

TAKING LIBERTIES

Chris Atkins is a man possessed. I have only previously met one person with as much energy and enthusiasm as Chris, and that was Giles, so the omens for Chris are not good, obviously. But Chris has already done enough to earn him some form of medal from Her Majesty.

I first met him in early 2003. He was a producer looking for equity funding for a low budget UK martial arts film called *The Purifiers*. I was consulting for the film financiers. He was an unlikely film producer. Having been sent down from Oxford, where he was studying physics, he finished his degree at Warwick University and then became a luvvy. He looked like a geek, gangly and malnourished. But his sheer enthusiasm for whatever was his latest project was always totally infectious.

There is something about people with physics degrees. They look at the world in a very different way to the rest of us. When looking at candidates' CVs for interview for jobs during the 12 or so years that I was involved with structured finance, I would *always* interview someone with a physics degree, even if the rest of the CV screamed "pass". You need people who can look at a problem from weird and wonderful angles.

What first struck me about Chris was that he was the first producer to want to understand how the equity financing structure worked, from every angle, so that he could then go away and propose a finance plan for the film which best met the needs of all his financiers. A simple concept, you would think, but surprising how few film producers are able to do it, and rely in the end on the lawyers and financiers squabbling amongst themselves to get the thing sorted. Consequently, Chris and I hit it off instantly. Two geeks together in a land full of luvvies.

Purifiers was not a commercial success. Very few low budget films are commercial successes, although the advent of the digital age, and with it the prospect of low cost distribution through digital release, has made the economics slightly more interesting.

In the current market, film profits are mostly made in DVD. But DVD and TV sales are typically driven by theatrical (cinema) release. If a film appears on two screens across the country, no-one is ever going to see or hear about it, and so the chances of it making money are slim. If it appears on 400 screens, then even if it does not make money in the cinema, it may well become profitable through DVD or TV sales thereafter.

But putting a film into a cinema costs money. Lots of money. Each "print" (the reel of film that whirs away on the projector at the back) costs

approximately £1,000. And then you have to advertise the bloody thing (posters, screen trailers, newspaper adverts, etc).

If you are Warner Brothers and your film is Harry Potter and the Cat's Whiskers, and has cost £150 million to make, then you're probably not really that fussed about spending the odd £10 million on a massive advertising campaign, and putting the film onto every screen in the country at £1,000 a time and leaving it there for 6 weeks.

But if your film cost tuppence ha'penny, and you had to remortgage your house to make it, then you almost certainly cannot afford to put it out on lots and lots of screens, let alone pay to tell anyone that you've done so. Welcome to a substantial portion of the British film industry. Some of the best creative talent in the world, but little in the way of organised infrastructure to harness that talent, other than through visiting Hollywood productions.

That's not to say that low budget pictures are always failures. Many have made huge sums of money. But quite often it's a lucky break. The daddy of them all was of course the *Blair Witch Project*, which reputedly cost around \$50,000 to make, and went on to gross a couple of hundred million dollars worldwide in cinemas. This works by a film doing well on a limited release and the cinemas keeping it on, and more taking it, so it grows.

But for the most part, if you are making a low budget film you have to figure you will get a very small theatrical release (in fact many never secure a release at all), and hope that word of mouth or viral marketing will enable the thing to grow. It's a gamble.

Purifiers never really grew, although I did watch it on cable TV in Houston after I was extradited, so things can't be all bad. It's actually a really good picture, and certainly of outstanding quality for the risible amount of money that was spent making it.

Chris and I became friends during the making of *Purifiers*, and would often go for a drink or several after work in the West End. As my business involved knowing lots about what all the independent film finance houses were up to, Chris probably saw me as a useful source of information. But most of all we enjoyed each other's company and shared a fairly cynical view of the world at large.

Occasionally I would visit Chris on set somewhere, which was always a laugh because everything was always total chaos. It was seat of the pants stuff, which is quintessentially what low budget film-making is all about.

Somehow, everything around the set would all come together for a few seconds of shooting, and then descend once more into chaos.

Chris would double up as driver, tea-boy, grip, cameraman, and frequently peacemaker when the director was threatening violence on someone for some minor problem or infraction. Hollywood it was not. It was film-making in the raw. And being a physicist, of course, Chris loved chaos.

Towards the end of 2005, as the days began to darken for Gary, Giles and me, Chris would sit patiently over our regular drinks while I railed against the latest act of what I saw as treachery by our Government. I would thrust a copy of some story in the day's Daily Telegraph into Chris' hand, and say things like "for Christ's sake, does nobody realise what's happening to my country?", or some such remark better suited to an old buffer in a gentleman's club somewhere.

I guess a decade on the books of the Army leaves its mark in the sense that I am incredibly proud to be British, and passionate about the sacrifice that soldiers through the years have made to preserve some of our great institutions. And all I could see, perhaps through jaundiced eyes given what was happening to us at the time, was a Government that was tearing up the social contract, and trampling headlong into territory that for centuries had remained sacred. Their acts of constitutional vandalism seemed to be occurring on a daily basis.

I was hopelessly biased, of course, as by this stage I had become completely enraged by the way in which the Home Office were telling all kinds of untruths about the Extradition Act and the Treaty, and I had begun to see conspiracy and lies wherever I looked.

One of my hobbyhorses was the Government's use of Secondary Legislation to subvert the process of Parliament. This is a mechanism whereby bits can be constantly added onto existing laws without proper scrutiny, under what is called the Royal Prerogative. Historically, nothing of particular importance has tended to be brought into law in this way. Politicians have understood and accepted that secondary legislation is for trivial stuff which is not worth Parliament's precious time debating.

But under Tony Blair's stewardship, there had been a subtle but very pronounced change. Blair of course was famous for his contempt for Parliament, rarely appearing in the chamber or doing anything as vulgar as voting on Bills.

On the issue of secondary legislation and the Royal Prerogative, the Extradition Act was a case in point. The Extradition Bill had been thoroughly debated in both Houses during 2002 and 2003. The Government would later use this argument consistently in its attempts to argue that black was white, in defence of the arrangements with the US. But the enactment of the new Treaty with the US, which had been signed in secret, was done through secondary legislation, so that the Commons never got any opportunity to have a debate on it. At no stage during the passage of the Bill was there any mention of a new Treaty, even though the process was well advanced by the time the Bill had its second reading in the Commons in December 2002.

John Denham, the Home Office Minister who steered the Bill through its Second Reading (which is the stage at which most debate takes place), was later to tell the House that he had no idea that a Treaty was being negotiated when the Bill came for Second Reading, and I believe him. Yet civil servants from his own department had been negotiating the Treaty in secret since early in 2002.

More and more, the Government started to craft Bills of all sorts in such a way that really important, operative provisions of those Bills would be left to secondary legislation, and in many cases could be created or changed by a single minister, with no reference whatsoever to Parliament.

“Chris, this is totalitarianism. It’s not democracy”, I used to wail.

But more importantly, the Government was subtly altering the balance of the relationship between the citizen and the state. Traditionally, in a democracy, the state is responsible to the individual. More and more, this balance was being distorted. And the War on Terror was a very convenient blunt instrument to use as a means of eradicating basic liberties, like freedom of speech or protest.

Chris used to empathise greatly with my ramblings, but I always suspected when I woke up the following morning with a huge hangover that he had been wishing he were somewhere (anywhere) else rather than listening to this dyed-in-the-wool Tory ranting on about Chris’s hero Saint Tony, who was a great friend of luvvies everywhere. Who can forget “Cool Britannia” after all?

And then one day in late 2005 he turned up to one of our regular sessions at Balls Brothers in Brook Street with someone else. She was Becca Elson, and Chris introduced her as his researcher.

At about this time, the octogenarian Walter Wolfgang had been manhandled and thrown out of the Labour Party conference in Brighton for shouting “nonsense” during a speech by Jack Straw, then the Foreign Secretary. He had then been detained under new anti-terror laws.

“I was speaking to my father about some of your theories”, said Chris, “and he agrees with every word”. Chris’s father is a historian, and had doubtless explained in terms much more lucid than I could ever have managed how the traditional protections against an overbearing Executive are supposed to work, and what happens when they don’t.

It all revolves around what is known as the separation of powers. Essentially, in any functioning democracy, the job of the Government is to govern on behalf of the people, to whom they are accountable. Laws are created by parliament, and then applied by judges, and the two branches are supposed to be completely separate. Parliament itself is the checks and balances on the Executive (the Government). So you have three pillars, being Parliament, the Executive, and the Judiciary, and each is supposed to function separately.

When applied correctly, it works well. So when Tony Blair wanted to force through 90 days detention without trial for suspected terrorists, Parliament voted him down. When the Government introduced a law allowing indeterminate detention of foreign nationals without charge, the courts deemed it discriminatory. Ironically, the Government’s answer to this little hurdle was to pass the law on control orders which applies to all citizens, not just foreigners.

Tiring of constant battles with Parliament and the judiciary, Blair and co obviously decided at some stage that a much better way to operate would be to bypass both of them. Use secondary legislation to enact unpopular measures, at the whim of a Minister, and take the responsibility for oversight and application of the laws away from the courts and give it to another (or the same) Minister.

Rather than adopt these kinds of measures as the exception, the Government started to use them as the rule. The drafting of new laws began to be skewed towards a basic legislative framework (a skeleton Bill) which would be debated in Parliament, but where much of the operative guts of the law could be determined later by Ministers under the Royal Prerogative.

But this process would work only for new laws, not for ones already on the statute book. So then they came up with the idea of the Legislative and Regulatory Reform Act, which in its initial proposed form would have

allowed Ministers to amend pretty much any piece of legislation already on the statute book without recourse to Parliament.

My particular beef was that the Government was starting to enact some truly draconian legislation, curtailing ancient freedoms, and bypassing Parliament, under the guise of the War Against Terror, and quite often without proper Parliamentary scrutiny. In the immediate aftermath of the July 7 bombings, Tony Blair (who was with world leaders at the G8 summit in Gleneagles at the time) made a powerful speech in which he made it clear that we would not allow terrorists to change our way of life.

And then he promptly did a complete volte face. At a press conference the following month, he was to announce sombrely that “the rules of the game have changed”, and outlined a programme of radical proposals to deal with the terrorist threat.

At the time we already had some of the most draconian anti-terror legislation anywhere in the world. But it was not enough, evidently. And in the rush to legislate, such basic concepts as freedom of speech, the presumption of innocence and habeas corpus were being subtly whittled away, and no-one seemed to be getting bent out of shape about it. It was the thin end of the wedge.

Chris told me that he was thinking about making a documentary, in the style of *Fahrenheit 9/11* and that Becca and he were starting to look at individual stories of “ordinary” people whose lives were being affected by all the new laws. The common thread was to be that each of the laws was an intrusion into our liberties, and was defended as necessary by reference to the War on Terror.

We spent the evening discussing all the intrusive new laws that we knew about, and trying to find some historical context against which to compare the loss of liberties.

Chris wanted to know whether the NatWest Three would be prepared to take part in the documentary. I told him that I didn’t think ours was a particularly sympathetic case (bankers accused of stealing from their employer), but he commented that it was the sheer ridiculousness of our situation that made it so powerful. In particular, Tony Blair had made a point of defending the new extradition arrangements by reference to the War on Terror, so it clearly qualified for inclusion.

From that moment on, Chris became wholly immersed in the project. It was to result in a film entitled *Taking Liberties*, which was released in the UK in June 2007 (to coincide with Tony Blair leaving office), and was

eventually shown on over 40 screens (hardly *Oceans Thirteen*, I grant you, which opened in cinemas on the same day on several hundred screens, but for a small film that's a big release). It received rave reviews from all of the mainstream media, with the notable exception of *The Independent*, whose critic hated it.

When it was first released, it was due to go out on only 8 screens. But by means of a viral marketing campaign, people were encouraged to ring or e-mail their local cinema and petition them to put it on. The Goring crowd duly petitioned the Regal in Henley, who quickly agreed to show it. Democracy and the free market at work!!!

What's so clever about the film is that it manages to look at an incredibly important topic (the steady erosion of our civil liberties and the growth in power of the Executive, and where that might ultimately lead) but in a relatively lighthearted way. It is a series of short stories, each illustrating a particular topic, but it skips from the deadly serious to the tragic and comedic.

The undoubted stars of the show are two elderly grandmothers who have a bee in their bonnet about the stop and search provisions of the Serious Organised Crime and Police Act 2005, not least because they were the first to be arrested under the new provisions. But there are some truly harrowing stories too, most notably that of Moazzem Begg, a British muslim who had recently returned from a spell of incarceration in Bagram Air Force Base and Guantanamo Bay, having been arrested in Pakistan while visiting with his wife and children.

Chris and his cameras were present for some of our more distressing episodes, beginning with that day on the steps outside the High Court after we lost our appeal.

He and his producer, Nicky Moss, came to the house and interviewed Emma and me shortly before the NatWest Three were to be extradited, and interviewed Emma and my parents after we had gone.

But if our case and my drunken rantings had perhaps sown some seeds of an idea in Chris' mind, the documentary itself covered the topic of extradition in little more than five minutes. As time went by, and Chris and the gang uncovered more and more stories of injustice and bad laws being passed, the project took on a whole new dimension. He was man on a mission, and the deeper he dug, the more alarmed he became.

The finished article really is an outstanding piece of documentary film-making, and I would commend it to everyone who has any interest in

democracy. Well used to making things for next to nothing, Chris harangued and cajoled some of the country's top musical talent to contribute their music to the soundtrack for free. So the likes of Oasis, Blur and Franz Ferdinand all contributed tracks, which I thought was more than a little ironic given their prior association with the whole Blair Cool Britannia project.

In the end, the biggest problem that Chris had was in trying to keep the film down to the agreed 100 or so minutes, as he had literally thousands of hours of footage, and many really good stories ended up on the cutting room floor as a consequence.

Somewhat bizarrely, given its traditional left-wing leanings, the Guardian review of the film singled out our case as the most provocative story:

September 11 was the key event - and yet the Anglo-American crackdown on radical Islamic terrorism is, in the oddest way, not the most powerful moment in the movie. That honour goes to the case of the NatWest Three: three British bankers accused of white-collar fraud by the American authorities and extradited there with no evidence presented to the British CPS. Our submission to US rule on 9/11 issues simply encouraged America to believe that its writ extends beyond its borders on any and every other issue.

As part of the distribution deal that secured a release for the film, Chris agreed to produce a book of the same name. As if he didn't have enough on his plate making the film, the madman committed himself to writing several hundred pages, which would provide fuller versions of some of the stories covered in the film. It was late November 2006, and he had agreed to have the book finished by the following February. He summed it up in an e-mail to me:

"Revolver [the distribution company] made us an offer yesterday. After drinking my own body weight in gin I'm trying to piece together what we've promised them we can deliver.

SHIT"

But, Chris being Chris, it all got done, and the book is a great read, with an excellent foreword by Henry Porter, the editor of Vanity Fair.

The film may well have been at least partially responsible for some changes of heart by the Government. At the opening of the Parliamentary session in October 2007, Jack Straw, the new Justice Minister, announced consultation on a range of issues including the way that Treaties are ratified, the ban on protest outside Parliament, and the stop and search

powers of the latest Terrorism Act. All of these issues were featured in the film.

And in December 2007 it was announced that 4 of the 6 British Citizens still being held in Guantanamo Bay would be released, an initiative that had apparently been started by Gordon Brown shortly after becoming Prime Minister in July, the month after the launch of the film which highlighted the issue.

In January 2008, Chris was nominated for the Carl Foreman Award at the BAFTAs for special achievement by a British director, writer or producer in their first feature film.

One of the most incredible things about this story is that so devoted did Chris become to the project, and so convinced was he that people needed to see and read about this stuff, that he mortgaged his own house to get the film made, when he could not secure all the funding necessary. He is still in debt today, I believe.

When you've got a quiet night in, go and rent *Taking Liberties* on DVD, or better still buy the book or the DVD (both are available on Amazon, as is the soundtrack). You won't be disappointed, and you may even help to pay off a little of Chris's debt! And then maybe go and petition Her Majesty to give the entire crew of *Taking Liberties* (book and film) the MBE or OBE or something similar, for services to democracy.

Think of it this way; many of us bleat about what's happening to our society, as I used to do ad nauseam to Chris. Few of us get off our backsides and do something about it. Chris and the *Taking Liberties* gang did just that.