roshnee Mansingh, a Johannesburg advocate who has brought a High Court application to have the whole SC system scrapped. She has cited a number of respondents, including the State President, the General Council of the Bar of South Africa (GCB), and the Law Society of South Africa – a society made up of the various provincial law societies as well as those two anachronisms, the Black Lawyers' Association and the National Association of Democratic Lawyers.

Unlike Owen Rogers SC, Mansingh has a personal gripe with the system – she's been practising law since 1998 and has been turned down for silk more than once. She argues that attorneys and their clients have certain preconceptions: "In the minds of many clients and attorneys, the existence of

the institution of silk is assumed to be a reliable guide to an advocate's experience, ability and skill... accordingly clients and attorneys with cases they regard as important or complex will often insist on having an SC as their advocate leading their legal team".

There is also, Mansingh argues, "a perception that a silk will receive a better and more respectful hearing from the court, a matter of significance if the opposing litigant has briefed a silk... my experience and that of my group is that it does unfortunately occur from time to time that a court will treat senior counsel more deferentially than other advocates".

She goes on to talk about the perceptions regarding advocates who have unsuccessfully applied for silk: "It may then be assumed this is because they lack ability and skill or there is some other defect in their practices or professional integrity".

As for the procedure, she argues, "the criteria are inherently vague". As a result, the system is discriminatory and unfair. "Some advocates are advantaged over others in their professional practices by the continued existence of the institution of silk."


So just what is the procedure? Well, it's all a bit closed-shop and Masonic. Although SC status is awarded by the State President, Junior Counsel wishing to apply for silk must apply to their Bar Council. The criteria mentioned are vague: the applicant's practice should consist of "good quality work"; they must be a person "of perceived ability"; race and gender will be considered; advocates who have been at the bar for under 12 years are unlikely to be elevated; and candidates are warned that the club is "intrinsically that of a leading minority".

Once the applications are in, the list is published for comment by other advocates. There's an assessment by a "Silks Committee", which may interview the candidate. The list of successful candidates is sent to the Minister of Justice, who forwards it to the State President who, in turn, issues "letters patent" to the new silks. As far as Mansingh knows, not a single advocate approved by the Bar Council has been rejected by the State President, and she is aware of only one advocate who, having been turned down by the Bar Council, successfully approached the State President.

And here's the rub: it is effectively the profession that makes the decision,

with the State President simply giving it a rubber stamp. Which confirms that SC status is, in effect, a mark of quality – what the GCB has described as "a marker of experience and excellence in forensic advocacy" (in the UK, from whence the system originates, and where leading barristers, as they are called there, can apply for Queen's Counsel [QC] status, it's referred to as a "mark of distinction in advocacy").

But, argues Mansingh, although in the UK the Crown may have the power to award QC status by virtue of a common law prerogative, there's no equivalent power in South Africa. Before 1961, South African advocates would receive their QC status from the



Senior counsel are appointed by the legal profession – not the President

Governor General, and when South Africa became a republic "such powers and functions as were immediately prior to the commencement of this Act possessed by the Queen by way of prerogative" were reserved for the State President. This power was not retained in the 1996 Constitution. What the State President does have, instead, is the power to confer "honours" under section 84(2) (k) of the Constitution. But honours are something very different from SC status; they're an acknowledgment of certain contribution to society.

Mansingh explains that there are numerous honours that can be awarded by the State President. We won't bore you with the full details, but basically these recognise distinguished service in fields like business and science, excellence in fields like arts and culture, contributions to democracy and human rights, foreign dignitaries, and South Africans who have excelled

internationally.

Lawyers can certainly be awarded honours – Dullah Omar was awarded the Order of Luthuli, whereas Sydney Kentridge, Pius Langa, Ismail Mahomed and Arthur Chaskalson all received the Order of the Baobab.

But argues, Mansingh, SC status is not an honour, rather "it is a certification of professional excellence". She makes the point that the recipient of SC status "need have made no contribution to the life of the country; his or her practice may have been devoted entirely to complex commercial litigation for private clients".

Mansingh clearly has her supporters. On 24 January 2001 Advocate Nazeer Cassim SC wrote to the chairperson of the GCB on this issue and copied to the State President. She alluded to the anti-competitive nature of the institution and wrote with considerable passion: "...the institution of silk must go, it does not facilitate access to justice and has come to represent some of the pernicious evil features of our society, greed and elitism. It is divisive in its nature, particularly in the manner it is applied, and this divides the bar. It reduces the dignity of many of our colleagues... In classical James Bond language, silk status has come to represent 'a licence to steal'".

In the absence of any reaction, Mansingh seems to have concluded that litigation is the only option. What she wants is a court order declaring that the State President does not have the power to confer SC status on advocates. If she succeeds it must follow that all such awards made since 1994 must have been unlawful. But she's not asking that they summarily be set aside – all she wants is that the authorities and the profession tackle the issue and decide on a way forward.

At the time of writing, Mansingh had received word that both the GCB and the Johannesburg Bar Council had resolved to oppose the application.

One would assume that black advocates would be very keen to get rid of a remnant of colonialism. But, as a (white) silk at the Johannesburg Bar told *Noseweek*: "Ironically, the black advocates are fervently and vociferously in favour of vestiges of colonialism such as silk, fancy robes, frills, 'M'Lud' rather than simply 'Justice' or 'Your Honour' etc – and the Black Lawyers' Association may very well intervene too! I suspect that we are in for some fun and games." ■



Fob off

When it comes to dealing with the public, FNB just can't help itself

IS IT ANY wonder that banks feature in almost every issue of *Noseweek*? This month it's the turn of the bank that's forever asking that ridiculous question: "How can we help you?" Well FNB account-holder Marilyn Wridgway has tried to tell FNB often enough, but the bank has absolutely no interest in hearing her suggestion.

Wridgway is a 57-year-old unemployed divorcee, entirely dependent on maintenance payments from her ex-husband who lives in Canada. Every month his bank, the Royal Bank of Canada (RBC), transfers the money to Wridgway's FNB account. Initially FNB charged a commission of R100 on every deposit, something Wridgway felt was unfair. She went in to her branch on a number of occasions to see if the fee could be waived, and each time she was told no way.

When in 2010 the fee went up to R125, she again complained and was told to write to the branch manager of Global Transactional Services, Veronica Mann,

– which Wridgway did on 4 November 2010, saying: "I am appealing to you to please reduce the Forex fee which has increased from R100 to R125... I am unemployed, have no pension or full medical... The international currency is maintenance".

Wridgway received no response, but her next bank statement made no mention of a commission charge. Nor did the statements that followed. Hurrah, she thought, FNB may not have bothered to get back to me, but at least they've waived the commission. Just to be sure, in March 2011 she asked her ex-husband to clarify exactly what amount he'd paid in. He checked with his bank and told her the amount that should have been deposited into her account was R10,828.11.

Her March FNB statement showed she had received R10,709.11 – exactly R125 less. It looked as though FNB had continued charging commission, but had stopped telling her about it.

Surely FNB isn't that sneaky?

Noseweek approached the bank's king of spin, Stephen Higgins, senior manager: personal banking media liaison, who said: "FNB does not, and may not, levy a charge on this transaction. We have not received a request from the customer to waive this fee. The charge of R125 was levied by Standard Bank of South Africa, as this bank is paying funds to FNB on behalf of another bank. We have a trail of documents to show that the amount received by FNB from Standard Bank is the full amount paid to the customer".

Confusing. Back to Higgins: "As we understand it, the RBC pays Standard Bank (presumably its SA

And although the commission had always been reflected on Wridgway's statements, there is no reference to it in those issued since her letter of 9 November 2010 – which FNB says it didn't receive – in which she repeated her request for a waiver of the commission. Why is that?

Said Higgins: "I must correct myself. I have asked people to go back further in branch records and they now advise we did receive a request from the customer in November requesting a waiver of the commission.

"The Canadian bank was paying us directly until October 2010. However, Standard Bank of South Africa has the respondent-bank relationship with RBC. We do not have such a relationship. While FNB was receiving funds directly, FNB was charging commission, as reflected in the statements. The Royal Bank of Canada has an instruction to recover commission from the recipient. RBC then switched its payment channel to Standard Bank to comply with its respondent banking agreement. At this point, FNB stops recovering the commission and this item no longer appears in statements."

Not clear, but it seems to mean this: We did charge Wridgway a commission initially, but at exactly the same time she sent us a written request for a fee waiver, the Royal Bank of Canada moved from FNB to Standard, which now levies the charge instead of us, which is why it doesn't appear on our statements. We really saw no reason to get back to Wridgway, we have far better things to do than deal with trifling queries. We didn't take *Noseweek's* query too seriously either and thought we could fob you off with a terse denial.

But something didn't tally. Wridgway has been receiving these payments for 10 years, and, although she hasn't kept many bank statements, those she can find – one from as far back as 2003 – mention Standard Bank (Code 53A: SBZAJJ) and in one case the words "Sender's Corr" also appear. Why? Higgins did not respond.

Was FNB charging a fee it wasn't entitled to charge? What is clear is that FNB is pretty clueless about customer relations. Start treating your customers as intelligent human beings rather than morons – and with a bit of dignity and compassion – even if their bank balances seem rather modest to well-paid bankers. ■

What is clear is that FNB is pretty clueless about customer relations

correspondent or receiving bank) the amount deposited by the ex-husband. Standard Bank then charges a commission of R100 or R125 per transaction and FNB simply passes this commission on to the customer, without charging its own fee".

Wridgway was unaware of Standard Bank's involvement. The statement simply references "FX 1bab406564 ST Comm". Nor was she told about Standard Bank's involvement on any of the many occasions she went in to her branch to query the commission. She was in fact told they would not waive the charge, which is why she assumed it was an FNB fee.



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PILLAR TO POST

HOGSBACK is a charming little hill-top retreat in the Eastern Cape, but its residents are restless. Not just because of the usual service delivery issues – the roads are shockers – but because of their PO boxes. At a recent Chamber of Business meeting in Alice, which services Hogsback, the following was solemnly minuted: “Ingrid reported that the post box situation could be investigated by the magazine *Noseweek*, as, if the allegations are correct, the Post Office could be raking in millions of rands illegally”.

Prior to 2005, people in Hogsback – as in all rural areas – were entitled to free PO boxes to compensate for the absence of a mail delivery service. But the Post Office has since changed its policy and Alice Post Office wants to charge an annual rental for boxes.

Ingrid Luyt wrote to Alice’s Postmaster, a Mr Haldane, on 2 January 2007: “I wish to complain about the heavy-handed manner in which Hogsback post-box holders are being treated by the appointed postal agent... [who] has unilaterally decided to impose charges for post boxes, based on a limited understanding of what constitutes business premises, upon those considered to be conducting such activities from their private residences.

“There is no one in Hogsback who does not do something from home to augment their income, whether it be pottery, painting, jam-making, letting out cottages... none of which are activities that negate a rate-paying citizen’s right to receive mail free of charge, where no door-to-door postal delivery

Villagers fume over mailbox charges

service is provided... there are indeed business premises in Hogsback which are not private premises and these may well be liable for charges for separate boxes. I very much doubt whether amendments to ensure charges for such services were ever intended to become a witch-hunt.”

After taking the matter up with the postal authorities in East London, Luyt managed to persuade Postmaster Haldane that the new charge was intended for separate business PO boxes only, and the issue went away for a few years. Now the Alice Post Office is again insisting that everyone pay an annual fee for their box.

Haldane confirmed that his staff had been told to scrutinise incoming mail for clues indicating that a PO box is being used for business purposes – and when their suspicions are aroused, to charge for the box. He was reluctant to discuss the matter further and referred *Noseweek* to the PO Customer Services Manager for the Eastern Cape, Tienie Williams.

Williams agreed it was a contentious issue and, particularly, a sore point with farmers: the Post Office had held

lengthy discussions with AgriSA. She referred *Noseweek* to Johan Kruger of the Post Office’s Communications Department in Pretoria.

Kruger was everything a Post Office employee isn’t expected to be: polite, pleasant and helpful. He immediately sent *Noseweek* a copy of the Post Office’s amended delivery policy – in force since 2005 – and which was, he said, sent to customers together with renewal notices for post office boxes.

It’s a pretty turgid and confused affair, with much talk of first and second postal addresses, but boils down to everyone being entitled to free postal delivery. However, in areas where there is no street delivery – “farms, agricultural holdings, rural and undeveloped areas” – citizens are entitled to a free box at the nearest Post Office. This, however, only relates to “household clients”. If the box belongs to a business or organisation, or even if the client uses the box to receive mail addressed to “businesses/organisations”, then an annual fee (R304) must be paid.

Kruger agreed that the Post Office is legally obliged to provide free postal delivery and, in terms of a licensing agreement with Icasa (Independent Communications Authority of South Africa), to make free postal addresses available to households. He pointed out that many people do still get free boxes but conceded that the policy could lead to all sorts of anomalies.

A few examples: register your box as “J Smith of Rolling Hills” and there’s no charge; register as “J Smith, Rolling Hills Farm” (or if someone even addresses a letter to you that way, in the mistaken belief you have a farm) you must pay up. If you’re a struggling farmer producing food for the masses, you pay for your post; if you’re wealthy enough to have a game farm you use for pleasure, there’s no charge. If your house is registered in the name of a non-trading trust, you pay; if it’s in your own name, you don’t.

And what does “any other business or body regarded as such” mean? Is a postal official qualified to decide that, if, say, you’re retired, live in the sticks and draw the odd cartoon for magazines, you’re running a business?

It doesn’t quite square with the Post Office’s fine mission statement on its website: “to promote harmonious interaction and relationships between the Sapo and its clients” and to “treat customers with respect and dignity”. ■

Oil on troubled water

VAN VISÉE was very happy with his Nissan Pathfinder until the day came when he wanted to drive it to Cape Town. In preparation for the trip, he went to CMH Nissan in Midrand and asked them to give the vehicle its 120,000km service.

In the course of the service they phoned him to say there was water in the gearbox oil. Had he driven through any rivers lately?

No. Consequently, they merely changed the oil – at quite a considerable price: far higher than the oil available elsewhere – so CMH Nissan was putting a high premium on it.

Visée took delivery of his vehicle and headed for Cape Town, only to have the motor blow up on him 60km short of the Mother City – just as he was about to enter the Du Toit's Kloof tunnel.

The SUV was then towed to Droomers Nissan in Paarl, which offered Visée the unappealing choice of either waiting three months-or-so to have his engine and gearbox reconditioned, or to have a new engine put in at a staggering cost. Visée realised that the differential cost between a new and a reconditioned engine was not that much, so he opted for the new engine. At this stage he was unaware of what had caused the disaster.

Only after Droomers had taken the engine out to replace it with a new one did he realise that the damage to the gearbox and engine had resulted from a leak in the gearbox oil cooler.

Surely, once CMH Nissan realised that he had not gone through a puddle, a pond or a river, they should have looked a little further and done a pressure test on the only other possible source of water in the oil, namely the cooler, which runs into the radiator and circulates the oil through the cooled water of the radiator. Their failure to do the check and pick up the leak was cardinal in causing the subsequent blow-up.

Visée employed forensic scientist and negotiator Dr David Klatzow to

Branded motor dealerships charge a premium for their expertise. The problem is they often don't have the expertise to justify their fees

engage with Nissan SA on the matter. Klatzow met Nissan's representative and their attorney in Durban. He described their attitude as "cavalier" and "couldn't care a damn". The best they were prepared to offer Visée was a derisory R20,000 refund on a bill which came closer to R200,000. They blamed Visée for not having picked up the fault earlier – while, of course, excusing their own supposedly professional dealership for not having detected it.

The prices that the Nissan dealership charged for simple components like oil and a fan belt were inflated way over the prices you can expect to pay for the same parts elsewhere – the "official dealership" clearly offers no better expertise or guarantee of good service than anyone else.

Shortly before going to press CMH Nissan upped their settlement offer to R60,000 but negotiations continue. ■



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CAROLINE RILLEMA
CAPE TOWN

THE BRITISH EMBASSY WARNED...

Remain indoors

TWO days before I was due to depart, the British embassy issued the following warning on their website “In light of the increasing violence in Yemen, we advise against all travel to Yemen... Political demonstrations are continuing across Yemen... There have been reports of a number of deaths during demonstrations in Aden, Ta’izz and Sana’a. Further protests are expected and violence is likely... be particularly vigilant... If in any doubt remain indoors.”

But I had business in Yemen – don’t ask – and besides, as a youngster I collected stamps and those from Yemen were always the prettiest. With luck, I’d not only escape the riots, I might even see some of the sights.

My Etihad flight to Abu Dhabi took off from Cape Town International on Sunday 13th March at 08h30. (The food, the service, everything was absolutely fantastic! And, in case you’re wondering, I paid for my own ticket.) The long wait on Abu Dhabi airport for my onward Yemenair flight (more about that anon) was long, most of it spent reading or trying to sleep in a very uncomfortable airport chair.

While a horrified world watched revolutionary rage in Yemen, Noseweek staffer Nicci Joubert-van Doesburgh, toured outlying areas

Come boarding time for my flight to Aden (remember those purple and olive stamps with Arab dhows?), a large number of black-clad ladies in burqas were shuttled off to one side to be searched separately and then ushered on to the plane first. By the time I got on the plane and looked for my window seat at 6F, it was taken. The air hostess asked if there was a problem. I showed her my boarding pass. “Yes, but you see there’s someone sitting there already, so just sit on the aisle.” So I sat on the aisle, squashed next to two very large burqa ladies. To ease matters, I tried some polite conversation, but got absolutely no response. Since I was only able to see their eyes, I couldn’t even tell if they were smiling at me when I spoke.

But they had my undivided attention when lunch came around and I observed how difficult it is for them to eat with their faces covered. I thought they’d remove the flap over the mouth, but no, they just lifted it up each time they wanted to put food down the hatch. The meal was a beef curry with peas, carrots and rice, so picture all of this being mashed together and picked up with the right hand and then fed under the black flap. By the time they’d finished, there was food scattered all over the place. Which only partly explains why, if given a choice, I would never again fly Yemenair. Yemenis litter everywhere. It’s like flying in a garbage truck with a garbage crew.

On landing at Aden some passengers disembarked; new ones took their time coming aboard. At last the plane took off for Sana’a, but halfway there I felt the plane doing a complete





turnaround. The pilot announced that we were returning to Aden because of bad weather in Sana'a. Ten minutes later we did another U-turn and the pilot announced we were on our way to Sana'a after all. We landed in the middle of a dust storm, at about 22h00. Was I grateful that my UK-based brother was there to meet me!

My first ride was in a *dhabab* – looks very much like our own people-carrier taxis; only difference is the interior is all spruced up with colourful carpeting and tassels and the sliding side door is non-existent. The drivers must have nerves of steel as there are no road signs or traffic lights, and almost no road markings. There is however one very important rule of the road and that is that if you are planning to overtake or push in, or cross an intersection, you have to hoot as long and loud as you can.

At 04h30 I was woken to the droning sound of an Imam chanting over a loudspeaker. It went on for about 15 minutes by which time I was so wide awake it was impossible to get back to sleep. That's how I awoke every day of my stay.

The first thing that had to be done was to report our presence to the Tourist Police in Sana'a and to inform them when we'd be leaving. There I was interviewed, or should I rather say interrogated, to make sure that I wasn't a journalist. I was given the necessary documentation allowing me to be in Sana'a and granting me permission to travel to Ta'izz in the south.

Sana'a is the capital of Yemen and, at an altitude of 2,300 metres above sea level, it is one of the highest capital



2 Raisin and date stall at the Sana'a Suq

1. Bronze statue circa sixth century BC, found in Al Bayda

3. Rock Palace – the last residence of the Imam

4. Ali Abdullah Saleh Mosque, Sana'a





Sheer cheek: Qat-chewing taxi driver.

cities of the world. Wikipedia reports that the city dates back to the Sabaean dynasty 6th Century BC. On a visit to the National Museum on Tahrir Square I got to see a statue found in Al Bayda, Bronze Man, dating back to that time.

I hadn't finished my tour of the museum when the guide started urging us to get a move on – this despite having been told that the museum was open for another hour. When we walked out on to the street we were surrounded by deafening noise. People shouting and police cars driving by with sirens blaring. Not even hesitating I raised my camera to take some pictures, but I'd hardly clicked the shutter when people all around were shaking their heads, shouting and gesturing no, no, no with a finger slicing across the neck. I learned in Yemen it's forbidden to take photographs of military personnel, police or women. And there were plenty of government vehicles with soldiers and suits flying by.

So we decided to take a taxi to the next tourist stop. Eventually one stopped and as we were travelling along my dear, sweet brother decided to ask the driver where we could buy booze. The driver didn't speak much English (*mafi Inglise*) he just shook his finger and pulled out a card – we thought he was going to give us a business card, or an address of where to go, but no, not at all – it was his police identification card. He turned out to be an undercover cop driving the taxi. (Alcohol is a strict no-no in Yemen – except at five-star hotels at R85 a beer.)

I reckon he was sent to look for us, because when we got back to the hotel that night the front desk man told us that he had a message from the Tourist Police to say that we must be very careful as we were the only tourists left

in Sana'a.

We walked along the walls of the old city and entered the *Suq* (market) through Bab al-Yemen (Gate of Yemen) where we were greeted with the sounds, smells and colours of the market place. Pictures don't do it justice; the place was buzzing and there was such vibrant feel to it. Shopkeepers all trying to grab us and get us to buy from them – bargaining down to the lowest price just to get the sale. The Yemeni people are generally poor, but rich in character and enthusiasm. They might not speak English, but everyone is always calling out "welcome" as you pass by.

Every day, just after midday prayers, the whole country comes to a standstill as the men close up their shops and rush off to buy their plastic bag of *qat*. Then, for the next couple of hours, you see men sitting on the side of the road chewing the cud and chatting to friends. It is not unusual to see men walking in pairs holding hands as they stroll around chewing *qat*. They shove the leaves in on one side and their cheek gets bigger and bigger. When you talk to them all you see is green gunge moving around over really brown rotten teeth. And when they decide to spit the glob out, they do so anywhere – only so that they can start piling it in all over again. This *qat*-chewing goes on until late into the evening. And the following morning when the mouths are empty, you see the rotten teeth when they smile. Yemenis are very happy people, at least the guys are, they're always smiling and are forever shouting "*Sora, sora*" when they see you with a camera. They love having their photo taken. (And then placing greasy fingerprints all over the LCD camera display as they laugh and point at themselves in the picture!)

On the 18th March, 52 people were killed by government forces and over 200 were injured when unarmed demonstrators were fired at on Sana'a University Square. Then, on the 20th March, just the day before president Ali Abdullah Saleh's 65th birthday, the president fired his entire cabinet and warned that any attempt to overthrow him would result in civil war. It was time to leave Sana'a.

For the long trip from Sana'a to Ta'izz the bush driver gave everyone a bottle of water (you can only drink bottled water in Yemen), a packet of ginger biscuits and a very thin plastic bag. The bag? I didn't have long to wait to find out what that was for: the road was long, windy

and full of hairpin bends and potholes. Soon the sound of retching could be heard. At the first rest stop, the see-through bags were tied up and tossed out. This was littering taken to horrific extremes! Everywhere the otherwise-beautiful landscape was littered with bags of pink, blue and white.

Ta'izz is full of lovely old houses, all built with brown bricks; only the mosques are white. It has its own market specialities: old Jewish silver, dried salted fish and a smoked cheese made from a mixture of camel and goat's milk.

We visited three very old mosques, al-Ashrafiyyah built in 1377 by al-Ashrafa and containing the tombs of his wife, father and sons; al-Mu'tabiyya built in 1392 to be used by the women for prayer; and Modhafer which is the oldest mosque in Ta'izz.

It was a day to visit historical sights and the next was Al-Qaherah Castle.

It's an impressive historical landmark set on the northern slopes of Jabal Saber mountain. The original castle was erected in the reign of the Ottomans who gained control over Yemen in the 15th century. At the moment renovations are being done using the original building techniques and river stones.

From Ta'izz on to the port of Aden: luckily no winding mountain roads, so not so many pukers on this trip. Aden is a natural harbour in the crater of an extinct volcano. It was under British rule from 1839 to 1967 and the British influence is evident in the buildings and the structure of the city.

Our first stop was to see the Cisterns of Tawila or the Tawila Tanks. There were originally 53 of them, built by the Himyarites to collect and store rainwater flowing down through the Wadi Tawila, but the Brits renovated the area in the 19th Century and now only 13 tanks remain. Quite spectacular, but no water anywhere. In fact the weather was so hot that the rest of the day was spent lazing on a private beach belonging to the Sheraton Gold Mohur hotel where, basking under the palm trees, it was easy to forget all about the soldiers and police patrolling the streets outside.

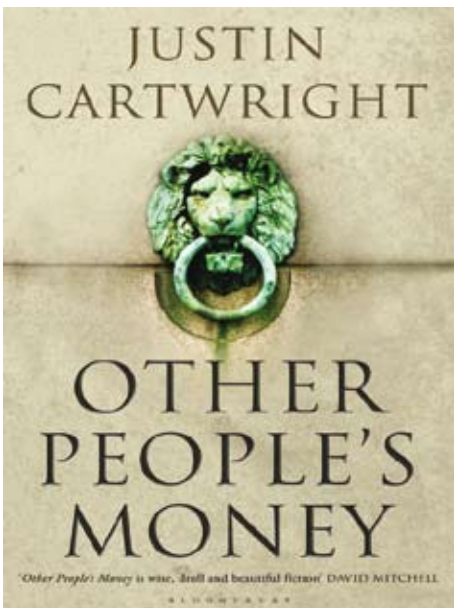
A day later it was back to calm, sweet, sunny South Africa. On a mission to Yemen to buy dates? Remember to give yourself an extra day or three to look around. Or just thinking of taking a holiday with a difference? Why not try Yemen? ■

Fumblings in high places

IT'S LIKE the Royal Wedding – glamorous, romantic, and ultimately confirmatory of the sustained power of the English establishment.

Justin Cartwright spikes his deliciously funny strictures on the unholy marriage of mega-rich bankers and politicians with cynical asides, but his precise minutiae detailing the grandeurs of hereditary privilege betrays reluctant admiration.

And why not? In a naughty contemporary world dominated by tacky celebrities and greed, there is reassurance to be had in contemplation of the few who are sufficiently endowed and cultivated to sail above the muck. As in ancient times, there remain today the equivalents of the Medicis, old money quietly maintaining business



empires and personal wealth beyond the dreams of avarice. Well, hopefully not quite beyond.

The excitement of *Other People's Money* – the novel contrives to be both a superior whodunnit and suave social commentary – arises out of the threatened collapse of a seemingly impregnable private banking house.

Cartwright cleverly exploits the

Len Ashton
reviews

Other People's Money

(Bloomsbury)

By Justin Cartwright

current international banking crisis with topical references to Enron, Lehman and their ilk, and then casts a beady eye on the all-too-human members of a grand family unused to public scrutiny.

His range is impressive. The magnifying glass is applied to both masters and servants, and Cartwright is spot-on at every level of society. Those who live in dynastic splendour are observed knowingly. Likewise the bit players attendant on the great and, occasionally, good.

The tale opens with a cunning device: a memorial service notice records leading characters in the cast, Court Circular funeral style, by citing family members' connections to the dear departed, and other mourners, according to strict protocol. Thus: Miss Poppy Trevelyan-Tubal (niece). (Of course the notice opens with "The Queen and the Duke of Edinburgh were represented by Sir Thomas Carew Knollys, the Prince of Wales by Colonel Lord Maltravers of Deeside" etc).

The humble may be surprised to learn that death visits even the exalted. Lesser beings participating in this entertaining tale of fear and fumbling in high places are treated in amused, generally kindly, fashion.

While the head of the mighty Trevelyan-Tubal family (eleven generations in banking) dies a slow death, his harassed heir-apparent tries to dodge a business disaster triggered by reckless hedge fund investment.

Then a mysterious figure tries to leak

the story of questionable banking practices to the newspapers, via a hilariously Byzantine plot involving memorable provincial extras.

Cartwright is wickedly sharp in his rendition of a deluded and impoverished theatric, loud with grandiose notions. And gentle with a young cub reporter whose good sense allows her to cope with sundry manipulative parties.

Incidentally, it is interesting to note that white South African connections, once *verboden* in the works of expatriate writers, are now acknowledged unself-consciously. The text is sprinkled with SA references by the South African-born writer, and a sexually and socially ambitious ex-rugby player makes an amusingly solemn contribution to the proceedings. He is a personal trainer and believes in focussing on a desired end. So does the rich lady of his amour, but in a quite different way. ■

Other People's Money is published by Bloomsbury with a published price of R180. It is available from Loot.co.za for R107. We accept payment by Visa, Mastercard, or EFT or deposit to our ABSA bank account.

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Failed: Taylor Ntsimbini

Rumours of reign

AFTER voicing concern at the possibility that my little Umjindi Municipality might be getting an illiterate mayor, I am delighted to report that the ANC has surprised me again.

Just when I thought my municipality would be governed by a total buffoon, the “movement” – the ANC that is – has stepped in to make many of us in this little dorp of Barberton very happy.

In what can only be described as one of the best policies ever implemented by the ANC, the ruling party has made it mandatory for its council candidates who wish to be considered for the position of mayor to take a competency test.

The test is said to have been compiled by Wits University and administered by the Department of Co-operative Governance to gauge whether the candidate understands municipal procedures and policies regarding the Integrated Development and the Local Economic Development plans and the Municipality Finance Management Act.

Six Umjindi Municipality mayoral hopefuls, Taylor Ntsimbini, Lazarus Mashaba, Elizabeth Gecelo, Vusi Mkhathshwa, Mavi Hlophe and Enthea Mthynwa, are reported to have been subjected to the test – and all are reported to have failed it “miserably”.

Ntsimbini is standing as a candidate in Ward 8, which includes a portion of town and Verulam, one of the poorest areas in the municipality.

Mthynwa is standing in Ward 4, Mkhathshwa in Ward 5, and Hlophe in Ward 6, while Mashaba and Gecelo are on the PR list. Oh, and get this: Mashaba is a former Coca-Cola employee who was reportedly canned for embezzlement of marketing funds.

Highly reliable sources, who asked not to be named for fear of retribution, said that Ntsimbini, widely rumoured as likely to be “given” the mayor’s seat (allegedly by Premier DD Mabuza), was *gatvol* and had been heard uttering “Why the hell did they make me take this test – I was promised the mayor’s position”. He refused to comment to this editor.

The sources expressed delight at the implementation of the test but more so

at the reported failure of the six, particularly Ntsimbini.

Many of the ANC’s Umjindi cadres have expressed, to this writer’s little newspaper, their strong disapproval of Mabuza’s having even considered Ntsimbini for the mayor’s position.

Mabuza, as well as being the province’s premier, is also the chairman of the deployment committee. Ntsimbini is said to be a staunch Mabuza loyalist.

“We are saved. Umjindi is saved from possibly having a complete idiot as mayor. Taylor is *gatvol*, but maybe now he will learn how to read and then he can pass the test,” said a comrade.

Ntsimbini is reported to have only gone up to standard two, and is considered semi-literate. Despite this he is said to enjoy enormous backing from Mabuza.

As with six other provinces, Mpumalanga will only have its mayors announced after the May 18 local elections – a decision taken by the ANC, citing that the party has not been able to make a clear decision about the candidates.

A provincial leader, who asked not to be named and quoted by a national Sunday newspaper, is reported to have said internal differences over preferred candidates was the main reason behind the chaos and lack of readiness to announce the names of mayoral candidates.

While ANC secretary-general Gwede Mantashe reportedly said the party had assessed the pros and cons of announcing names before or after the elections – and that he felt announcements now could “lead to new contestations” – the flunking of the six puts to bed much speculation as to whether candidates like Ntsimbini and Mashaba were in the running or not.

The sources told the *Mjindi Guardian* that Mabuza has indicated that in light of the test results he is now forced to find a suitable “outsider” to be appointed as Umjindi’s mayor. Now rumour has it that Craig Padayachee is to be given this highly sought-after position. (But you’ll know that for sure by the time you read this.) Padayachee is a Barberton native.

Ah, yes, the excitement of my country life. I love it. ■

Interesting times for Lowveld politicians



Bheki Mashile’s **Country Life**



Harold Strachan

SUDDENLY get this surprise phone call, tinkle tinkle, and a voice of pure honey with an Indian flavour says the owner of it is Vasantha and she is from the Durban University of Technology and she wants to know if I would mind if this university were to confer a doctorate on me. Hell no, say I with my Jaap accent, I have been called many things in this life: Oplaser, Traitor and Madman, plus a few I wouldn't want to put to paper even in *Noseweek*, so being called Doctor would be a nice change, thanks. What for? I ask. I don't know, says Vasantha, I just work here.

So I hang up and set to wondering what technological thing I have done to deserve such honour, and the only one I can remember happened half a century ago, in Port Elizabeth. I was in PE because in Durbs there was a warrant for my arrest, see, a sort of fatwa, and here I was trying to earn an honest crust somehow – with small success – when Govan Mbeki surprisingly phoned and summoned me to his wee office on the main drag: he had work for me. Callooh callay! Luck at last!

Well now, says Oom Gov, we have checked up on you in Durban and they say you're okay so now I want you to join the Communist Party and help with the armed struggle which is about to start, called *Umkhonto we Sizwe*, Spear of the Nation. Okay, say I, why not? I've been kicked out of my job for my politics and I'm sore pissed off with the régime.

Yes, says he, Durban tells me that you were a bomber pilot in the war so now I want you to form a technical committee and invent explosives and design bombs. Hell, Gov! I exclaim, we didn't make our own bombs in the Air Force, man, we bought them from a bomb factory. But you know what bombs looks like and I hear you have matric chemistry, says he. A journey of a thousand miles starts with a single step. He turns to a Xhosa bloke with an English name, Joseph Jack, and says to him Jack, says he, you are a photographer so you know all about chemicals and I want you to be the other comrade on this committee.

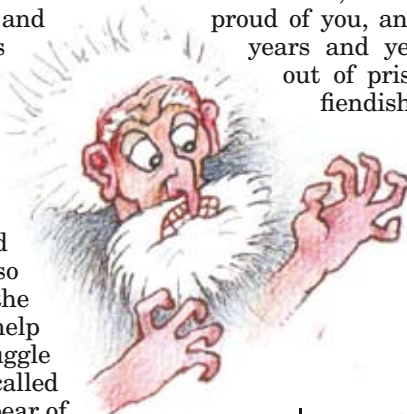
Hell, Gov! says Jack, I know enough about chemistry to put sodium chloride on a fried egg. Good start, says Gov, have faith. Gov, say I, how many months, which is to say years, do we have for this job? Six weeks, says he. Six weeks! Jack and I cry in unison. Have faith, says Gov.

So we go off and drink a certain

Like a bomb

amount of booze and have faith like anything and set to with the chemicals, and down the coast from PE where there's a heavy infestation of Port Jackson Willows and no people we demolish great swathes of this beach flora with our testing, damn nigh demolish ourselves too, and pretty soon we report back. There y'are, Gov, we say, five weeks and six days.

Mazel tov, comrades! says Gov, I'm proud of you, and it isn't until after years and years that I stumble out of prison and realise this fiendish explosive Jack an I had invented was in fact



I want you to form a technical committee and invent explosives and make bombs

ordinary old farm fertiliser which we could have bought R10 a bag from any old backveld supply store. Ammonium nitrate. I mean it's only last week that I'm standing in the special check-out queue for old toppies at the Musgrave PnP and there, next to me, is a little display for enthusiastic city gardeners, you know:

roses, pretty cacti etc, and on the floor I espy a pile of plastic bags full of lawn fertiliser... horror... you guessed it... NH_4NO_3 , and if there were a careless welder around who accidentally brought a spark of $2,000^\circ C$ to this lot all of PnP would instantly disappear – indeed the entire Musgrave Centre implode. I clutch at the counter and the nice checkout girl asks me if I want one of the Disprins she specially keeps for wobbly old toppies.

Now here I sit with my son Joe, and he says to me: So it wasn't for that piece of technology that you're getting the Hon Doc. Indeed indeed, say I, but I can't think of anything else I did.

Well maybe it is for something you didn't do, says he. Wodjer mean? say I, you don't get this for nothing. Well you didn't bugger off overseas when

you came out of boep, says he, you were a proper pain in the arse of the régime and I remember when I was 10 years old sitting down to supper with a forkful of sos-and-mash on its way to my mouth when a bullet passed so close between sos and mouth I could feel the shock wave.

And do you realise, says he, that the old Natal Technical College which fired you for your politics when you were on your way to Head of Department has now become the Durban University of Technology?

Good heavens above! I exclaim, you mean I can look on this as a friendly act of appreciation, hey? Indeed indeed, says he. Ooo I must say I like that touch, say I. To spite the old régime, like. ■



Illustration: Harold Strachan

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