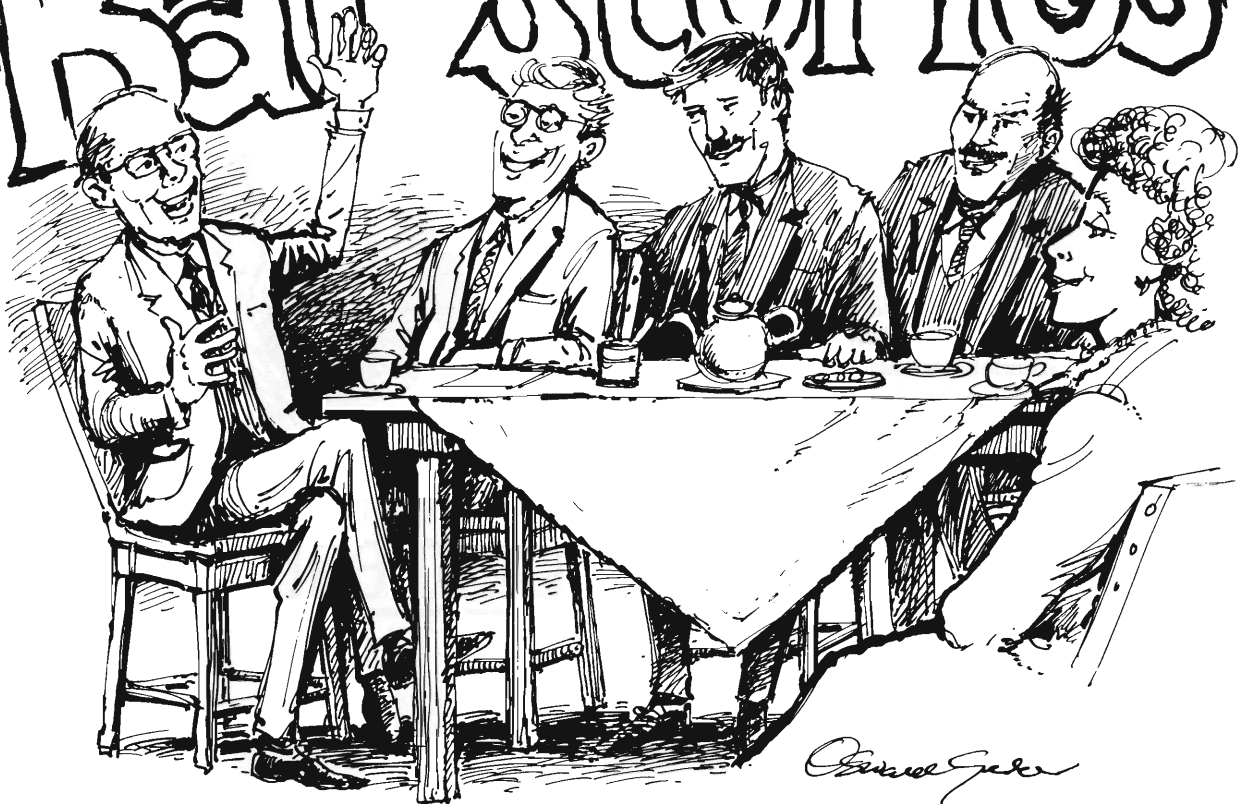


Bar stories



Anecdotes on Selke J

Edmond Adolphe Selke who graced the Natal Bench of the Supreme Court during the 1950's and 1960's was a judge of the old school who had the appearance of a typical English Squire. "He was a man of deep culture, a scholar and a jurist." (FN Broome: *Not the whole truth.*) He was respected by all who appeared before him. Selke was not a man to be hurried along nor to be influenced by flattery. On one occasion counsel said: "My lord I rely on this judgment by your lordship and far be it from anyone to suggest that your lordship might have been wrong." Selke J's reply was: "I shall have you know Mr X that I have been known to have been wrong in the past and I have no doubt that I shall be known in the future to have been wrong again." On another occasion counsel submitted that time was being wasted to which Selke responded: "Time is not being wasted – time is being spent in this Court."

Counsel who appeared before

Selke J soon learnt that it was not advisable to make any submission that could not stand up to close scrutiny. The judge could be relied upon to "invite" counsel to assist him to take any one or more of his submissions "to its conclusion". He then proceeded to do just that by a series of probing questions addressed to counsel until he was satisfied that the submission had been fully clarified. Thus the press and the public saw that justice was not only done but was seen to be done in the court where Selke J presided.

Selke was known for "taking his time" about reserved judgments. One day the registrar was in his chambers when the phone rang. The registrar says that the judge's side of the conversation went as follows: "Oh no – this is not the cold storage – this is the Supreme Court thank you goodbye." After replacing the phone he turned to the registrar and said: "I wonder if that was not perhaps an enquiry after one of my reserved judgments?"

It is said that a newly appointed

judge who had a problem arising from a point that he had come across in a review matter approached Selke J and asked him what he would have done if he had come across such a point. Selke replied: "I would not have come across it."

□ □ □

Selke J was presiding in a criminal trial where the accused was charged with rape. The witnesses were sailors from a ship that had docked in the Durban harbour. In describing the essence of what he had observed the first witness said: "... and then he banged her." The judge wanted to know what the phrase "he banged her" meant. He was duly and properly enlightened by counsel. By way of introduction to his evidence the next witness said "... and then he came in and banged the door." – "What" said his Lordship "surely – not the door!"

□ □ □

Many counts of fraud, theft and contraventions of the Companies Act

had been laid against the accused who had accumulated quite a fortune from his illegal activities and was able to afford both senior and junior counsel. He was represented by counsel from Johannesburg. The case had been going on inexorably for 45 court days. Senior counsel who spoke with a strong foreign accent wanted to convey to the court that his client had felt under the counter in the shop. What he actually said came out as follows: "And zen he felt under zee countess." Selke J calmly put down his pen and said: "Mr X this case has now been going for 45 days, will you please enlighten me – when did the countess enter it?"

C Rees SC
Pietermaritzburg Bar

Die dagga in die hondehok

Regter Schutz het aan *Consultus* 'n uittreksel uit 'n strafsak gestuur wat hy op hersiening gekry het. Om verstaanbare redes word die beskuldigde se naam weggelaat. Hy is daarvan aangekla dat hy handel gedryf het in 34 kg dagga, *alternatiewelik* die besit daarvan.

Die beskuldigde het onskuldig gepleit en die volgende pleitverduideliking aangebied:

Ek het die getuienis in die Bybel. Ek sê myself om vir die Here te werk. Ek wou volgens 'Nazira' gewerk. Sien in Levitikus 19 wat is 'Nazira'. Die blare van die dagga is aan my gegee, sodat ek dit kan gebruik. Alles wat op die aarde is, is God se goed, en ek glo nie God het iets verkeerd gemaak. Ek verkoop nie dagga nie, dit is vir my eie gebruik. Die dagga was daar toe ek daar gekom het. Dit word nie geplant nie, dit groei vanself. Ek rook dit. Dit is my oupa se huis, ons is 3 wat daar woon.

Die landdros het hierdie verduideliking oorweeg. Hy het ook die beskuldigde se getuienis oorweeg. Die volgende uittreksel uit die uitspraak is van belang:

Met die aanvang van verrigtinge voor 'n ander landdros het beskuldigde onskuldig gepleit op die hoof- en die alternatiewe aanklag. Die verweer van beskuldigde wat openbaar is, is dat hy glo dat hy dit mag gebruik omdat God dit op die aarde geplaas het. Hy sê die dagga was daar toe hy daar gekom het. Dit word nie geplant nie. Dit groei vanself. Hy het ook gesê daar was dagga wat reeds gepluk was en dit was in die huis. Beskuldigde het erken dat op 10 Augustus 1991 hy in besit gevind was van 34,7 kilogram dagga.

Die staat het daarna die enkele getuie, 'n polisiebeampte, geroep. Sy getuienis was dat hy in die huis op 'n tafel onder 'n pet, vier vingers dagga gekry het. Buite die huis is 'n hondehok. Binne die hondehok is 'n hond en onder die hond is daar sinkplate en onder die sinkplate was daar drie tasse vol dagga. Twee van die tasse het slegs los dagga bevat en in die ander tas was daar onder andere arms dagga en ook vingers dagga.

Die weergawe van die staatsgetuie word nie deur die beskuldigde betwis tydens kruisverhoor nie.

Beskuldigde het daarna kom getuig. Hy erken weer eens dat dit sy dagga is. Hy rook dit om sy bors los te maak en sy kopseer weg te vat. Die dagga groei vanself daar. Soos hy dit oes, val daar pitte op die grond en dan groei dit weer. Die vier vingers wat in die huis gevind is, is deel van omtrent 30, waarvan hy omtrent 26 al gerook het, omdat hy vir homself elke keer so 30 vingers in die huis bêre . . .

Die enigste geskilpunt is dat beskuldigde sê dat hy nie weet dat 'n mens nie dagga mag hê nie en dan haal hy nou 'n klomp teksverse uit die Bybel uit aan. Onder andere Numeri 6 vandag [die sg Nasireërskap – *Redakteur*], maar voorheen was dit nou Levitikus [waarskynlik 19:24] en Genesis 1 vers 29* en ook Openbaring [waarskynlik vers 17].**

Nou dit is klaarblyklik waarin beskuldigde glo, maar sodra die aanklaer vir hom begin uitvra of dagga nou 'n onwettige stof is volgens wette van die land, dan begin beskuldigde kleitrap.

Eers op daardie stadium van kruisverhoor begin hy om vrae te ontwyk en die rede hiervoor is natuurlik voor die hand liggend. Die man woon al in Vosloorus sedert 1964 of 1965. Hy het in Vosloorus skoolgegaan. Hy het hier op die Witwatersrand gewerk. So dit is onwaarskynlik dat so iemand nie sal weet dat dit strydig is met die wette van die land om dagga te besit, of in dagga te handel nie.

In ieder geval sit die hof met die getuienis dat hierdie dagga in die hond se hok, onder die hond, onder 'n sinkplaat in tasse gevind is. Dit is nie 'n veilige bêreplek nie. As 'n mens dagga wil wegsteek, dan gaan jy dit mos in die huis wegsteek waar ander mense nie maklik kan kom nie.

*Genesis 1:29

Verder het God gesê: ". . . Ek gee aan julle al die plante wat saad gee op die hele aarde; ook al die bome wat vrugte dra en saad gee. Dit sal julle kos wees."

**Openbaring 2:17

. . . Aan elkeen wat die oorwinning behaal, sal Ek van die verborge manna gee . . ."

