

CASSIDY (The second coming)

We sat for five hours up there in the boonies, huddled up high on the bank overlooking the track, Ed and I. Sitting almost shoulder to shoulder, tucked in under a small rimu tree, coprosmos surrounding us. Murray was thirty metres further down the track on that same bank ...sitting quietly, also waiting.

Just an hour earlier we had made our way as quietly as we could on the 4x4 quad, Ed driving, with Murray and I perched behind him, winding our way up the remote scrub and bush surrounded road heading into the Utukura forested lands. It was ANZAC Day and we had missed the dawn parade knowing that there were more pressing and present time wars to deal with right here at home....pigeon wars. We had worked our way up the track until we came to the big miro and kauri stand... noting the gumboot tracks and those damn big dog prints accompanying them once again. Like last week. It was a bloody great big mastiff this dog, with a head the size of a dinner table and probably a bite to match. We had almost run the damn thing down last week in the gathering gloom as Ed and I were coming out on the same road, having failed to make contact with any poachers that day. It had given us a guttural "Woof" and boogied off into the scrub. We also heard the crashing sound of its owner disappearing through the titree. We knew we had missed him that day and today was to be our revenge ... we hoped.

Up under the miro's hanging over the track I spotted the feathers, just one or two down feathers, still floating lightly on the very tops of some kiekie, A zephyr breeze stroking them slightly, catching my eye. About 30 metres further in Ed found the first hidden cache of pigeon feathers, fresh and almost warm, buried under a light cover of fern and ponga fronds. He grunted in disgust as we moved on. I could hear Murray quietly working his way through the vege on the other side of the road. It didn't take long and Ed had located a further three caches of feathers, one fresh and two about a week old. Consistent with the last visit we had made here.

Boom !! The shot echoed up the valley toward us...the sound rolling away through the miro and kauri, standing the hair up on the back of my neck. It was only half a clik away to the west. On Murray's side of the road and down in the native where there were some good stands of miro.

"Well that's sorted it Ed. We know for sure he's here today." I muttered quietly. Ed grunted a reply and I heard the radio crackle into life in my ear and Murrays whispering voice asking if we had heard it. Not that anyone could miss hearing that. It sounded like a damn cannon going off.

After a quick chat we quietly started the quad and withdrew back down the road, stopping on the grass clearing knob where the track dropped off down toward Waikerikeri Road.

"Okay let's find a good ambush spot down here somewhere. We need a site where he can't get up the bank in hurry, a good drop-off on the bottom side to bugger him up, and a nice strait where we get 20 or 30 metres vision of him before he is on top of us."

Ed agreed and we quietly worked our way down the track. A few minutes later we had found the site we wanted and got our observation points sorted out.

I left Ed and Murray to fine tune the site and hide the quad further on down the track while I made my way back up on foot to the knob, looking for some scarce cell phone coverage. First I managed to get hold of Scotties wife, leaving a message for him to give me call when he got back from shifting his cows. We needed a bit more back up I reckoned. Although he was still green at the law enforcement game, Scott made up for it in enthusiasm and his bush skills.

I next placed a call to Kaikohe Police, finally making contact with the Comms Centre in Whangarei, and after five minutes of explanation managed to get across our location and the request for an armed constable to join us when they could manage. It was now a little after 12 noon. I heard another shot echo up the valley toward me. From the same rough location as the first. By the time I had sat there and got a confirmation call back from the Police I had heard a third shot. This man was busy. Bastard!

It was frustrating sitting there waiting for phone calls knowing that this man was down there destroying the wildlife I loved so dearly. Revenge has to be ours this day!

The phone vibrated quietly and it was Scottie. He agreed to pick up the cop and join us as soon as he could. I gave him instructions where to make contact and then made my way back down to Ed and Murray.

I climbed up under the rimu beside Ed and settled down to wait. It could be a long one. It was still five hours to dusk.

At 2.30 Scott's voice whispered in my ear through the earpiece. I directed him up and spotted the two shapes quietly working their way up toward us. The cop wearing a blue shirt. Damn it, he would stand out like dog's balls! We got them to move off the road onto the topside and work their way through the native so as not to leave scent on the road for that damned mastiff dog. Just prior to getting into our ambush site we had walked up and down the track finally going into the scrub well below and working our way back to the site on the topside as well...hoping this would fool the dog into thinking that the sign was old.

The cop was quite young and keen looking. I gave him a quick briefing...telling him what we were about and that we would be dealing with an armed man coming out around dark and with a dog. I let him know that the man, if it was who I suspected, would likely do a runner or get a little excited at our presence. I sent the policeman and his Glock pistol down with Scott to join Murray. Their job would be to step out in front of the guy and challenge him while Ed and I slipped down behind to block his exit back up the track.

We sat quietly waiting.... At 4.50 I heard another shotgun shot. At least he hadn't buggered off the other way. The mosquito's buzzed as the gloom slowly gathered...5.30.. He should at least be out of the bush by now before it got too dark in there. With quite good vision back up the track about 40 metres, I visually noted a spot opposite me. Once he reached it I would call the go. A spot I would recognise in the dark and gloom.

At 6.00 I started using the night vision gear. What a blessing this was. It had only taken fifteen years of our moaning and bleating to persuade our bosses that it was a vital piece of equipment when working in the gloom and darkness with armed poachers. Lucky for us Don, my boss, had a progressive attitude and believed in quality gear. He got us the latest generation 3 military Litton glasses. The same goggles as being used in the Gulf War and in Iraq. It had taken a year, \$15k, and a special import licence from the American military to do it. Well worth it for sure. They almost turned night into to day.

By six-thirty it was pitch dark and I was worried. He should be here by now. I was worried that the cop would want to go home. I knew his shift had finished at five and he was simply staying because he was just as dedicated as we were.

At six forty-five Ed whispered, "He's coming." Ears like an elephant has Ed. I hadn't heard a damn thing. I had the goggles focused on the track as it disappeared into the gloom, the light gray speckles of the phosphorus screen dancing quietly, enhancing any available light, feeding it back through the lens. There...!! My heart pumped...

He was walking slowly toward us... Shotgun carried at the ready in both hands. Up and across his chest. A long dark coat. A back pack just visible on his back. Tucked in hard against his right leg and coming almost up to the mans waist.. was that bloody great big mastiff dog. Stepping slowly.. head up and alert, matching his master's pace and echoing the body language.

I quietly squeezed the radio mike and whispered, "Standby. He is carrying a shotgun."

The man stopped dead in his tracks...!

Shit! I had forgotten that these damned radios had a light screen that we were not able to disable which lit up when ever you transmitted....

I heard Ed whisper... "The light" and felt his hand cover the radio..

After several heart stopping moments, I watched the man start to move, still coming but slower.. the shotgun carried higher now.. looking straight at our position.

"He's still coming," I whispered to Ed.

Twenty metres to go... He was at a slow walk. The mastiff had sensed his anxiety and was looking toward me also... Our man must have thought he had been seeing things when that light came on briefly, but he was still uptight, I could see it on his face.. Ten metres.. five.. two.. He crossed my mark on the track below.

"Go Go Go !" into the radio.

I saw him turn and look straight at me. He was only about ten feet away and just past my position. He rose up on his toes and leaned forward... beginning his run.

The voice rang out to my left as all chaos started breaking loose.

"Stop! Armed Police! Stay where you are!"

...And Murray's booming voice: "Stop! Conservation Rangers!"

"Stop Armed Police! Stay still!" The cop again.

I heard Ed sliding down the bank away from me and hitting the road at a run...then a crashing sound of someone hitting vege at speed... More shouts from Murray.. More crashing of vegetation below me.. Then the loud deep barking of that bloody great big mastiff..!!

I half slid, half fell down the bank onto the road trying to keep the goggles to my eyes. It was black as pitch without them. I spotted the constable standing on the track in a crouch, pistol held in both hands in a firing position, swinging the weapon slowly from side to side and looking down off the track edge. Ed, Murray and Scott nowhere to be seen.

Their crashing told me where they were.. Hard on his trail. Down in the darkness, in the bush, steep and slippery.

More yelling from Murray, "Stop Rangers! Give it up!"

I headed off down the steep bank sliding on my butt and trying not to damage the goggles as the vege bashed at me as I went down. I could make out the light of Ed's torch a good thirty metres or so below and to my left. More crashing. More yelling. "Over here!" Ed's voice.

I worked my way closer...still more crashing. "Stay where you are ! Stay down! Don't move! We are Rangers and Police!" Murray was giving him the message alright.

They came into my view...down below me by about ten metres the glow of Ed's torch eerie in the night vision gear. The man was upside down in a mess of supplejack vines with Ed holding him down and Murray leaning over him. Scott was a few metres to the left, a shotgun in his hand. As I approached Ed passed me the pack he had ripped off the guys back. It was full and quite heavy for its size. The man was still struggling... I heard him panting and asking "Who are you !?"

The cop arrived and wrestled the man over on his front.. struggling to put the handcuffs on...telling him he was under arrest. The big mastiff looming nearbarking!

“Tell that bloody dog to go away or I will shoot the damn thing!”

“Go away dog! Go home.” Panted the man.

“It’s a wonder the damn thing can even bark, I pepper sprayed the mongrel.”

It took sometime for the cop to search him, emptying his pockets. Half a dozen empty 12 gauge rounds in the left coat pocket, live rounds in the right pocket. We walked and slipped our way back up the steep climb in the dark. At one point he slipped, falling forward, cracking his forehead on a tree root. Shame! We took the cuffs off him to let him manage the climb. The cop with one hand on his collar. All the time that damn big mastiff kept hanging about, growling and letting out the odd woof.

“If you don’t get rid of that bloody dog he is history. I will shoot him this time.”

“Go home Dog, get home!”

“Where’s home?”

“Just down the hill. I live in that house there.”

It took us about an hour to get him back to the Kaikohe Police station. There, Ed, Murray, and I headed for the coffee while the constable started his processing. Scot had headed straight home his work done for the night.

We still had not looked in the pack, but I was sure. I could smell them. It’s a smell you don’t forget...they were there, but we got coffee into us first.

We spread his gear out on the floor in the processing room. Cassidy standing there, looking rather shabby in his old coat. It was him all right. Ed and I had sensed it right from that first encounter the weekend before. Two years hence we had knocked him off coming out of that same road in his clapped out car. We didn’t find his bird that night but we got his rifle and a pack with feathers and blood, plus a heap of abuse and lies...but that’s another story which I will tell you later..

Digging into the pack I found the plastic supermarket bags. Not one, but three of them. Pulling them out on the floor, they gave up their contents. Two birds in each. Six very dead, very sad, and very naked without their feathers. Kukupa.

* * *

THE UNTENABLE DEFENCE

[Extract from “DOC Briefs” written by Scott Grieve, Solicitor, Northland Conservancy]

Two of the Department’s most experienced warranted officers – Ross Atkinson and Eddie Smith – had been targeting the Utukura, Northland area off and on over the past four years. From time to time significant kukupa (native New Zealand wood pigeon) poaching was occurring there.

Activity was detected in Utukura by Atkinson and Smith over both Good Friday and Easter Saturday 2003.

On 18 April 2003 Atkinson and Smith observed gumboot tracks and the prints of a large dog on a wet and muddy non-surfaced track in the Utukura Forest area. Kukupa feathers were also observed lying about consistent with a bird having been shot.

At about 11.00 a.m. on 25 April 2003 Atkinson and Smith, in the company of experienced (honorary) wildlife ranger Murray Brydon, returned to the same area.

Fresh gumboot tracks and large dog prints were once again observed, as was evidence of freshly disturbed vegetation and soil disturbance. A cache of feathers, concealed under ponga fronds, recently plucked from a kukupa was observed. A little further into the forest a second “fresh” cache of kukupa feathers was also observed together with two further caches which appeared to be at least a week old.

A single shotgun was heard in the distance.

Atkinson, Brydon and Smith moved into position back down the Waikerikeri road track and a cell phone call was made to the Police requesting assistance by way of an armed Constable as Atkinson believed they would be dealing with armed persons attempting to leave the forest later in the day.

12.30 a.m. – Atkinson called warranted officer Scott by cell phone requesting assistance. Another call was made to the Police. Two further shotgun shots were heard.

A trap was set in vegetation above and below the track by Atkinson, Brydon and Smith.

14.30 p.m. – Scott and Constable Dan arrived on scene, Dan armed with pistol.

16.50 p.m. – further shotgun shot heard.

Darkness fell and at 18.00 p.m. Atkinson began using his Litton Night Vision goggles - Generation III, currently used by US military and imported under special license.

18.45 p.m. – a male person came into Atkinson’s view, holding what appeared to be a single barrelled shotgun, pack on back, large dog at side, alert body language displayed.

“Stand by”, transmitted Atkinson to the others by radio. The suspect passed slowly below Atkinson and Smith’s position heading toward Brydon, Scott and Constable Dan.

“Go Go” came Atkinson’s command over the radio.

The suspect fled swiftly into the night down a steep bank to one side of the track with Smith and Constable Dan in hot pursuit while the constable shouted, “Armed Police! Stay where you are”! Brydon echoed with, “Conservation Rangers! Stop”!

Smith and Brydon disappeared from Atkinson’s enhanced vision and a lot of crashing coming from the forest was heard.

The suspect then encountered Mr Supple Jack.

As Atkinson approached the scene Scott was observed holding a single barrelled shotgun – Smith a pack – Brydon stood beside the suspect who was well tangled in Mr Supple Jack’s vines. Constable Dan arrived and read the suspect his rights. Atkinson immediately recognised the suspect, Mr Cassidy, as a person he’d dealt with before who’d been charged and convicted on that occasion with, inter alia, possession of two kukupa feathers.

Come 20.00 p.m. the party raged on at the Kaikohe Police station.

Cassidy was searched by the constable and Atkinson and was found to be in possession of, inter alia, six dead/six live 12 gauge shot gun rounds of ammunition. Lo and behold, neatly packed into the very bottom of Cassidy’s pack were three New World plastic bags each containing two dead kukupa – wet, fresh with blood with multiple pellet wounds consistent with being shot by shotgun. Further unused New World bags were also found along with an empty 12 gauge cartridge gun belt.

Atkinson interviewed Cassidy. When asked to explain his possession of the dead kukupa Cassidy replied, “I found them up the track with a shotgun”. Later in Court Cassidy would explain that he picked them up because they could be utilised for dog tucker. Cassidy’s gumboots were observed to be of the same size and identical tread pattern to those also observed by Atkinson on the 18th.

When prosecution expert “Iron Mike” Bodie’s plane touched down on the Tarmac at Kerikeri airport on 17 November 2003 nervous whispers rippled through kukupa poaching circles in the winterless North – the plight of Mr Wayne following his eight day defended hearing in 2001 still fresh in their minds.

Bodie knew that it would be a walk in the park for him to successfully prove beyond reasonable doubt that Cassidy was in fact guilty of possession – a point later conceded by the defence at the trial on 18 November 2003.

Hunting and killing, however, would not be so clear cut – the evidence was all circumstantial for one.

Whilst delivering his opening statement Bodie drew Judge Clapham’s attention to the fact that the defendant was charged with strict liability offences; to the broad definition of “hunt or kill” in the Wildlife Act 1953; and to s. 61(1) of that Act which provides an evidential presumption which it was submitted should be taken into account by the Court in the circumstances of the case.

Counsel for the defendant pleaded Cassidy’s innocence. Cassidy had, of course, been innocently walking through the forest with his dog after a day’s pig hunting. Propped up against an innocent looking tree Cassidy innocently found the single barrelled shotgun and a large black rubbish bag (strangely later never found by Atkinson despite his thorough search of the area) containing the three smaller New World bags containing the dead kukupa.

No mention up to now at any stage was made by Cassidy of the 12 gauge cartridges, gun belt, and other empty New World plastic bags. Funnily enough when being cross-examined later on Cassidy conveniently remembered that he had also found those items in the large black rubbish bag. He seemed to have a more difficult job though of explaining why six dead cartridges were found in one of his coat pockets and six live cartridges in his other pocket. Apparently, observed Judge Clapham, its common hunting practice to split live and dead cartridges – but of course Cassidy had been hunting pigs with a dog and knife so he hadn’t split the cartridges – they just came to be put into his pockets in that way on that dark night. The cartridges, which Cassidy found in the gun belt, dug into his side when he tried the belt on in the dark - so he removed the cartridges so he could wear his newly found belt – which belt was of course mysteriously later found on search in his pack, not on his person.

Of course Cassidy could not have fired a shot that day in any event because on about 22/23 April 2003 his right hand thumb was badly injured by a knife when he was pig hunting – rendering it totally impossible for him to operate the old, almost flintlock vintage, hammer shotgun (muzzle loader). Cassidy’s thumb was of course heavily swollen and bandaged at the time.

Because of his heavily bandaged thumb the Police could not even, allegedly, take his thumb print when at the station following the altercation. Judge Clapham scratched his head and noted that the defence counsel should have disclosed the Police records stating that Cassidy’s thumb print could not be taken on the night in question due to the injury. It transpired that this was the first that counsel for the defendant knew of the missing thumb print. Strangely enough neither Atkinson, Brydon, Smith, nor the constable could recall Cassidy’s heavily bandaged thumb. They did, however, fortuitously manage to recall Cassidy’s frantic attempts to release a thin wire from around his chest - the purpose of which was to better secure Cassidy’s pack to his body – using none other than his right hand whilst tangled with Mr Supple Jack. Lord only knows why Cassidy could not demonstrate this release technique using only his left hand whilst under cross-examination by Bodie.

Cassidy had the Doctors certificate and ACC claim form to back up his injured thumb story. Yet, Bodie's cross-examination revealed inconsistencies between the date that Cassidy said he'd received the certificate and completed the claim form and the actual dates on those documents.

Cassidy, of course, was also hard of hearing and, therefore, could not hear the loud commands to stop shouted at him on the night by Cleaver and Brydon who were in close proximity to him at the time. Incredibly, Cassidy's hearing problem didn't seem to hinder him whatsoever during the trial – even when Judge Clapham spoke to him in a noticeably quiet voice.

Nor did Cassidy run away from his pursuers down the steep bank – he was simply confused, startled, and blinded by the torch lights and consequently fell down the bank. Strangely enough none of the witnesses for the prosecution could recall using torches when Cassidy was initially confronted – only later when hauling him away from Mr Supple Jack.

Cassidy's fatal mistake was probably taking the stand as a witness. As Bodie mercilessly cross-examined him the inconsistencies of his recollection of the events in question became all too apparent. Around about the time Cassidy miraculously recalled he'd also found the 12 gauge cartridges, empty gun belt and unused plastic New World bags in the large black rubbish bag on the side of the track by the tree – which was just after he'd told Bodie that the dead kukupa were not neatly packed into the very bottom of his bag but rather that they'd just happened to fall in there like that when he put them in his pack in the darkness – Cassidy was put on notice by Judge Clapham as to his credibility. It was recorded that his evidence was not accepted.

Summing up later that day Judge Clapham recorded that, for the first time in his thirteen years as a District Court Judge, he found Cassidy to be an unbelievable witness; that Cassidy had endeavoured to vary his evidence throughout cross-examination; and that Cassidy had been afforded by the Court every opportunity to correct changes in his evidence during cross-examination but that he had failed to do so. It was a mystery to the Judge as to why Cassidy had tried to escape into the night with the shotgun that he'd innocently found instead of handing it up to the warranted officers and Police as an innocent man might.

Judge Clapham went on to find that, “the explanations from the defence are untenable”.

Subsequently Cassidy was convicted of hunting and killing the kukupa and also convicted on Police charges of resisting arrest and unlawful possession of a firearm. He has been remanded on bail for sentencing shortly.

Crown submissions on sentence will submit, inter alia, that the Wildlife (Penalties and Related Matters) Amendment Act 2000 demonstrates a clear policy signal from Parliament and the community in general about the intrinsic value of wildlife to New Zealanders, and the very serious consequences that may follow for those who breach this law. Given that it is dubious as to whether or not Cassidy has the means to pay a fine a short sentence of imprisonment is being sought, together with forfeiture of certain items, bearing in mind that Cassidy has a previous conviction for possession of kukupa feathers in circumstances which had similar hallmarks to this case.

I have only the highest praise for all those involved with this successful bust and conviction. Our guys work long hard hours in often adverse and dangerous conditions to get these results.

In February of 2004 Judge Clapham sentenced Cassidy to six weeks imprisonment. This was the first ever prison sentence handed down for a wildlife offence in NZ