

The Corrupt Commandant: *The Criminal Biography of Commandant Barnie van der Merwe*

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Abstract

Commandant Barnie van der Merwe was a career soldier who served in the South African Defence Force from 1934. By 1957, he had become embroiled in tender fraud and bribery in the procurement of arms and supplies for military vehicles and equipment for the Defence Force. His career came to an end in September 1963 when he was arrested and found guilty of corruption. His case contributed to the proclamation of the 1964 Cillie Commission of Inquiry into alleged irregularities in arms procurement in the Defence Force and the Department of Defence. The report issued by the commission illustrated the intrigue in which corrupt Defence Force and Department of Defence officials, such as Van der Merwe, played a part for the sake of self-enrichment. This article sheds light on Van der Merwe's criminality by indicating precisely how and against whom he committed his crimes and discusses the historical significance of his criminal career.

Keywords: South African Defence Force, Barnie van der Merwe, Corruption, Tenders, Fraud, 1964 Cillie Commission, Arms, Arms Agents.

Introduction¹⁰⁰

On the morning of 28 June 1963, Warrant Officer Julius Rencken left the Poynton Building in Pretoria, carrying with him a lever arch file containing classified documents. He had taken the file from the offices of the South African Defence Force (SADF), which were in the Poynton Building. He was on his way to the nearby Pretorium Trust Building. When he reached the Pretorium Trust Building, he took the elevator to the sixth floor where he knew an arms agent would be waiting for him in a specific office. The person waiting for him was Nicolaas van Nieuwenhuizen, a Dutch-born South African (SA) arms agent who was the owner of the Interarmco company, an importer of arms and military equipment. Rencken handed Van Nieuwenhuizen the file he was carrying, and Rencken received a R100 reward. Seconds later, the South African Police (SAP) burst into the office and arrested Rencken.¹⁰¹

On 19 September 1963, Rencken appeared in court and was found guilty of breaking article 3(2) of the Official Secrets Act (No. 16 of 1956).¹⁰² Rencken had to pay a fine of R800, or serve one year in prison if he was unable to pay the fine.¹⁰³ During his court hearing, Rencken did not acknowledge his guilt because he believed that Van Nieuwenhuizen had the right to study the information that was contained in the SADF file. The specific file contained:

- The concept budget for the Department of Defence (DoD) for 1963–1964;
- Documents that indicated companies that would provide ammunition to the South African Air Force (SAAF); and
- Information on companies that would manufacture the hand grenades the SADF planned to purchase.¹⁰⁴

Rencken's mistake was his own undoing, but his case was certainly not the only one scheduled for court in September 1963 regarding the irregular treatment of certain arms agents by SADF servicemen. Another SADF officer, Commandant Barnie van der Merwe, had also been charged for crimes against the SA state and, despite his court case being handled swiftly in September 1963, the charges against him were for corruption through bribery.¹⁰⁵ Rencken's minor charge of revealing classified information was not in line with his job in the SADF because the publication of tenders was in the hands of men, such as Commandant Barnie van der Merwe, who had to interact and liaise with arms agents and civilian suppliers. Van der Merwe, however, made use of his direct links with arms agents and civilian businessmen for the sake of his own enrichment, as this article aims to prove.

Van der Merwe's case, like that of Rencken, would contribute to the proclamation of a commission of inquiry into alleged irregularities in arms procurement by the SADF and the DoD, known as the 1964 Cillié Commission. This commission in turn would become the showcase of a mid-twentieth-century SA arms scandal.¹⁰⁶ Such a bold statement does not allude to the possibility that this was the first arms scandal of the twentieth century. That it was an arms scandal that happened during the time the National Party (NP) was in control of SA defence is undoubtedly true. Yet, as Van Vuuren argues, during the 1970s and 1980s, questionable procurement practices were nothing out of the ordinary for the NP.¹⁰⁷ This arms scandal pre-dates Van Vuuren's work. It does however relate to the 1993 arms scandal, which is explained concisely and precisely in Paul Holden's book *The Arms Deal in Your Pocket*.¹⁰⁸ It resembles a preceding and not entirely dissimilar scandal in which arms procurement was not carried out fairly and legally. Using the 1964 Cillié Commission as a starting point for revealing underhand dealings in arms procurement under the NP government in the 1960s, it might be possible to research and reveal a systematic perspective further into the twentieth century on how the apartheid state armed their military by all means necessary. It is, however, important to note that in these underhand dealings, specific individuals played decisive roles in acquiring the necessary arms and military equipment and, in the case of Van der Merwe, to achieve personal goals – even wage a vendetta – and/or fulfil long-term financial ambitions.

The focus of this article is to present a concise criminal biography of Barnie van der Merwe, and to provide a glimpse into the alleged irregularities of arms procurement during the late 1950s and 1960s. The main aim of this article is to describe concisely Van der Merwe's dealings with the specific civilian businessmen and arm agents with whom he interacted and how his dealings could be construed as criminal.

The list of accusations against Van der Merwe is not derived from the *State versus Van der Merwe* case of September 1963; the main primary source was the verbatim record of the 1964 Cillié Commission.¹⁰⁹ Before Van der Merwe's criminal biography is attended to, it is important to take note of the historical background of the 1964 Cillié Commission.

Justice in the Old Synagogue: A Brief Description of the 1964 Cillié Commission of Inquiry

The 1964 Cillié Commission conducted its investigations from April to October 1964 under the chairmanship of Justice Pieter Malan (PM) Cillié, in the old Synagogue in Paul Kruger Street, Pretoria.¹¹⁰ This commission was appointed under Proclamation 78, which was published in the *Government Gazette* of 3 April 1964 by the then State President, CR Swart.¹¹¹ The decision by the Verwoerd government to appoint this commission came after months of pressure that mounted on the shoulders of the Minister of Defence, JJ Fouché, from the official parliamentary opposition, the United Party (UP). The UP did not ignore Rencken's court case of September 1963 nor any of the charges lodged against other corrupt SADF officers, such as Van der Merwe. Brigadier Bronkhorst, a UP Member of Parliament for North East Rand and a military veteran, took corruption in the SADF very seriously and did not waste the opportunity to push Fouché for answers regarding alleged corruption with arms procurement.¹¹² Fouché tried to allay concerns of financial mismanagement in arms procurement with his brief responses, which included references to the September 1963 court cases of Rencken and Van der Merwe. Nevertheless, to satisfy their critics, the highest echelon in the NP government decided that a commission of inquiry would probably diminish UP criticism. The NP selected PM Cillié to chair the commission.

Cillié had been a member of the NP since his student years at the University of the Witwatersrand, and he had enjoyed the support of the NP, as his promotions in judicial posts during the 1950s prove.¹¹³ With his appointment, the NP had hoped that Cillié would convince all, especially the UP, that the commission was a legal exercise for finding the truth, with acceptable evidence, behind any allegations of corruption in the SADF and the DoD. The question that begs to be asked is what the NP would have done if there were enough damning evidence against the Minister of Defence, the commanding officers of the SADF, and even the top officials of the NP. Owing to this fear, Cillié invoked article 4 of the Commissions Act (No. 8 of 1947). This meant that the commission would be held in camera.¹¹⁴

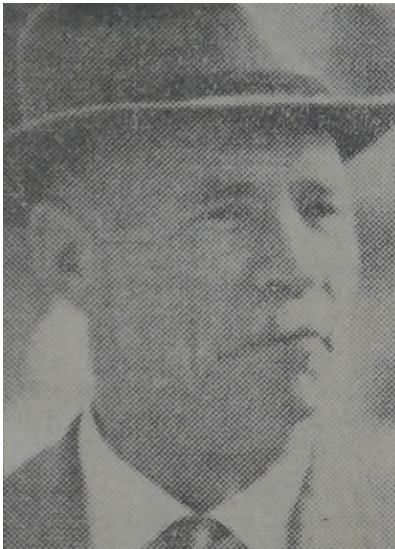
In the course of the work of the Cillié Commission, several private individuals and SADF officers were disclosed as being the main culprits mentioned in the allegations of corruption within the SADF and DoD. One of those culprits, from Cillié's perspective, was Commandant Bernie van der Merwe. Cillié specifically focussed on the charges laid against Van der Merwe as proof enough that a single officer's criminal conduct, and not that of the NP, the SADF or the DoD, was to blame for the corruption found in the cases against Van der Merwe and Rencken.¹¹⁵ So, who was this rogue Bernie van der Merwe who would commit corruption while serving in the SADF? To establish the seriousness of Van der Merwe's crimes truly, a biographical study of him and his crimes is essential. A "criminal biography" is therefore necessary. Similar to how a political biography focusses on the history of the actions and statements of a political figure within a historical context, a criminal biography should do the same for a criminal. The information is therefore only focussed on the criminal aspects of a person's life with limited information about other aspects of his or her life.

Godfrey indicates that history and criminology, as two distinct social sciences, could assist each other in the research of criminal histories, of which the criminal biography is, in the author's opinion, merely a subgenre.¹¹⁶ Despite criminal biographies being the focus of many popular publications, only a small number of academic studies of SA criminals exist. In particular, the works by Charles van Onselen on infamous criminals, such as Joseph Lis and Jack McLoughlin, should be noted.¹¹⁷ It is however important to note that, within SA historiography, criminal biographies have not received the attention of other types of biography, such as political biographies.¹¹⁸ This makes studies of criminals, such as Van der Merwe, not only desirable for understanding the SA criminal past but also necessary for erasing any misimpression of a corruption-free NP regime during the apartheid era. Van der Merwe's criminal biography alone is evidence that corruption within the SADF and DoD procurement processes was indeed a reality.

The attempt by the author to give a clear and concise explanation of why any life story about Commandant Barnie van der Merwe should be considered a criminal biography is vested in the basic definition by Venter 'that the criminal's biography should be explained not only from his position as a person but especially how his criminal acts derived from his motives'.¹¹⁹ This means that Van der Merwe's status as an officer, family man and citizen should receive less attention in this criminal biography, and rather that a solid focus should be placed on his criminal acts. Nevertheless, Van der Merwe's life story could provide possible motives on why he chose to become a criminal while in the service of the SADF.

Commandant Barnie van der Merwe: Career Officer to Career Criminal

According to the genealogical website, geni.com, Barnie van der Merwe was born 9 August 1910.¹²⁰ He was the son of Petrus Johannes van der Merwe and Heybrecht



Johanna Wilhelmina van der Merwe, from Middelplaats in the Northern Cape. He was one of nine siblings.¹²¹ Barnie's father died three months before he was born, and his mother passed away when he was three years old. It is difficult to determine the effect of being orphaned at the age of three on Van der Merwe precisely. Living in an arid part of South Africa and coming from a large family could have created a desire in the young Van der Merwe to be rich, especially during his old age.

Figure 1: Commandant Barnie van der Merwe, circa 1963.¹²²

In 1934, at the age of 23, Van der Merwe joined the Union Defence Force (UDF). It is interesting to note that he joined just as the Great Depression was over its worst

phase and, given the recruitment policies of the UDF at the time, a young Afrikaner, such as Van der Merwe, would have been a preferred enlisted man.¹²³ At the time of his enlistment, he had obtained a bachelor's degree in science from Stellenbosch University, and after his basic training, he became a second lieutenant.¹²⁴ By 1939, Van der Merwe was serving within the UDF Coastal Artillery, and he was eager to be deployed to North Africa. He spent a short time in Egypt but wished to serve in the Italian campaign. Van der Merwe wrote in an application letter that he wanted to be part of the 6th South African Armoured Division but was informed that he could only be included if he would accept a demotion from major to lieutenant.¹²⁵ Van der Merwe declined, and he was sent back to the Union to complete a staff course, which he failed.¹²⁶ During the remainder of the 1940s, he was in service initially as the Commanding Officer with the 1st Heavy Artillery in Cape Town, seconded for a short period to coastal defences in Port Elizabeth, and in the end, he joined the 2nd Heavy Coastal Artillery in Simons Town before joining the technical procurement staff at Voortrekkerhoogte (today Thaba Tshwane).¹²⁷

By 1949, he had been promoted to the rank of commandant.¹²⁸ His promotion came after the NP victory in the 1948 general elections, and was in line with the pro-Afrikaner nationalist transformation policy that Minister FC Erasmus wanted to implement in the UDF. According to Jooste, Erasmus wished to transform the UDF into a pro-Afrikaner nationalist defence force, and Afrikaner officers, such as Van der Merwe, were therefore secure in their employment, with a variety of opportunities.¹²⁹ By 1957, however, it seems that Van der Merwe might have felt neglected and frustrated.¹³⁰ The argument can be made that it was Van der Merwe's greed that led him to commit his crimes, as the SADF did award him, as will be seen below, for his years of service.

From 1957 to June 1963, Van der Merwe met with various suppliers and arms agents privately and did special favours for them to solicit bribes. These favours comprised providing specific arms agents and suppliers with early notifications of prospective tenders before being published publicly. Van der Merwe guaranteed arms agents that their tenders would be successful if they were willing to reward him financially for his support. Portions of the bribes would supposedly be handed to other decision-makers.¹³¹ Even personal favours were granted, such as allowing Van Nieuwenhuizen to stable his horse on Van der Merwe's plot in Pretoria.¹³² Van der Merwe mostly requested specific amounts of money for his bribes, but he would also accept expensive gifts.¹³³ As part of his September 1963 court case and during the 1964 Cillié Commission, the business relationships he had with Louis Ossip, Henry Victor Jaboulay and Nicholas Yale, Johann Bernard Litscher, Rudolph Kubler, Colonels Martins and Bass, Mr Sima-Hilditch and Nicolaas van Nieuwenhuizen formed the basis of the accusations against him. As required in any court case, the possible motives for criminal conduct had to be determined. Interestingly, Van der Merwe only provided the 1964 Cillié Commission with his motives.

Van der Merwe stated to the 1964 Cillié Commission that the last time he had been promoted was in 1949 and that this had given him the impression that the SADF was not appreciative of his loyal service or his academic degree and completed military courses.¹³⁴ This statement by Van der Merwe can be perceived as unfair, as the UDF had rewarded him with a Union medal in 1952 for 18 years' service.¹³⁵ Despite his egoistic reasoning

that he deserved more from his position as a senior officer responsible for the purchase of technical equipment for SADF military vehicles and weaponry, Van der Merwe earned a decent salary.¹³⁶

Serving under Commandant JA Pienaar at Voortrekkerhoogte, Van der Merwe received a salary of R4 350 per annum, which, according to Cillié, was considered quite decent at the time. Van der Merwe replied that he could not survive on it because of the large size of his family (his spouse and eight children), and he had to find ways of supplementing his income. That his wife desired to travel to Portugal on a regular basis because her mother was living in Porto supposedly made it even harder for him to live on his salary.¹³⁷ Cillié was not swayed by his attempted justification for his criminal conduct. Van der Merwe also stated that he accepted bribes to build up financial reserves for his retirement. His plan was to deposit his bribe money in various international banks and when needed, it could be paid to his mother-in-law in Portugal, who would then transfer it to him in South Africa.¹³⁸ He would therefore never be poor again and would be able to enjoy his retirement more comfortably.¹³⁹

In his final reply why he had sunk to the level of accepting bribes, Van der Merwe revealed new intrigue within the SADF, saying that he believed that it was in order for him to enrich himself from state tenders because General Sybrand Engelbrecht did the same.¹⁴⁰ According to Van der Merwe, Engelbrecht and his wife benefited from a tender for SADF uniforms that had been handed to the manufacturing company for which General Engelbrecht's wife was working at the time.¹⁴¹ Studying the 1964 Cillié Commission's verbatim report, it appears that Van der Merwe was not imagining the involvement of Engelbrecht's wife in tenders with the SADF. She did work for a company called Group Agencies, who represented Cambridge Shirt Manufacturers (Ltd), a company from Durban that received a tender for SADF uniforms in which she played a main role. Despite her enthusiastic denial that her involvement might have influenced the relevant tender committee, she had, of course, receive remuneration for her work from Group Agencies, which she paid into her and her husband's joint bank account.¹⁴² It is difficult to prove that General Engelbrecht and his wife were guilty of any corruption; however, that the allocation of the said tender to Cambridge Shirt Manufacturers was noticed by Van der Merwe and that he knew that Engelbrecht's wife worked for the said company are given facts. Is it therefore possible that Van der Merwe devised a plan to enrich himself through government tenders, knowing that Engelbrecht would not be able to act against him because of his knowledge of the uniform procurement tender? This appears to be a reasonable deduction.

Despite the reasons that Van der Merwe gave in mitigation during the 1964 Cillié Commission hearings, he was found guilty of several charges of corruption. Arrested on 28 June 1963, which was the same day that Rencken was arrested, Van der Merwe subsequently had his day in court in September 1963. Justice Theron was presiding, and gave Van der Merwe a somewhat light sentence of a R1 000 fine and three years of imprisonment, with the latter suspended if he was not found guilty of any further corruption for a three-year period (thus until the end of 1966).¹⁴³ Van der Merwe's fine made no dent in his financial reserves. Prior to his arrest in 1963, Van der Merwe deposited his

illicitly obtained money into five different international bank accounts, listed in banks located in Geneva, Switzerland; London, United Kingdom; and Toronto, Canada.¹⁴⁴ This was not a sentence given to punish Van der Merwe, but merely to give the impression that justice was served.

The light sentence handed to Van der Merwe can only help to create possible conspiracy theories about the NP intervening with the *State vs Van der Merwe* case of 1963. The Afrikaans and English press briefly covered the court case, and no public outcry was recorded.¹⁴⁵ Interestingly, Van der Merwe did not testify during his September 1963 hearing.¹⁴⁶ He did appear however before the 1964 Cillie Commission and gave testimonies about his crimes during several sessions.¹⁴⁷ Owing to the existence of a copy of the 1964 Cillie Commission report, which consists of 24 volumes, the extent of Van der Merwe's corrupt dealings can be easily traced.¹⁴⁸

After his court case and the 1964 Cillie Commission report, Van der Merwe lived the rest of his days in complete obscurity. He was discharged from the SADF in September 1963.¹⁴⁹ On 9 November 1963, the Department of Social Securities and Pensions were informed of Van der Merwe's sentence and discharge and the decision by the SADF not to allow him to receive his annual pension.¹⁵⁰ Access to the various investments that he had made during his six years of criminal conduct might have been the only funds he had left for his retirement. He was therefore not impoverished after his SADF discharge, despite some of his wealth having been obtained through irregular and illegal means. Evidence exists in the records of the Rebecca Street Cemetery in Pretoria that Van der Merwe died in 1998 at the age of 88, and that his remains were cremated.¹⁵¹ For over 34 years, Van der Merwe would live with the knowledge that he ended his career in disgrace. However, due to the lack of press coverage about his crimes, Van der Merwe and his criminal acts did not receive proper attention and analysis. As a criminal, Van der Merwe became an obscure figure in SA crime history.

The Corrupt Commandant's Crimes

Irregularities in the purchase of arms, ammunition and military vehicles between arms manufacturers, their agents and countries are not new, especially in SA history. As stated previously, the most recent corruption pertaining to arms procurement is concisely explained by Paul Holden in his work *The Arms Deal in Your Pocket*. Holden proves how the arms procurements by the African National Congress (ANC) government from specific European arms manufacturers in the early 1990s were riddled with fraud and corruption.¹⁵² Hennie van Vuuren's 2015 book, *Apartheid, Guns and Money*, revealed what the NP governments of John Vorster and PW Botha had to do to keep the SADF properly armed due to the constraints of both the 1963 and 1977 arms embargoes against South Africa.¹⁵³ Despite the embargoes, arms agents still considered South Africa a lucrative market. As Stemmet *et al.* argue, arms agents operate within an organised network of providers and buyers.¹⁵⁴ Selling arms, ammunition and military vehicles is a competitive field, and arms companies would have required agents within South Africa to meet with the DoD and SADF to ensure they could adhere to tender applications that were proclaimed publicly. As Feinstein shows, spending money wooing the representatives of the military, such as

Van der Merwe of the SADF, to win their favour, is not a moral issue for arms agents.¹⁵⁵ What makes Van der Merwe an interesting case is that he played a definitive role in the corruption that took place by creating expectations for the arms agents to fulfil. In other words, he hustled them in line with his own schemes for self-enrichment. As will be seen later, Van der Merwe actively and wilfully cooperated with arms agents to become caught up in corruption, making it hard to determine precisely who the proverbial puppets and puppet masters were.

During hearings by the 1964 Cillié Commission, Van der Merwe appeared to testify for four days during June 1964. Questioned by the legal representatives of both the SADF and the DoD, Van der Merwe responded carefully.¹⁵⁶ Before Van der Merwe was called to deliver his account, his attorney addressed Cillié directly with a special request. The attorney wanted to ensure that the indemnity granted to his client by the SAP and the Attorney General would remain for the duration of the commission.¹⁵⁷ Interestingly, the SAP and the Attorney General had made a deal with Van der Merwe after his arrest on 28 June 1963. This created grounds for speculation over why this deal was made with an officer of the SADF who was clearly guilty of soliciting and accepting bribes from arms agents.

Van der Merwe's arrest was a carefully planned exercise in which Van Nieuwenhuizen was to meet Van der Merwe at a disclosed point south of Pretoria and hand to Van der Merwe an envelope with cash in it. At the precise moment that he accepted the bribe, the police surrounded Van der Merwe and arrested him on the spot.¹⁵⁸ No record is found in the 1964 Cillié Commission record on what Van der Merwe and the police agreed after his arrest, but the commission report (Volume 24) clearly indicates that the SAP conducted their investigation after Van Nieuwenhuizen had informed the under-secretary of Defence, Vladimir Steyn, of Van der Merwe's demands for bribes.¹⁵⁹

With the indemnity granted to Van der Merwe and his attorney receiving the right to check any facts that could incriminate Van der Merwe further, Van der Merwe's questioning could begin. From his account, the names of various arms agents (including Van Nieuwenhuizen) and local SA suppliers came to the fore. These agents and businessmen were also ordered to appear before the commission and answer questions posed to them. A list of people who could have lodged a complaint against Van der Merwe had therefore been drafted, and will be explained concisely later in this section. The first person of note is Louis Ossip, who appears to have been the first businessman that Van der Merwe hoodwinked and from whom he had obtained monies. Dealings Van der Merwe had with arms agents, such as Henry Victor Jaboulay and Nicholas Yale, were part of an intricate web of intrigue that will only be discussed briefly in this article, because their cases deserve more detailed explanation in a study of their own. The same argument is made about the dealings that Van der Merwe had with Van Nieuwenhuizen, a rivalry so intense that it resulted in the destruction of a man's career.

The Louis Ossip Case

The first case against Van der Merwe was about his dealings with Louis Ossip. Unlike other individuals from whom Van der Merwe solicited bribes, Ossip was not an arms agent. He was an ordinary SA businessman who specialised in the selling of spare parts for heavy vehicles. In 1957, his company – General Spares (Pty) Ltd – tendered to supply the SADF with spare parts for their tanks.¹⁶⁰ In Ossip, Van der Merwe found a gullible first victim. Van der Merwe met with Ossip personally, taking with him details of the prerequisites for the specific tender and told Ossip that his tender would only succeed if Ossip paid Van der Merwe a specified amount of money. Ossip did not pay once only; he would continue to pay Van der Merwe, over the course of six years, various amounts in British pounds and SA rand with the condition that only by making these payments would he be guaranteed the successful award of a tender. It was only in 1963 that Ossip realised that there were no other competitors for the tenders for which he was paying. He immediately stopped the payments. By then Van der Merwe had already received over R20 000 from him.¹⁶¹

The Sidney Millyard Case

Sidney Millyard was a local agent for a spare parts agency known as S. I. & A Agencies, which was located at 12 Chapman Road in Germiston.¹⁶² One of the companies that Millyard's agency represented was the Southampton-based Gordon L Poole company.¹⁶³ Millyard met Van der Merwe in May 1962 when the tender for spare parts for the Comet tank was released. Millyard and Van der Merwe met frequently at Van der Merwe's office at Voortrekkerhoogte and at Millyard's home on the Rand. It was during Van der Merwe's visits to Millyard's home that Van der Merwe mentioned to Millyard that he wanted compensation for his assistance to him.¹⁶⁴ In addition, Van der Merwe stated to Millyard that he would be interested in joining his company as soon as he had retired from the SADF.¹⁶⁵ By October 1962, Millyard had been informed by Van der Merwe that Millyard's tender application for the supply of Comet tank spare parts had been accepted, and that 80% of the tender had to be fulfilled by Millyard's agency.¹⁶⁶ Van der Merwe also wasted no time in informing Millyard that he wanted 50% of Millyard's commission. Throughout the first months of 1963, he repeatedly contacted Millyard to solicit payment. Millyard paid Van der Merwe a total of R3 000 in cash in three separate payments.¹⁶⁷ Van der Merwe called these '*ex gratia* payments'.¹⁶⁸ Millyard never questioned Van der Merwe's actions, and told the 1964 Cillie Commission that he abided by Van der Merwe's instructions.¹⁶⁹

The Bernard Litscher Case

Bernard Litscher was an agent for Henschell Diesel Truck (Propriety) Limited in Wadeville, Germiston. He was contacted by Van der Merwe, who was seeking to acquire spare parts for buses in use by the SADF and for Panhard armoured cars.¹⁷⁰ Van der Merwe requested a personal meeting with Litscher at the Isando Club in Johannesburg. Enjoying a meal together, Van der Merwe indicated to Litscher that, if he was not willing to pay a certain amount to him, he could not guarantee that Henschell's vehicles would be accepted, following certain tests. Van der Merwe also stated to him that he was making

the request not only on behalf of himself but also on behalf of other senior members of staff, whose names he refused to mention. Litscher agreed to pay Van der Merwe a total amount of R20 000 and made payment on 6 March 1963.¹⁷¹

Litscher decided to pay the amount of R20 000 in cash to a certain Mr Zenner who represented the Swiss Bank Corporation in South Africa.¹⁷² At first, Litscher believed that he was finally rid of Van der Merwe, but he was mistaken. Van der Merwe continued to call him and wanted to see him personally about the delivery of Henschell's goods to the SADF. They were reportedly faulty, and Van der Merwe demanded another R5 000 on 2 April 1963, supposedly to solve this issue and to satisfy the people he represented. Litscher became suspicious, and asked one of his colleagues, a certain Dr Molitor, to accompany him to the hotel where Van der Merwe wanted to receive the money in person. Van der Merwe did not count the cash when he received it, possibly because of the uneasiness Dr Molitor's presence created in the room. Litscher succeeded in having an eyewitness of the transaction with Van der Merwe, and this curbed any further attempts at extortion by Van der Merwe.¹⁷³

The Kubler Case

On 12 June 1964, Mr Rudolph Kubler from the firm Wild of South Africa Ltd. appeared before the commission. Kubler was a director in the company, which specialised in sales of optical and surveying equipment. His company had sold theodolites to the SADF before but when Van der Merwe informed him of the periscopes needed with the procurement of Panhard armoured cars, the company obtained a significant tender as a sub-contractor.¹⁷⁴ Kubler indicated that Van der Merwe approached him thrice for financial remuneration for the information that he had supplied to facilitate the successful tender award.¹⁷⁵ However, Kubler refused to give Van der Merwe any money. Kubler is the only person on record that did not play according to Van der Merwe's rules. From the 1964 Cillié Commission records, it is however clear that Kubler would not have resisted the temptation to pay Van der Merwe had the latter not been arrested in June 1963, and Van der Merwe continued to call upon him for *ex gratia* payments.¹⁷⁶

The Cases of Colonel Martins, Colonel Bass and Mr Sima-Hilditch

Van der Merwe stated at the 1964 Cillié Commission that he believed that, by his influence, a certain Colonel Martins had been appointed the SA representative for the London-based company Engineering and Industrial Exports. This company held the licence to manufacture the Belgian FN rifle and its ammunition.¹⁷⁷ A certain Colonel Bass became the main contact person between the company and Van der Merwe. When the latter requested to be paid a certain amount for his support for the FN rifle to be purchased for the SADF, Bass assisted Van der Merwe by opening a bank account for him in Switzerland. Van der Merwe received a total amount of R54 000 from 1961 to 1963, seemingly through the assistance of Bass. The amounts were paid to Van der Merwe's Swiss bank account and to a Lloyds Bank account that he held in London.¹⁷⁸

Van der Merwe was not as fortunate in his dealings with a certain Mr Sima-Hilditch from the company Hildeah, in London. During a trip to London, Van der Merwe visited Sima-Hilditch and requested money from him to assure Van der Merwe's support for any SADF purchases from Hildeah. Sima-Hilditch made a promise to pay Van der Merwe but never did so. It seems that Van der Merwe never bothered Sima-Hilditch again.¹⁷⁹

The Jaboulay and Yale Case

Like the Van Nieuwenhuizen case, the intrigue of the Jaboulay and Yale case is such that it warrants a publication of its own; however, it is important to note in this article that Van der Merwe was able to swindle Henri Victor Jaboulay, a World War II recipient of the *Ordre de la Libération*.¹⁸⁰ According to Jaboulay's own account before the 1964 Cillie Commission, he immigrated to South Africa after World War II to make his fortune in the textile industry. His original plans did not work out, so he became the local agent for several French companies, a number of them focussing on military craft and equipment, such as OFEMA (the French Office for the Export of Aeronautical Material) and the Potez Company (a French aircraft manufacturer).¹⁸¹ Jaboulay and his partner, Nicholas Yale, knew Van der Merwe, and were interested in tendering for any product the SADF could purchase from either French or American firms. Jaboulay indicated to the commission that Van der Merwe informed them that he wanted to be remunerated for his assistance, by writing a specific amount on a piece of paper and handing it to them. Jaboulay agreed, but the specific amount is not known.¹⁸² Several other payments and gifts were requested by Van der Merwe from Jaboulay and Yale, including a Citroën motorcar for a trip Van der Merwe took to France. However, Van der Merwe changed his mind about the car just before his departure, and demanded money instead. Jaboulay stated to the commission that a total amount of R3 420 was paid to Van der Merwe by 18 March 1963, for them to remain in Van der Merwe's good graces.¹⁸³

The Van Nieuwenhuizen Case

Van Nieuwenhuizen's background was introduced earlier in this work, and his friendship with Van der Merwe was evident by the stabling of his horse on Van der Merwe's property in Pretoria. The intricacies of their relationship also merit another research project, especially as their friendship later became a bitter rivalry. This may have happened when Van Nieuwenhuizen decided to inform the Deputy Secretary of Defence, Vladimir Steyn, of Van der Merwe's criminal acts. It is also possible that the break in the friendship occurred when Van der Merwe and Van Nieuwenhuizen both returned from London having visited Britain, coincidentally, at the same time. Van Nieuwenhuizen stated to the commission that Van der Merwe had boldly informed him in London that certain equipment manufactured by Van Nieuwenhuizen's principal company, Galileo, was soon to be part of a tender issued by the DoD.¹⁸⁴

Van Nieuwenhuizen's agency, Interarmco, was the appointed SA agency for Galileo and for the Spanish company Hispania-Suiza.¹⁸⁵ Naturally, Van Nieuwenhuizen indicated his interest, but as soon as they were both back in South Africa, he was persuaded to limit this interest. Van der Merwe became demanding, aggressively insisting that Van

Nieuwenhuizen pay him a certain amount of money for the information he shared with Van Nieuwenhuizen while they were in Britain. Van Nieuwenhuizen stated to the commission that he refused but became concerned when Van der Merwe did not change his demeanour. In response, Van Nieuwenhuizen threatened Van der Merwe with lodging a complaint against him with his seniors. Van der Merwe was not swayed, and as a last resort, Van Nieuwenhuizen promised to pay Van der Merwe an amount that he had to indicate in an official letter, to be placed in a sealed envelope, and handed to a bank manager whom Van der Merwe trusted.¹⁸⁶ Understandably, as a result of this tension, Van Nieuwenhuizen reported Van der Merwe to Steyn, and Van der Merwe was clearly more anxious when dealing with Van Nieuwenhuizen than in the case of the other people he hustled. The reason for his anxiety is not clear from the 1964 Cillié Commission report. Even so, Van der Merwe was able to swindle R21 500 from Van Nieuwenhuizen.¹⁸⁷ This was the final sum of money that he would receive before his arrest on 28 June 1963.

Justice PM Cillié indicated in his report, which was Volume 24 of the commission record, that according to his calculations, Van der Merwe obtained R106 000 from his bribes. In the author's master's degree thesis (2020), the amount is indicated as R123 920, which, based on the amounts stated in Volume 24, is higher than Cillié's estimate.¹⁸⁸ This amount of money can be considered as massive in the context of 1964 South Africa. No records have been found to indicate that Van der Merwe had to pay back any of the money, and he was possibly able to use that money, or a small part of it, in the last 35 years of his life following his discharge from the SADF in 1963. If this is the case, Van der Merwe was clearly not punished at all for being a corrupt senior officer.

Conclusion

Barnie van der Merwe committed several crimes during his time as an officer in the SADF. His criminal biography reflects several cases of his hustling of businessmen, such as Louis Ossip and Bernard Litscher, and of the way he manipulated arms agents, such as Jaboulay and Millyard, for the sake of self-enrichment. By being an active member of the SADF, Van der Merwe thus brought the SADF into disrepute by swindling arms agents for the sake of a successful tender award. Considering that he was securely employed and approaching retirement, what possible reasons could be found to explain Van der Merwe's crimes? Fear of being poor again appears to be a significant motivator, but envy towards his senior officer, General Engelbrecht, is also a plausible argument. The cases against Van der Merwe clearly reveal however that he was greedy and disregarded his duty as an officer for immediate reward. He was found guilty of corruption in an SA court of law and is to be remembered as a criminal. Based on the careful analysis of his criminal biography, this statement can be supported with relevant evidence, and thus Van der Merwe can be included in the criminal history of South Africa.

Did Van der Merwe work alone? This is difficult to prove with the available evidence but it would not be unfair to argue that he might have requested *ex gratia* payments for more than just himself. Why else did he receive a light sentence? Could it be that he was protected and those who protected him were members in the high echelons of the NP and the SADF? It is also curious why the matter surrounding his corruption did not continue in the parliamentary debates after 1964.

Whether or not he operated alone, Van der Merwe's case is proof of corruption in the procurement of military equipment and vehicles from 1957 to 1963. The 1964 Cillie Commission, however, indicated that Van der Merwe was not the only person participating in corruption or revealing classified information during said time. If this commission did uncover an SA arms scandal, the cases against Van der Merwe were merely one part of an intriguing, broader web of criminal conduct. The criminal biography of Van der Merwe is therefore only one narrative within a greater story about this arms scandal, which in turn is part of the South African criminal past.

ENDNOTES

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- ¹⁰⁰ This article is dedicated to my master's degree study leaders: Professor Johann Tempelhoff, the late Dr Jan-ad Stemmet and Dr Claudia Gouws. Gratitude must be expressed to Mr Dewald Nel, who assisted with photographing Barrie van der Merwe's personal folder in the Department of Defence Archives in Pretoria.
- ¹⁰¹ 1964 Cillie Commission *Report of the Commission of Inquiry regarding the Alleged Irregularities in the South African Defence Force and the Department of Defence (Cillie Report)* (Pretoria: Government Printing and Stationary Office, 1964), Volume 24, 31–32. [
- ¹⁰² See The Union of South Africa, 'Official Secrets Act, No. 16 of 1956', *Government Gazette*, CLXXXIII, 5656. <<https://archive.gazettes.africa/archive/za/1956/za-government-gazette-dated-1956-03-23-no-5656.pdf>> [Accessed on 28 March 2023].
- ¹⁰³ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 31.
- ¹⁰⁴ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 32.
- ¹⁰⁵ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 31.
- ¹⁰⁶ The press at the time called it the "Arms case", but at the time they published a small number of articles about the case; the scandalous nature of the case was not known. With hindsight, surely it can be called an arms scandal.
- ¹⁰⁷ See H van Vuuren, *Apartheid, Guns and Money* (Johannesburg: Jacana Press, 2017).
- ¹⁰⁸ See P Holden, *The Arms Deal in Your Pocket* (Johannesburg: Jonathan Ball, 2008).
- ¹⁰⁹ EC Coetzee, *Noodsaaklike Onreëlmatighede? Die 1964 Cillie-kommissie en wapenaankope vir Suid-Afrika* (MA thesis, North-West University, 2020), 15.
- ¹¹⁰ The building still existed in 2023. It is in Paul Kruger Street in Pretoria.
- ¹¹¹ Coetzee, *Noodsaaklike Onreëlmatighede?*, 49.
- ¹¹² Republic of South Africa, *House of Assembly, Debates of the Third Session of the Thirteenth Parliament 1964. Comprising the Period 17 January to 28 June 1964* (Pretoria: Government Printer, 1964), 813.
- ¹¹³ Coetzee, *Noodsaaklike Onreëlmatighede?*, 44–48.
- ¹¹⁴ Coetzee, *Noodsaaklike Onreëlmatighede?*, 49.
- ¹¹⁵ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 3.
- ¹¹⁶ See BS Godfrey, 'History, Criminology and "Historical Criminology"', in BS Godfrey, P Lawrence & C Williams (eds.), *History and Crime* (London: Sage, 2007), 5–24.
- ¹¹⁷ See C van Onselen, *The Fox and the Flies: The World of Joseph Silver Racketeer & Psychopath* (London: Jonathan Cape, 2007) and C van Onselen, *Showdown at the Red Lion: The Life and Times of Jack McLoughlin, 1859–1910* (Johannesburg: Jonathan Ball, 2015).

- ¹¹⁸ See A Banks & N Jacobs, 'Biography in Post-apartheid South Africa: A Call for Awkwardness', *African Studies*, 78, 2 (2019), 165–182.
- ¹¹⁹ Loosely translated from H Venter, *Kriminologie: 'n Handleiding vir Studente in die Kriminologie* (Pretoria: Van Schaik, 1977), 10.
- ¹²⁰ Department of Defence Archives (hereafter DOD Archives), Personal File: P22075 Barnie van der Merwe. Attestation Form, 1934.
- ¹²¹ Geni.com., 'Barnie van der Merwe profile'. <<https://www.geni.com/people/Barnie-van-der-Merwe/6000000056375066018>> [Accessed on 13 March 2023].
- ¹²² See Anon, 'Secret Arms Trail: Verdict Monday', *Rand Daily Mail*, 18 September 1963.
- ¹²³ See FA Mouton, *The Opportunist: The Political Life of Oswald Pirow, 1915–1959* (Pretoria: Protea Book House, 2020). Also see I van der Waag, *A Military History of Modern South Africa* (Johannesburg: Jonathan Ball, 2015).
- ¹²⁴ DOD Archives, Personal File: P22190/1 Barnie van der Merwe. Service Record.
- ¹²⁵ DOD Archives. Personal File: P22075 Barnie van der Merwe. Statement to Promotions Application, 22 September 1944.
- ¹²⁶ DOD Archives. Personal File: P22190/1 Barnie van der Merwe. Service Record.
- ¹²⁷ DOD Archives. Personal File: P22190/1 Barnie van der Merwe. Service Record.
- ¹²⁸ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12.
- ¹²⁹ See L Jooste, *F.C. Erasmus as Minister van Verdediging* (MA thesis, University of South Africa, 1995).
- ¹³⁰ Coetzee, *Noodsaaklike Onreëlmatighede?*, 57.
- ¹³¹ 1964 Cillió Commission 8, *Report of the Commission of Inquiry*, 1477–1479.
- ¹³² Coetzee, *Noodsaaklike Onreëlmatighede?*, 63.
- ¹³³ Coetzee, *Noodsaaklike Onreëlmatighede?*, 59–60.
- ¹³⁴ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12–13.
- ¹³⁵ Anon. 'Mense in die U.V.M.', *Kommando*, (July 1955), 26.
- ¹³⁶ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12.
- ¹³⁷ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12.
- ¹³⁸ 1964 Cillió Commission 9, *Report of the Commission of Inquiry*, 1692–1693.
- ¹³⁹ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12–13.
- ¹⁴⁰ General Sybrandt Engelbrecht was by the late 1950s the Deputy Quartermaster General and therefore Van der Merwe's superior.
- ¹⁴¹ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12–13.
- ¹⁴² 1964 Cillió Commission 15, *Report of the Commission of Inquiry*, 2965–2968.
- ¹⁴³ Coetzee, *Noodsaaklike Onreëlmatighede?*, 37.
- ¹⁴⁴ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 12–13.
- ¹⁴⁵ Coetzee, *Noodsaaklike Onreëlmatighede?*, 35–38.
- ¹⁴⁶ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 14.
- ¹⁴⁷ 1964 Cillió Commission 24, *Report of the Commission of Inquiry*, 14.
- ¹⁴⁸ The copy mentioned is part of the University of Johannesburg's special collection located at the Doornfontein campus.

- ¹⁴⁹ DOD Archives. Personal File: P22075 Barnie van der Merwe. Letter of Termination of Service. 28 September 1963.
- ¹⁵⁰ DOD Archives. Personal File: P22075 Barnie van der Merwe. Letter to the Department of Social Securities and Pensions, 9 November 1963.
- ¹⁵¹ Rebecca Street Cemetery records, 1964 Burial Records, Barnie van der Merwe.
- ¹⁵² See Holden, *The Arms Deal in Your Pocket*.
- ¹⁵³ See Van Vuuren. *Apartheid, Guns and Money*.
- ¹⁵⁴ See JA Stemmet, K Stemmet & B Senekal. 'South Africa in the International Arms Trade Network (ATN) during National Party Rule (1948–1994): A Network Analysis', *Journal of Contemporary History*, 40, 2 (2015), 48–70.
- ¹⁵⁵ See A Feinstein, *The Shadow World: Inside the Global Arms Trade* (Johannesburg: Jonathan Ball, 2011).
- ¹⁵⁶ Advocate H Moll was the legal counsel for Department of Defence and Advocate JJ Strydom did the same for the South African Defence Force.
- ¹⁵⁷ 1964 Cillié Commission 9, *Report of the Commission of Inquiry*, 1685–1687.
- ¹⁵⁸ Coetzee, *Noodsaaklike Onreëlmatighede?*, 65–66.
- ¹⁵⁹ 1964 Cillié Commission 24, *Report of the Commission of Inquiry*, 16–17.
- ¹⁶⁰ Coetzee, *Noodsaaklike Onreëlmatighede?*, 58–59.
- ¹⁶¹ 1964 Cillié Commission 24, *Report of the Commission of Inquiry*, 59.
- ¹⁶² 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1384.
- ¹⁶³ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1384.
- ¹⁶⁴ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1385, 1387, 1388.
- ¹⁶⁵ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1388.
- ¹⁶⁶ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1390.
- ¹⁶⁷ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1391–1393.
- ¹⁶⁸ 1964 Cillié Commission 8, *Report of the Commission of Inquiry*, 1402.
- ¹⁶⁹ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1389.
- ¹⁷⁰ 1964 Cillié Commission 8, *Report of the Commission of Inquiry*, 1470.
- ¹⁷¹ 1964 Cillié Commission 8, *Report of the Commission of Inquiry*, 1472–1475.
- ¹⁷² 1964 Cillié Commission 8, *Report of the Commission of Inquiry*, 1476–1477.
- ¹⁷³ 1964 Cillié Commission 8, *Report of the Commission of Inquiry*, 1477–1479.
- ¹⁷⁴ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1365–1369.
- ¹⁷⁵ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1370.
- ¹⁷⁶ 1964 Cillié Commission 7, *Report of the Commission of Inquiry*, 1380–1383.
- ¹⁷⁷ 1964 Cillié Commission 24, *Report of the Commission of Inquiry*, 25.
- ¹⁷⁸ 1964 Cillié Commission 24, *Report of the Commission of Inquiry*, 25.
- ¹⁷⁹ 1964 Cillié Commission 24, *Report of the Commission of Inquiry*, 26.
- ¹⁸⁰ Geneanet, 'Henri Victor Jaboulay profile', <<https://gw.geneanet.org/mlebj?lang=nl&n=jaboulay&oc=0&p=henri+vector>> [Accessed on 3 April 2023]. Also see RM van der Velde, *French-South African Arms Trade Relations as a Community of Practice, 1955–1979* (PhD thesis, University of Portsmouth, 2017).
- ¹⁸¹ 1964 Cillié Commission 6, *Report of the Commission of Inquiry*, 1064–1065.

¹⁸² Coetzee, *Noodsaaklike Onreëlmatighede?*, 59.

¹⁸³ Coetzee, *Noodsaaklike Onreëlmatighede?*, 59–60.

¹⁸⁴ Coetzee, *Noodsaaklike Onreëlmatighede?*, 63.

¹⁸⁵ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 10.

¹⁸⁶ Coetzee, *Noodsaaklike Onreëlmatighede?*, 63–64.

¹⁸⁷ 1964 Cillie Commission 24, *Report of the Commission of Inquiry*, 15.

¹⁸⁸ Coetzee, *Noodsaaklike Onreëlmatighede?*, 67.

