

The Pniël Land Dispute of the Early 20th Century

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Abstract

In 1834 the slaves of the Groot Drakenstein area were emancipated. They continued to work for farmers in the surrounding area and this resulted in the formation of a community where these farm workers, now able to leave their employer's land, would return to in the evenings and call home. This land was originally a donation of De Goede Hoop farm, intended mainly for the establishment of a mission station for recently freed slaves. Reverend J.F. Stegman was appointed by the Apostolic Union, a non-denominational Protestant group, as the first reverend of this mission station. At the end of 1834, the Board of Directors of the "Mission Institute Pniël," a body instituted under the auspices of the Apostolic Union with the initial aim of operating for the benefit of the local people, purchased the Papiere Molen farm. A major portion of the farm was then divided into 99 holdings and applicants from the community, who were accepted as occupiers of these holdings, were known as "erf-holders." In the following years it became a condition of tenure that they would pay a monthly rental to provide a salary for the Minister, which became the source of contention following the passing of Reverend Stegman. In 1905, local residents of Pniël spoke out regarding their desire to have more input in the operation of the mission station and usage of the land, and they questioned the overall authority of the current board of directors. This led to a court case in which the Board of Directors acted as the defendants. This paper will seek to examine the circumstances for this case as well as those surrounding its outcomes through the lens of a modern reader.

Keywords: Pniël; mission; court case; land dispute; emancipated slaves; mission stations; theology; land; Apostolic Union



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Introduction

The Mission Institute Pniël was established in 1843 by the Apostolic Union, a non-denominational Protestant group, with the intention of providing support to the emancipated slaves in the area. One particular aspect of the mission station's initial work in Pniël was to provide land, which was divided into erven given to the former slaves for residential use. In 1911, however, the directors of the Mission Institute Pniël were taken to the Supreme Court by the erf-holders who lived on the Mission Institute Pniël's land. The leading cause of this conflict was born from the question of who should be the true owners of the Mission Institute Pniël; those within the board of directors to whom the title deeds had been passed, or the erf-holders who, after a length of time felt that they had effectively paid for the entire institute and its maintenance.

It is worth mentioning that this matter is discussed in a book written by C.C. Silberbauer, which was published in 1943. Although the book provides one with much information on the case, the author is quite clearly, in several forms, biased towards the position of the directors as well as fairly dismissive in his descriptions of the erf-holders and their concerns. In order to supplement this information, as well as to confirm its validity, an effort was made to examine all possible archival documents on the matter; the majority of which is in the form of legal documents and law firm correspondence. One gap within this attempted reconstruction of the narrative comes in the form of the Pniël congregation and erf-holders' own opinion. Although an effort was made to obtain this information, it was unsuccessful due to the documents being sealed and a lack of communication from the side of those responsible for the granting of access to said documents.

Therefore, the purpose of this paper will be to reconstruct the narrative and the circumstances leading to the court case in a manner which allows for the application of a 2019 lens of interpretation regarding the proceedings and outcomes, and exposing the matter for further dialogue regarding the treatment of cases such as these in history.

The Beginnings of Pniël and the early Circumstances

South Africa has a long history of slavery, stretching back to the nation's initial establishment by the Dutch East India Company in 1652. The Dutch East India Company at this time was largely reliant on slave labour, due to their operations in the East Indies hinging on the availability of free and large scale labour forces to work on their colony's plantations. In April 1657, the Cape Colony consisted of 144 residents, 10 of whom were slaves. This number largely increased within the year with the importation of slaves from Guinea as well as with the capture of a Portuguese slaver who had 500 Angolan slaves aboard his ship at the time. In the following years, as settlers were allowed to own agricultural land, the new "Boers" of the Cape utilised a portion of the native Khoikhoi population of the Cape as farm labour (Welsh 1998, 35–

36). During this period slaves were also brought into the Cape by the Dutch from areas such as Batavia and Dutch colonies in India (Theal 1905, 352–353).

Following the Colony's transfer to British rule, importation of slaves continued until 1798, when a proclamation was made by Governor Lord Macartney, who declared the unlicensed importation of slaves to be punishable by a fine as well as the confiscation of the guilty party's ship (Theal 1905, 353). The Slave Trade Act of 1807 prohibited the importation of slaves to the Colony in its entirety, and from this stage onwards the trading of slaves was only permitted to take place within the Colony (Welsh 1998, 35–36). On 26 April 1816, Governor Lord Charles Somerset passed a law requiring the registration of slaves. This proved to be the initial stages of the emancipation as the registration period only lasted for two years; following this, those who had not been registered were no longer to be considered slaves. It was during this period that the conditions under which slaves lived were also improved and missionaries began to take a deeper interest in their spiritual as well as physical wellbeing (Theal 1905, 357). Slaves were also able to purchase their own freedom, due to the workings of the system, however, near to none were able to appeal an unjustly extravagant estimation of their value (Theal 1905, 363). The missionary input into the lives of the slaves steadily increased during this time and resulted in the passing of legislations during the 1820s, all of which were aimed at the "ameliorating" of the slaves' conditions. Slaves were encouraged to be baptised, and have Sundays as a rest day so that they may perhaps be able to attend missionaries' services. The children of Christian slaves were also permitted and recommended to attend Christian schools (Theal 1905, 364–365). The culmination of this steady growth in missionary interest in slaves occurred following their freeing and many mission stations were established, such as that which became the town of Pniël.

In 1834 the slaves of the Groot Drakenstein area were emancipated. Following this, they continued to work for farmers in the surrounding area, resulting in the need for a community where these farm workers, now able to leave their employer's land, would return to in the evenings and call home (Gilomee and Elphick 1850, 171). The initial section of land which served this purpose was a donation from Pieter Isaac de Villiers and Paul Retief, who gave a portion of De Goede Hoop farm for the construction of a mission station, and which was transferred to the director, J.J. Haupt, in conjunction with the original farm holders, on 6 July 1843. This donation was approximately four hectares in today's measurements, and was provided with the goal of the construction of a schoolhouse as well as a place of worship, in addition to the mission station's building itself (Silberbauer 1943, 6). These were seen as a necessity for the spiritual wellbeing of the former slaves who are described as having been "neglected" by the church in the document detailing the conditions of the donation (Silberbauer 1943, 3). The church building was erected in 1843 and was dedicated by G.W. Stegmann, the uncle of the future minister of Pniël. In the sermon concerning the dedication of the church, the area was dubbed "Pniël" for the first time (*Mission Work and Mission Stations in the Western Cape* 1911, 15). At that stage, Pniël comprised approximately

500 residents, of whom 67 had already been baptised (*Apostolische Vereeniging Verlaine Voor 1850*, 15).

This mission station was created through the efforts of the Apostolic Union. During this period in South Africa, the Apostolic Union was described as a group who professed the Apostolic faith with values of a wide enough extent to allow them to embrace members who belonged to all Protestant denominations. The Union functioned as a non-denominational Protestant group, and did not have any distinctive dogma of their own. Within the description of the union given by Silberbauer, he comments that the group had close ties with the Scottish Presbyterian Church, although their immediate concerns lay with mission work to the coloured population of the Cape (Silberbauer 1943, 6–7).

Following this acquisition, Rev. J.F. Stegmann was appointed by the Apostolic Union as the first minister of this mission station. He remained at work at the mission station in Pniël for the duration of his life until 1909, when he passed away. Despite his many responsibilities regarding the spiritual and educational needs of Pniël, and in addition to his work as a chronicler of Pniël's records and operations, he seemed to have undoubtedly worked in subordination to the board of directors (Silberbauer 1943, 8).

Therefore, at the end of 1834, the Board of Directors of the “Mission Institute Pniël” was established under the auspices of the Apostolic Union with the initial aim of operating for the benefit of the local people. Within the 1911 report regarding the formation of this body, it is stated that “no provision was made for the continuation of the managing body, but new directors were from time to time elected by the existing directors to fill vacancies” (as stated in an excerpt from the *Cape Times* quoted in Silberbauer [1943, 8]). Within the book regarding the judicial history of Pniël written by C. Silberbauer, there is a piece describing the work of the directors in the 60 years since the mission station's founding. He comments that the board, and the institution itself, had been established in a “simple and trusting fashion on somewhat unbusinesslike lines, and it was for many years carried on in that spirit” (Silberbauer 1943, 9). He also comments that no formal documents or minutes of the meetings held by the initial Board of Directors are in existence. These meetings definitely occurred, however, as there are mentions of them within external sources such as the personal diary of G.W. Stegmann, one of the board members (Stegmann 1843–1852).

The Board of Directors, therefore, is recorded to have been formed on a trust basis, and thus no formal strategies or policies were ever drawn up for the replacement of members of the board when the current members were no longer capable of taking on the work. This having been said, it also seems from a reading of the ministrations of the board, that it was always intended that other directors should take on the work, following the initial seven (Silberbauer 1943, 9). Silberbauer substantiates this point by means of a recollection of Rev. Dr Andrew Murray's statement that “a method, either understood as a proper and adequate *ab initio*, either or involved when necessity arose, and had been found for maintaining the existence of a body of directors for the institute: for he

states that about 60 years ago he was asked to join the Directors” (Silberbauer 1943, 9). Silberbauer concludes that there definitely had been some instituted method by which new directors were expected to be appointed, due to the actions taken by the original board to ensure that during their time possible candidates were contacted. This is also, according to him, proof that they had considered the mission station to be their own project rather than a formal public affair, and therefore, issues such as the procuring of a new director were viewed to be an internal affair, and thus within the personal realm of procedure and not requiring formal documentation. This, however, raises questions in the mind of the modern reader regarding exactly how invested the directors were in the station’s continued operation, the aiding of the mission efforts there, and attention to the needs of the residents of Pniël .

One element regarding the Board of Directors which also holds relevance to the later issues which arose, was what is referred to by Silberbauer as being the “good faith of directors” (Silberbauer 1943, 10). By this he is referring to the lack of formal compensation offered to the board for their services regarding the station’s operation. While Silberbauer speaks of this as a willing and charitable sacrifice on the part of the members of the board, he then goes on to make the allowance that the actual responsibilities and involvement of the board in the station’s affairs were minimal. It would seem that the Board of Directors became an entity which would discuss the matters of the station in an informal capacity and then provide advice if requested. It would also seem that, occasionally, members would visit the station and speak with J.F. Stegmann, however the exact nature of these meetings is difficult to ascertain (Silberbauer 1943, 10). From this, one can perhaps draw the conclusion that one of the primary responsibilities of the board was to be the body with whom the property of the mission station was vested, rather than any duties relating to the actual operation of the station, which only serves to bring more questions regarding the necessity of this board to mind.

This Board of Directors, shortly after their creation, went on to purchase the Papiere Molen farm. This farm lay opposite the newly conceptualised mission station and was approximately 12 hectares in size. The deed was passed to the directors on 4 December of the same year and the title was given to the seven current directors of the Mission Institute Pniël: De Villiers, Retief, Haupt, G.W. Stegmann, J. Adamson, and P. D. Morgenrood. One important distinction that was made in the documents regarding the purchase, is that it was clearly stated that the deed should belong to the “directors for the time being” (Silberbauer 1943, 7), an aspect of the original contract which proved to be integral to the later court case and unease among the residents of Pniël. A major portion of the farm was then divided into 99 holdings, each of which was allotted a building site, or “erf.” Applicants from the community who were accepted as occupiers of these holdings were known as “erf-holders” (Silberbauer 1943, 3). Thus, the “Mission Institute Pniël” was founded with an initial directorate of three local farmers (all of whom were members of the Dutch Reformed Church), two laymen from Cape Town (also members of the Dutch Reformed Church), one minister of the Apostolic Union,

and one minister of the Lutheran church. The goal of this institute was described as providing the newly freed inhabitants of Pniël with an education in the Apostolic faith, an elementary school education, as well as an education in agricultural skills (Silberbauer 1943, 8).

The position of the inhabitants of the area surrounding the Mission Institute Pniël was one which was closely linked with the initial establishment of the station. The purchase of the Papier Molen farm in 1843, including other expenses such as the construction of the church, schoolroom and the superintendent's lodgings, all of which amounted to a sum of £800, had been funded by director Morgenrood by means of a loan. He had taken a mortgage on the property purchased as security. The division of the land into the 99 erven, which were then further divided into building sites, provided a means by which this loan would be repaid in a fashion. The conditions of the occupation of these holdings by their inhabitants (later known as erf-holders), were agreed by means of a verbal contract with the superintendent and were only placed in print by the directors in 1906. The initial rental agreement for the erf-holders was that each should pay an amount of 3s. (approximately R212.31 in today's currency) each month until an amount of £18 (approximately R 25 475.36) had been paid. It was also decided that it should be a condition of their tenure that each erf-holder should pay an additional amount of 1s. 10d. (approximately R129.66). This money was to serve as a stipend for the minister of Pniël's congregation and would continue to be paid for the entire duration of the occupation of the land, continuing after the amount of £18 had been paid (Black 1911, 1–2).

The Case made by the Erf-holders

Now that the circumstances of the founding of the station and the formation of the Mission Institute Pniël have been addressed, one can turn one's gaze to the court case on which this paper is focused. The initial "commencement of trouble," as Silberbauer puts it, began in 1905, although it is highly possible that airs of discontent had been simmering among the inhabitants of Pniël for a time before this. It was in 1905, however, that the death of Rev. Neethling called for a new member to be added to the board, which at that stage was comprised predominantly of newer members. The board at the time is recorded to have been comprised of Rev. Botha, Rev. Prof. Marais, Rev. Du Plessis, and Mr G. Roux, who represented the lay element. It was at this stage that the board, with its younger collection of directors, decided to play a more active role in the management of the station, due to J.F. Stegmann's failing health in his advanced age. Therefore, in the time following February of 1905, the directors began to hold meetings and keep minutes of the proceedings. On 14 February 1906, Dr Murray and Mr Roux resigned from their duties and were succeeded by Rev. Alheit and Mr Morkel, at the remaining directors' behest (Silberbauer 1943, 12).

In 1905 the inhabitants of Pniël questioned aspects of their agreement as well as the management of the station. Silberbauer, within his recollection of events, comments that

none of the members of Pniël had ever disputed the terms of their staying on as erf-holders until J.F. Stegmann had reached an advanced age and would soon be unable to continue his work. In 1905 a meeting was held between the members of the Board of Directors and the erf-holders. At this meeting the erf-holders expressed malcontent regarding the directors' authority as well as the ownership of the land on which they resided. The core of their argument was that, due to them having completed their monthly payments up to the stipulated amount of £18, they were now the owners of the estate, which to their understanding they had paid for. The source of their discontent was the fact that they believed they had settled all debts regarding the land, and therefore, had no need for a Board of Directors (Silberbauer 1943, 14). During this meeting the erf-holders were told that their position was one of tenancy rather than of ownership, due to the Board of Directors being the holders of the title of the land. Many within the board, as well as those from the synod, viewed the erf-holders to be wrong in their thinking due to the fact that, despite their lack of debt, they were still tenants under those with whom the property rights of the land were vested—the Board of Directors at the time.

In response to these concerns the Board of Directors defended itself by means of further asserting their position as a governing body, as well as those with whom the responsibilities of the regulation of affairs of the institute lay. Following the death of J.F. Stegmann, a meeting was called to discuss the possibility of becoming affiliated with the Dutch Reformed Church. Another meeting was also called in which the erf-holders conferred on the issue of whether they would have the station regulated under the provisions of Act No. 29 of 1909, or would remain under the directorate for the foreseeable future. It was within these meetings that the erf-holders began to be of the opinion that the full management of the institute should be transferred into their own hands (Silberbauer 1943, 15).

The culmination of this discontent amongst the erf-holders took place some years later when a meeting was held in which the erf-holders elected several of themselves as directors and moved the issue to the Supreme Court on 14 January 1911, by means of the provisions granted by Act No. 3 of 1873. Their aim was to have this new set of elected directors declared the legal directors and trustees of the institute, as well as its property (Silberbauer 1943, 15). Stephanes de Wet and Garnaat Cyster, both of whom were erf-holders, were registered as the plaintiffs on behalf of the community of erf-holders, and Rev. J.I. Marais, Rev. D.S. Boths, Rev. J. du Plessis and D.C. Morkel were the defendants (Black 1911, 1).

Silberbauer expressed his opinion on the matter, which was shared by many who were involved in the case at the time, that this new board, comprised of the erf-holders, would certainly be able to see to the maintenance issues of the institute as well as the management of community affairs (which, upon an examination of the legal documents of the institute, they had in fact been doing until this point from their own funds no less). Despite this, the major point of contention was the belief that the new board should

definitely not be allowed full control over the direction of the spiritual and educational aspects of the institute. The reason for this was firmly rooted in the prejudices of the early twentieth century towards that which was considered to be “cultured.” Those directly involved attributed this to a lack of advanced education amongst the people of Pniël. However, the use of the phrase “a high standard of public life” by Silberbauer in his account of the case, speaks to a deeper inherent bias towards the perceived social and personal development of the freed slaves (Silberbauer 1943, 16).

Another point which was raised against the proposal made by the erf-holders was one which rested on the concept of “not fixing what isn’t broken,” as it were. Those who had interests in the mission station saw it to be a prosperous project with a thriving community and, thus, did not see any need for change. Much of this prosperity was attributed to the work of the then late J.F. Stegmann in his capacity as superintendent. It is commented on that this sudden rise of dissent among the people was only an indication of the unrest and impasse of priorities which would ensue, should the elected erf-holders be allowed to join the board (Silberbauer 1943, 17). This, together with several other remarks made by Silberbauer on the matter, seems to be largely an understatement; perhaps in an effort to allow the current directors and the mission’s initiative as a whole to save face. In the legal documents pertaining to the case, however, there are several references made to the general discontent amongst the population, which only grew when matters of their ownership of the land and the necessity of the directors were brought into discussion (Greer 1911, 1–2).

The defendants were also recorded as having had only the best interests of the Mission Institute Pniël, both spiritual and material, at heart. It is commented by Silberbauer that they had no motives of self-interest, nor had they been bigoted in their managing of the institute’s affairs. They did not threaten any property rights in their own eyes by still requesting the money which formed the superintendent’s salary from the erf-holders, and are recorded to have been content to allow things to continue as they were, should the case be dropped by the residents. They did, however, take a strong stance in condemning the idea of an integrated Board of Directors. Silberbauer, in his recollection of the case, comments that this was not born from a form of racial bias, but rather from the attitude of the erf-holders in their assertion of their position against the current board. There is no way to verify this statement’s truth without an examination of the erf-holders’ own meeting minutes. Without making too strong an opinionated conclusion on the matter (while information is missing), it may be that there is something to be said for the strength with which this assertion is made within Silberbauer’s book. This perhaps leans to an explanation of the “strong accusation” which was being made against the Board of Directors by the erf-holders, which soured the discussions (Silberbauer 1943, 18). This would also be coherent with the current knowledge of the early twentieth century trend of racial bias being mingled with paternalistic mission, of which we as current readers are now aware.

One of the main aspects of the case from the side of the plaintiffs was the lack of formal procedure for the selection of a new director. They argued that, due to this, there was no reasonable explanation as to why they should not be allowed to have a say in the election process of new directors, nor should the position of director be limited to exclude the erf-holders. They also argued that they, over the course of their monthly payments, had paid for the land and institute itself and were, therefore, in fact its rightful owners and not answerable to anyone. This point was further supplemented by the fact that all costs pertaining to the upkeep and maintenance of the property had been supplied by erf-holders and the members of the congregation (Greer 1911, 1–2).

The judgment of the court was delivered on 26 May 1911. The court ordered that a body of eight trustees be instituted who would serve as the directors for the time being and be vested with the property rights of the Mission Institute Pniël. Four of these new directors were to be the four defendants mentioned in the case, while the other four were to be newly elected directors. The means by which they were to be elected are also stipulated within the record of the court's order on the matter. Three of the new directors were to be elected by the erf-holders of the institute, and the remaining one would be chosen by the members of the congregation of the church, despite the future possibility of a change in affiliation. There were, however, several conditions to this. It was stipulated that these elected directors only be of European decent and be Protestant in faith. The court further clarified that, should one of these directors be unable to continue their duties, if one of the original four, the remaining three would hold an election for a new member. If the director whose duties had ended was one of the newly elected four, the same election process would take place once again. This was stipulated so that all interested parties would always be represented (Black 1911, 1).

It was also ruled that, in light of the questioning of the directors' involvement with the operation of the institute, the directors would convene in Pniël twice each year in order to discuss the affairs of the institute, as well as to handle any grievances expressed by either the congregants or erf-holders of Pniël (Black 1911, 1).

The system of directorship put in place by this ruling did not last long. In 1917 the Pniël Church became part of the congregational union of South Africa, a move which led to greater independence regarding the management of their own affairs (*Mission Work and Mission Stations in the Western Cape 1737–1911*, 15). Then, in 1943, the administration of the institute was handed to the community itself, which then elected their own members to take on the management roles previously given to the directors.

Conclusion

In conclusion, despite the lack of information regarding the community of Pniël's own standing on this matter, one can nonetheless draw some conclusions for further investigation from this case. There was, undoubtedly to the modern reader, an air of racial bias surrounding the proceedings of dispute. These biases, although indicated by

different phrases at the time, such as a “lack of education” or “low culture,” permeated the case and influenced its outcomes. In all, however, the circumstances surrounding the dispute provide an interesting case for study, which breaks the mould slightly when compared to other land disputes in South Africa during the early twentieth century. This is due to the lack of the question of “stolen” land as well as the overall tone of the case. While prejudices were definitely present within the wording of the case itself, there is a lack of the overt use of racial bias for the purpose of denying land ownership, which is present within the more high profile and well-known land disputes in South Africa. This case offers another narrative in which the question is not so much that of clear ownership (although this question is definitely raised), but rather of the ability to self-govern and the issue of autonomy with regard to one’s land as well as a community’s own facilities, following their initial establishment due to missionary efforts.

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