

THE SALE OF THE FARM MELKBOSCHKUIL AND THE START OF COPPER MINING  
IN NAMAQUALAND (1850 – 2000)

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THE SALE OF THE FARM MELKBOSCHKUIL AND THE START OF COPPER MINING  
IN NAMAQUALAND (1850 – 2000)

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## DECLARATION

I declare that “The Sale of the Farm Melkboschkuil and the Start of Copper Mining in Namaqualand, 1850 – 2000” is my own work and that all the sources I have used or quoted have been indicated and acknowledged by means of complete references.



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A V de la Harpe

16 December 2015

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## ABSTRACT

This thesis relates what is referred to in the text as a 'chronicle' of the history of the Cloete family of Springbokfontein and surrounding areas in Namaqualand, with particular attention to the issue of a land transaction in the early 1850s between seven Cloete brothers and the English copper mining company Phillips & King. The sale of the farm Melkboschkuil has since been a source of long-standing dispute on the part of the Cloete family. It traces the circumstances of the Cloetes' settlement in Namaqualand, the archival and oral record regarding the highly contentious 'sale' of the land between these parties, and the subsequent resonances of this land dispute over decades and indeed right up to the 1990s when the Cloete descendants lodged a land claim. The author attempts to use the very specific story of a land deal to throw light on the wider story of the relations between a disadvantaged Baster and later 'Coloured' family, and the white-dominated local and regional government in Namaqualand -- particularly in Springbok. At the same time, attention is drawn to the political and economic forces shaping the people around Springbokfontein during the late nineteenth and early twentieth centuries. The small story of the Cloetes is used to illuminate the wider history of the inequitable relations between white capitalists and Baster/Coloured landowners dispossessed of their historic rights to land.

The thesis is based on a detailed examination of the struggle of the Cloete family in Namaqualand to secure possession of the land that they once owned but which became the site of a copper mine and later on the town of Springbok. The narrative told from the perspective of certain members of the Cloete family and their descendants, follows a convoluted trail of legal papers, land deeds and oral pronouncements. But at the heart of the story is the question as to how the Nama and Baster people of Namaqualand came to be divested of their rights to the land and a fair share of the mineral wealth of the district following the development of copper mining.

## INTRODUCTION

The primary purpose in undertaking this work has been to research and document the granting of the farm Melkboschkuil No. 132, registration division of Clanwilliam, to the seven sons of Lang Kowie Cloete on 21 January 1850; and, in light of claims made by the descendants of the original owners, to establish whether the subsequent sale of the said property to the mining company of Phillips and King was above board. The current historical claims made by the descendants of the Baster family called Cloete to the farm Melkboschkuil on which today stands the town of Springbok in Namaqualand, are therefore related to the principal aim of this project. This investigation would then, as a matter of course, involve relating some account of the Cloetes as seen against the background of the development of copper mining which followed the sale of the farm.

At the same time, it must also be remembered that this copper mining venture started on the farm Melkboschkuil by the London-based merchants, Messrs Phillips & King, was the first modern commercial undertaking on an industrial scale in Southern Africa. Hence, there was probably no understanding of its implications for many original inhabitants of the region. The discovery of copper on Melkboschkuil farm would indeed change the face of remote Namaqualand forever.

The region of Namaqualand between the Buffels and Orange Rivers,<sup>1</sup> forms the background to what must certainly rank as one of the earliest recorded individual land claims in the newly annexed area of Klein or Little Namaqualand. The claim laid to the quitrent place Melkboschkuil by generations of Cloetes, from the 1860s right up to the 1990s, foreshadowed as it were the Restitution of Land Rights Act (No. 22) of 1994, promulgated when South Africa entered a new political dispensation in 1994.<sup>2</sup>

So, when the opportunity presented itself with the dawn of a new political era after 1990, Mr John Hendry Cloete in 1996 lodged (on behalf of the Cloetes of Melkboschkuil) a claim for restitution of land rights to the farm Melkboschkuil No. 132.

From the Claim form lodged by the above Claimants, the following appears:

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<sup>1</sup> See Map (1805) & General Map of Namaqualand, annexures 1 & 2.

<sup>2</sup> Act 22/1994 (as amended): "To provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected therewith".

The Claimants' forebears were divested of their rights in the property in about 1850 - 1853, more than 60 years prior to 19 June 1913, which date is under the Restitution Act the cut-off point for claims on land dispossessed under race-based laws and/or practices.

According to the applicants, such dispossession occurred pursuant to a sale of the property by their forebears, namely the seven Cloete Brothers, to the mining company, Phillips and King. The claimants moreover allege that the purported sale and transfer of the property were fraudulent transactions, their forebears being the victims of the alleged fraud.

Although the main focus of their land claim is on Melkboschkuil, the two adjacent farms of Brakfontein and Lelyke Pad are linked by reason of the fact that all three farms were acquired by the same mining company of Messrs Phillips and King in order to start their copper mining enterprise. Brakfontein farm, on which stands today the town of Okiep, was in 1850 granted to one Jan 'Baster' Cloete, while Lelyke Pad (alias Nababeep) was in the same year awarded to the Dutch farmer, Pieter Gideon van Zyl (P/son). Hence all three quitrent places have certain aspects in common in that they form part of the land once held by Phillips and King, which company is believed by the claimants to have acquired both Melkboschkuil and Brakfontein under doubtful circumstances, using the same mode of operation. While there are thus clear parallels between the latter two farms, by contrast the manner of acquisition of Lelyke Pad by the mining company was different and therefore does not form part of this investigation.

The subject farm Melkboschkuil No. 132, district Namaqualand, Colony of the Cape of Good Hope, was originally granted on 21 January 1850 on perpetual quitrent to seven Cloete brothers by the Governor of the Cape Colony, Sir Henry G W Smith. Once occupied and owned by the seven sons of Lang Kowie Cloete, namely Nicolaas, Jan, Gert, Jacobus, Piet, Jacob and Dirk Cloete, today the farm is the location of Springbok, the principal town of the Namaqualand region. Under what circumstances then did the Cloete family come to occupy and later own this farm located (before 1805) beyond the boundary of the Cape Colony?

By successive stages the Cape Colony's northern boundary reached the Oliphants River around the year 1750, was extended to the Buffels River in 1805 and by the year 1847 reached the Orange (Gariëp) River – two centuries after Dutch colonial settlement at the Cape. After the extension of the border from the Buffels to the Orange River<sup>3</sup> in 1847, the Cloetes applied for and were granted, in undivided equal shares or portions, the land of Melkboschkuil measuring 21 410 morgen. However, the occupation of Melkboschkuil and other land beyond the colonial border of the Buffels or Kouse<sup>4</sup> River by *Baster* pioneers, goes further back than the year 1847. These immigrants from the north-western region of the Cape Colony moved across the boundary as early as the mid-1700s, into the

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<sup>3</sup> It was first known as the "Eyn" or "Gariëp", a Khoi word meaning 'river'. In 1779 Robert Jacob Gordon, commander of the Dutch garrison at the Cape, visited a spot near its mouth and there ceremoniously renamed it the Orange River, in honour of Prince William of Orange (D J Potgieter(ed.), *Standard Encyclopaedia of Southern Africa*, Book 8, Cape Town : Nasou, 1973, 360).

<sup>4</sup> /Gaosi(b), spelled Kouse / Koussie by the Dutch, from /gaob meaning 'buffalo' in the Nama language. (E E Mossop (ed.), *The Journal of Jacob Hendrik Wikar (1779)*, Cape Town: Van Riebeeck Society, 1935).

traditional lands of the Nama and Bushman, in what was to become known as Little or Klein Namaqualand.

The Cloetes were Baster colonists or people of mixed Dutch, Namaqua and Slave descent who had for some time during the first decades after 1800 occupied on a periodical basis along with Dutch frontiersmen loan farms in the Kamiesberg-Hardeveld field cornetcies of the old Colony before settling at Melkboschkuil. In 1805 the boundary had been specifically extended to follow the course of the Buffels River to its origin in the Copper Mountains, thereby encompassing this land in the vicinity of Melkboschkuil.<sup>5</sup> So, when the rest of the tract of land up to the Orange was incorporated into the Cape Colony in December 1847, the Cloetes were in a position to claim land by virtue of prior occupation. In settling claims of those in the newly annexed country, the principle of beneficial occupation before 1847 was applied, i.e. prior occupation and use.<sup>6</sup>

Immediately to the north, adjacent to Melkboschkuil, lies the farm Brakfontein No. 133 (in extent 3 215 morgen), granted in favour of one Jan Cloete (Bastard) on 21 January 1850. This quitrent place was also in 1850 obtained by the same company of Phillips and King, and from then on exploited for its copper deposits which became known at one stage during the 1870s as “the richest copper mine in the world”.

The descendants of Jan ‘Baster’ Cloete have likewise lodged a land claim with the Regional Land Claims Commission (Western Cape), citing, as had the Cloetes of Melkboschkuil, certain alleged irregularities at the time of sale in 1850. In the light of these historical claims for restitution, the *modus operandi* used by Phillips & King to acquire both Melkboschkuil and Brakfontein farms will come under the spotlight and be compared and contrasted.

Lelyke Pad, alias Nababeep, borders on Melkboschkuil’s north-western boundary line. Described as a certain piece of abolished quitrent land situated in the Division of Namaqualand, measuring 17 620 morgen, it was granted to Dutch farmer Pieter Gideon van Zyl (P/son) on 21 January 1850.<sup>7</sup> The farm was transferred from Van Zyl to Phillips & King on 29 July 1852. The agreement of sale for Lelyke Pad was signed at Springbokfontein on the farm Melkboschkuil, and the purchase price amounted to £1 000 (according to the deeds of transfer documents, Melkboschkuil was acquired for £2,396 – 15 – 0, and Brakfontein by comparison, fetched the paltry sum of £37 sterling only). After the sale, Van Zyl is said to have moved off to the Orange River Sovereignty,<sup>8</sup> and as far as is known, no land claim was lodged by his descendants.

In light of the above, this investigation is therefore limited to Melkboschkuil and as a check, transactions of sale relating to the farm Brakfontein are also examined and discussed. The scope of

<sup>5</sup> Map (1805), annexure 3.

<sup>6</sup> A.8 – 1865: *Select Committee Report*, 36. Charles D Bell, Surveyor-General, examined 1 August 1865.

<sup>7</sup> Clanwilliam Quitrents Vol. 8 No. 24 (Deeds Office, Cape Town).

<sup>8</sup> In 1862, one Pieter Gideon van Zyl died (age 75) in 1862 on his quitrent farm Groenriviers Valleij, district Namaqualand. (MOOC vol. 6/9/99 ref. 9571). (See also 1/SBK 5/1/6 Estate Pieter Gideon van Zyl and wife, 1877).

the study will in addition, explore in broad brushes the period from before 1852 to about the year 2000 in order to provide a fuller picture of Namaqualand, the land, its mines and its people and so contextualise the story of the Cloetes of Melkboschkuil and Brakfontein.

### **The Cloetes of Melkboschkuil**

Simply to say the name “copper” is to evoke a past era of glamour in Namaqualand, but in fact a number of romanticised accounts of the development of the mineral resources there belie the historical dispossession of land and minerals from its original inhabitants and rightful owners, namely the Nama, Bushman, and later Baster immigrants from the north-western parts of the Cape Colony.

Springbokfontein, which is situated on a portion of the farm Melkboschkuil, is the site of the first mine. The story of this (former) mining town has two simultaneous and parallel strands: on one level it is essentially the story of the start of copper mining, while on another it is the history of the original owners, the Cloete family, whose story of incremental loss of land has not as yet been written up in full and in detail. This omission has given rise to oral traditions and enduring questions surrounding the sale of Melkboschkuil to Phillips & King in 1853. The Melkboschkuil issue (along with Namaqualand land claims in general) has therefore since 1985 gained greater currency in social and political discourse, and once again turned the attention of the public to the broader land issue in the region.

As claimed by themselves, the Cloetes had once been masters of their own land. But the question which has baffled generations of their descendants and others, remains: why had they lost control of Melkboschkuil Farm to a mining company so soon after the land had been granted to them? The story of the Cloetes unfolds in many ways as a local history of Namaqualand and its people, played out against the background of the opening of the first copper mines.

The aim of this investigation is accordingly to provide some account of the Cloetes both before and after the sale of their ancestral farm --- in essence, therefore, a central narrative set against copper mining in the region.

### **Springbokfontein**

The rugged central portion of Namaqualand where these (now closed) copper mines are located, has an escarpment running from north to south. Here most of the population (in excess of 60 000) are today to be found in the winter rainfall regions of the mountain belt and coastal plain. This mineralised area known as the Okiep Copper District, covers an area of approximately 3 000 sq. km in the Northern Cape Province of South Africa, and includes Aggeneys and the former copper mining towns of Springbok, Nababeep, Okiep, Concordia, and Carolusberg. The average elevation is 900 m above sea level, rising in places to about 1,300 meters.

Picturesquely situated in a narrow valley along the Eselsfontein River<sup>9</sup> between the granite *koppies* of the Klein Koperberge on the farm Melkboschkuil, is the modern town of Springbok. It was originally known as Springbokfontein (shortened to Springbok in 1911) and owes its origin, as we shall see, to the advent of mining. The village would become the site of the first modern commercial mining operation in Southern Africa.<sup>10</sup>

Springbok's colourful history is therefore closely linked to that of the copper industry and the Cloete family, and there are several reminders on Melkboschkuil of those pioneering days. Beyond the town, on the side of the rocky hills to the west, are still to be seen the old workings of the Springbok Copper Mine (or Blue Mine), which was operated by Messrs Phillips and King more than a century and a half ago.<sup>11</sup> The site has since been declared a historical monument, its plaque reading:

This open mine later known as the Blue Mine, marks the spot where copper ore was first mined in 1852 in economic quantities ... The mine, which initially belonged to the Phillips and King Company, changed hands several times until it was acquired in 1937 by the O'okiep Copper Mining Company. National Monument 1979.

Even older than this mine, is Van der Stel's Mine Shaft – also a national monument -- at Carolusberg 5 km to the east outside of Springbok. This is the only remaining shaft of six sunk by Van der Stel's party in 1685.

A short walk north of the town, en route to Okiep, is found the Old Smelting Furnace, the oldest of its kind in southern Africa (except the ancient furnaces built by aborigines). It was erected on Erf 427 by the Cape Copper Mining Co. for the reduction of the heaps of low-grade ore towards the end of life of the old mine and played an important part in the town's early development. This furnace was proclaimed a historical monument in 1959.

The setting of mine, smelting furnace and town has, however, a much earlier lead-up to its current position as the principal town and administrative and commercial centre of the region. When mining operations at Springbokfontein were greatly reduced after a decade of rapid growth and as a result of diminishing copper ore reserves, a town was laid out there in 1862 by the government land surveyor, Patrick Fletcher. The subsequent opening of the copper mines at Okiep (8 km to the north) and Nababeep (19 km to the north-west) would however prove to be a huge set-back for the young village of Springbokfontein, and it developed very slowly at first.

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<sup>9</sup> C R Burger, " 'n Ondersoek na die oorsprong en betekenis van Plek- en Plaasname in die Landdrosdistrik Namakwaland", (Deel I), PhD thesis, University of Stellenbosch, 1986, 21.

<sup>10</sup> Once a favourite haunt of Springbuck, these antelope gave the general area of this town its original name – Springbokfontein.

Today Springbok is still the main centre of the district and division of Namaqualand, on the national road to Namibia, 550 km north of Cape Town.<sup>12</sup>

### Literature review

Although there are comparatively few academic studies on the history of Namaqualand, a fairly wide range of general literature exists. Of diverse nature and value, it includes descriptive, historical and analytical studies covering history, anthropology, and the natural sciences, social, cultural and economic issues, amongst others.

By the nature of things, contemporary accounts of the region had been written by the literate classes of Whites, with no comparative materials from the natives of Namaqualand to provide balance and perspective. Virtually all accounts of these times were written by colonial officials and administrators, mine officials, magistrates, missionaries and travellers, and in the view of Theresa Strauss, their ethnocentric and 'anti-Hottentot' bias is evident in most cases.<sup>13</sup>

Notwithstanding, given the almost complete absence of substantial documentary material originating from the natives themselves -- except a few letters in the archive repositories, petitions and memorials and a solitary diary<sup>14</sup> -- any reconstruction must necessarily be based on the accounts of others.<sup>15</sup>

The information available is thus based upon certain assumptions about the nature of Namaqualand society which "do not necessarily accord with those held in the past or at present, by the Reserve-dwellers",<sup>16</sup> or for that matter, by those outside in the towns of the region.

In light of the above, one can not therefore overestimate the value of oral evidence in illuminating the dark corners of the Namaqualand experience.

The earliest reference to the sale of Melkboschkuil farm by the Cloete brothers in 1853 was made by the Surveyor-General of the Cape Colony himself. He was of the view that the sale of this land was

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<sup>12</sup> See 'Springbok' in D J Potgieter (ed.), *Standard Encyclopaedia of Southern Africa*, Book 10, Cape Town: Nasou, 1974, 231. Altitude : 990 metres; rainfall 180 mm per annum; some 80 km from the coast as the crow flies.

<sup>13</sup> Theresa Strauss, "War Along the Orange : The Korana and the Northern Border Wars of 1868-9 and 1878-9", B A Hons, University of Cape Town African, 1979, V.

<sup>14</sup> J F Hein, "Dagverhaal van J F Hein (1856 – 1895)", Nederduits Gereformeerde Kerk (NGK) Archives, Stellenbosch. An account of daily life in the Richtersveld where Reverend Hein was stationed from the year 1847.

<sup>15</sup> T Strauss, 'War along the Orange', 1979, v.

<sup>16</sup> J S Sharp, "Community and boundaries: an enquiry into the institution of Citizenship in Two Cape Coloured Reserves, South Africa", PhD, University of Cambridge, 1977, 15.

above board and its loss attributable to the inherent defects of the non-white races. In this context, Surveyor-General Charles D Bell on a tour of inspection to Namaqualand in 1854, offered in his Report (G8-1855) suggestions for protection of the land tenure of the indigenous people:

A general sketch of the weaknesses of the Hottentots would be necessary, in justification of these suggestions; but that would lead me into lengthy detail. I will only refer to the past, as the grounds of my precautions for the future, and point to the Cloetes and others of coloured race, whose claims were so liberally met, by disposable grants, in the adjacent part of the old colony, and who now are on the books of Steinkopf, their places having been sold far below their intrinsic value.<sup>17</sup>

Subsequent writers, such as P W Kotze, have in turn commented on the sale of Melkboschkuil farm. In one of the earlier studies in sociology during the 1940's, Kotze, covering the start of copper mining and the establishment of Springbokfontein, states that the history of Springbok goes as far back as "1853" when the farm Melkboschkuil (later Springbokfontein) was granted to "Jasper Cloete", a coloured, and others. In "1857" Phillips & King came to Melkboschkuil as prospectors and bought a few morgen of land from Cloete. On these few morgen of land they put up a shop and at the same time worked a small copper mine. As the source of this version is not indicated, the somewhat cavalier treatment of the facts (shown in inverted commas above) indicates that Kotze no doubt relied solely on oral sources gleaned from one section of the community.<sup>18</sup>

In one of the few works dealing directly with the Melkboschkuil issue, the authors of *Springbok* -- a booklet written amid the euphoria of the Van Riebeeck Festival in 1952s -- saw fit to issue an appropriate warning asking for the reader's indulgence: that it is written without any pretensions and does not claim to be a comprehensive or historically accurate account. Although an apology is also extended for the fragmentary nature of the work, the booklet contains a few errors of fact relating to the sale of Melkboschkuil, this despite the collaboration by two co-authors, Joe Jowell and Daantjie Scholtz, both admitted attorneys.<sup>19</sup> The odd factual blemishes referred to have made the authors unwitting allies of Phillips & King, by adding some confusion to the events surrounding the sale of the farm.

One other writer who has ventured into the issue of Melkboschkuil, was a chief geologist (at the time in 1965) of the Okiep Copper Company Ltd, and local historian. Alwyn Cornelissen, covering the history of copper mining in Namaqualand, states with certainty that "We know also that the mother

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<sup>17</sup> C D Bell, G8-1855, *Reports of the Surveyor-General Charles D Bell on the Copper Fields of Little Namaqualand and of Commander M S Nolloth, of HMS "Frolic", on the Bays and Harbours of that Coast*, (Cape Town : Saul Solomon & Co., 1855), 8.

<sup>18</sup> P W Kotze, *Namakwaland: 'n Studie van 'n Geïsoleerde Gemeenskap*, (Kaapstad: Nasionale Pers, 1943), 18.

<sup>19</sup> P van Heerde et al, *Springbok*, (Springbok: uitgegee deur Die Poskoets-Reelingskomitee, 1952), Preface.

of the Cloete sons was a European woman, Catharina van Jaarsveld, and three of the boys, Nicolaas, Jan and Piet, could read and write".<sup>20</sup> This assertion, based on available documentation, neatly ties in with the orthodox version that the literate boys (Nicolaas, Piet and Jan) signed the transaction papers in respect of the sale of Melkboschkuil, and the remaining four (Dirk, Jacobus, Jacob and Gert) were able only to append their marks to the documents.

Of the few academic historians who have written about the region, John M Smalberger in his colourful and well-researched history of Namaqualand and its copper mines, refers to the grant and sale of Melkboschkuil in some detail. It is however not clear whether Smalberger in this book questions the validity of the sale, or hints indirectly to some irregularity. His account nonetheless appears to be a factual treatment of the events surrounding the sale as commented on by a contemporary observer, John Blades Currey.<sup>21</sup>

A new and recent take on the sale (probably for tourist consumption) is provided by the "Tourist Guide for Lower Orange River and Namaqualand".<sup>22</sup> This skewed and wholly incorrect account holds that "Mr Kobie Cloete and his children of Melkboschkuil alias Springbokfontein each received R10,00 as the purchase price", the compilers of the pamphlet probably confusing the sum of £5 pounds sterling paid by Phillips & King to each of the six Cloetes for a right of first refusal to purchase the land. "After this the town of Springbok (named after a Nama chief (kaptein) of the area) was established and mining followed shortly".

A more recent publication, "Land Claims in Namaqualand" (1995), attempts to deal generally with the thorny issue of historical land claims in this district, including Melkboschkuil:

The Melkboschkuil story raises the issue of a Baster family's loss of a specific piece of land to which it held title. The claim of the Cloete family to the land is based on the formal grant of the land made to them in 1850 and which was subsequently lost in a series of confusing transactions. It appears that the original Cloetes who entered into deals concerning their land may have intended something different than what transpired.<sup>23</sup>

We are, in conclusion, fortunately left with rare pictorial evidence of the original site and setting of Springbokfontein on Melkboschkuil farm, and sketches of its mine and people. A sketch book containing water-colours entitled "King's Mines in Namaqualand", is kept in the Library of Parliament, Cape Town. Besides maps, the drawings and illustrations are a valuable (and thus far) only pictorial source on the original workings and personalities at Springbokfontein. The artist and date are unknown, but placed around the early 1850's. Significantly, one caption to a sketch reads: "Piet Cloete, owner of Springbokfontein".<sup>24</sup>

<sup>20</sup> Alwyn Cornelissen, *Namaqualand Copper Industry*, (Nababeep: Privately printed, 1965), 23.

<sup>21</sup> J B Currey, "Fifty Years in the Cape Colony 1850 – 1900". (MS, SA National Public Library, Cape Town).

<sup>22</sup> Jan Visser (ed.), "Tourist Guide for Lower Orange River and Namaqualand", (in collaboration with the Department Tourism and the Upington Municipal Information Office, 1977). (Translation from Afrikaans).

<sup>23</sup> Surplus People Project, *Land Claims in Namaqualand* (Beacon Industria: Formeset Printers, 1995), 96.

<sup>24</sup> Annexure 4.

### General description of the region

To understand the history of the Cloetes and the advent of copper mining in Namaqualand, one would need to explore briefly some aspects of the region, its prehistory, and the indigenous people.

Namaqualand, a semi-arid and sun-drenched district, constituted the extreme north-western region of the old Colony of the Cape of Good Hope, which started off as a refreshment station of the Dutch East India Company in 1652. This region of dramatic contrasts -- of parched earth during summer and masses of spring flowers when adequate rains have fallen, pockets of impoverishment and mineral wealth -- today forms the most north-westerly district of the Northern Cape Province of South Africa.

In the north, the district is separated from the Republic of Namibia by the last 320 km of the Orange (Gariëp) River, and to the west the coast is washed for about 160 km by the cold Benguella Current. The easterly and southerly extremities border on the arid, sparsely-populated districts of Kenhardt, Calvinia, and Vanrhynsdorp.<sup>25</sup> This region is sometimes referred to as Little or Klein Namaqualand, so as to distinguish it from Great Namaqualand (or Namaland) just across the Orange River border in Southern Namibia.

Geographically, the region may be divided into three distinct zones. Bordering on the Atlantic in the west is the Sandveld or desert coastal belt, and running parallel to the Sandveld and transversing the centre of the country is a mountain belt, both areas of winter rainfall. Most of the major towns and the (former) copper mines are located in this belt. On the east is the plateau zone of Bushmanland, an arid summer-rainfall area which is used predominantly for small stock farming.

Vegetation is sparse in all three zones, apart from brilliant displays of wild flowers in spring when for a brief few weeks good rains bring sudden beauty to a seemingly barren land. As can be expected from the meagre rainfall, the vegetation is stunted but it does contain an immense variety of succulents (one tenth of all the succulents in the world) and flowering plants (3 000 different species of wildflowers), including the famed Namaqua daisies and other species.<sup>26</sup>

The extremely low and unreliable rainfall over both winter and summer rainfall areas ---again less so in the mountain belt --- is due to the cold Benguella current which flows from Antarctica northwards

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<sup>25</sup> W P Carstens, *The Social Structure of a Cape Coloured Reserve: a study of racial integration and segregation in South Africa*, (Cape Town: Oxford University Press, 1966), 12.

<sup>26</sup> J Manning, *Ecoguide Namaqualand*, (Arcadia, Pretoria: Briza Publications, 2008), 7.

T V Bulpin, 'Why do all the flowers grow...?', in *The Motorist*, 1984, 22: The mystery of the flowers in a semi-arid area is explained by the fact that Namaqualand, in comparatively recent geological times, was well watered. Rain fell throughout the year, rivers flowed to the sea, and the vegetation was luxuriant and varied. A dramatic climate change to semi-arid conditions took place about 50 million years ago as a result of continental drift following the break-up of Gondwanaland into the continents of Africa and South America. The currents of the southern ocean thus underwent a drastic change as a flow of cold water from the Antarctic was directed northwards. Its arrival had a shattering effect on the climate. "The cold water resisted evaporation and so from being a well-watered region, the south-western coast of Africa deteriorated and became arid. A major desert -- the Namib--developed in the north and a transitional semi-desert -- Namaqualand--in the south."

along the West Coast of Africa. The area is furthermore characterized by high summer temperatures, except along the coast. Apart from the Orange River in the extreme north, there are no permanent rivers.

### **Dutch colonial era: early expeditions and contact with the Namaqua**

Besides scattered bands of Bushman confined to the mountainous areas and sandy coastal strip, the Namaqualand region was at the time of Dutch colonisation of the Cape occupied and settled by kraals of Nama pastoralists -- long before Basters or Bastards and later Dutch colonial farmers entered the area.

It was against this background that the Dutch made early contact with and later moved into a region of well-established indigenous societies. This pre-colonial phase of exploration established geographical knowledge of the Namaqualand environment and its inhabitants and continued for almost 100 years before European pioneer occupation was established.

To modern scholars the Namaquas are the most familiar of all Khoikhoi peoples; however, in the seventeenth century they were only on the fringes of the Dutch consciousness, and their country and customs were only imperfectly known.<sup>27</sup>

Attracted by stories about the Namaqua told them by Khoikhoi at the Cape, Dutch interest was aroused by the conviction that the Namaqua would lead them to Vigi Magna, the mysterious river of which the Portuguese had written, and the fabulously rich kingdom of Monomotapa.<sup>28</sup> After 1664, however, the Dutch East India Company would lose interest in the lands to the north and as a result the Namaqua practically disappeared from the colony's records until the energetic commander, Simon van der Stel, undertook a journey to Namaqualand in the year 1685. By this time the Dutch were far more interested in exploiting the mineral resources than in trade.<sup>29</sup>

During a journey which lasted three months, Commander Van der Stel kept a detailed journal from 25 August 1685 to 26 January 1686, describing the conditions and peoples he and his party encountered.

*The expedition led by Van der Stel was an extremely imposing one consisting, as it did, of a party of 57 Whites, a Macassar prisoner of state Dane [Daeng] Mangale and his servant, and three Black servants of the Commander. One carriage with six horses, eight asses, 14 riding horses, two field-pieces, eight carts, seven wagons -- one loaded with a boat, and 289 draught or pack oxen were included.*<sup>30</sup>

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<sup>27</sup> R Elphick, *Kraal and Castle: Khoikhoi and the Founding of White South Africa*, (New Haven and London: Yale University Press, 1977), 135.

<sup>28</sup> E E Mossop, *Old Cape Highways*, (Cape Town: Maskew Miller Limited, 1927).

<sup>29</sup> R Elphick, *Kraal and Castle*, 1977, 136.

<sup>30</sup> J M Smalberger, *A History of Copper Mining in Namaqualand 1846 – 1931*, (Cape Town Johannesburg: C Struik, 1975), 12.

After an adventurous expedition of nearly three months, Van der Stel's party in the early summer of 1685 reached the aptly-named Koperberg about 5 km due east of the later Springbokfontein, the most southerly of the copper bearing intrusions. There they engaged in an active search for copper ore. Identifying the most promising spots on the ridge where the camp was pitched, shafts were sunk to a depth of just over two fathoms on average, uncovering ore containing copper and some silver. On his return Van der Stel forwarded some samples to the directors of the Dutch East India Company for testing. Three of these contained from 7 ½ % to 11 ½ % of copper.<sup>31</sup>

Although their optimistic expectations of rich masses of copper ore easily accessible were not realised, the existence of the Koperberg could now be indicated with certainty on maps of southern Africa. These deposits would hereafter attract only occasional attention from travellers beyond the colonial limits. The commercial potential of the copper deposits was certainly recognised, but technical limitations, and the inaccessibility and harsh environment of Namaqualand, made economic extraction of the ore impractical and the deposits remained unworked for over one hundred and fifty years. It was only in 1852 that the first successful attempt to produce copper was made by Phillips and King, who commenced work at Springbokfontein.

### Pre-colonial society of Namaqualand

The Bushman or San or "hunter-gatherers" have long been regarded as of the earliest human inhabitants spread all over southern Africa, and as having occupied the country from time immemorial, before the arrival of the Khoikhoi and Bantu-speaking people. This belief was not without some basis, as pointed out by the noted anthropologist, Isaac Schapera.<sup>32</sup> They also lived in parts of both Little Namaqualand and Great Namaqualand across the Gariep (Orange River). In Namaqualand small bands seem to have occupied isolated spots of the mountainous region and coastal escarpment up to 1850 and even later.<sup>33</sup>

The descendants of the earlier inhabitants (Bushman) then more than 2 000 years ago encountered cattle-keeping people who had moved with their livestock from further north in sub-Saharan Africa to enter the Cape, one branch veering off to what is today Namaqualand. These herders referred to

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<sup>31</sup> Smalberger, *A History of Copper Mining*, 1975, 13.

<sup>32</sup> "Modern humans in the form of the San appeared in Namaqualand about 40 000 years ago. This Late Stone Age culture persisted until some 2 000 years ago when Khoi pastoralists, the Nama, first entered the region from the northeast." (J Manning, *Ecoguide Namaqualand*, 10, 2008)

<sup>33</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 1966, 11. Clashes with the Bushman are recorded in Namaqualand history, such as the murder of the Dutch shepherd at a place with the evocative name of Soebattersfontein (literally, 'fountain of pleading'); Namaqua children killed by the Bushman at Kinderlê (mass children's gravesite) while the elders were away at a church service in Steinkopf; and the massacre of Bushman (including women and children) at Gnamies by Baster-Boer commandos in about the year 1850. (1/SBK 5/2/1 : Report on Gnamies Massacres by L Anthing, Civil Commissioner to Attorney General, 3 September 1861)

themselves as 'Khoikhoi' or 'men of men', and they called the hunter-gatherers 'San'. These terms are used today in preference to the derogatory 'Hottentots' and 'Bushmen'.<sup>34</sup>

The Khoikhoi were an atypical African people whose language with its unusual "clicks" (implosive consonants) intrigued linguists. "The brown skin of the Khoikhoi and their material and intellectual culture set them apart from all their negro neighbours and thus attracted the interest of anthropologists".<sup>35</sup>

Thus, long before the period of European expansion which process upset their ecological and social equilibrium, the area now known as Namaqualand was inhabited by that broad division of the Khoikhoi known as the Naman or Namaqua,<sup>36</sup> along with bands of Bushman.

### Concepts of land ownership

The indigenous peoples of Namaqualand quite naturally considered that the land was their own. Clans of Khoi, for example, occupied their territory by customary right and strangers could not hunt or graze thereon without prior permission from the chief who was entrusted with control over the land and its resources.

*The centre of the settlement was usually a waterhole, and the community claimed all the surrounding land over which they moved and on which they grazed their herds. This land was used on equal terms by all the members of the tribe; it was not held to belong to the chief, and it could not be alienated or made over to an individual.*<sup>37</sup>

In the view of the early Khoi, all land claimed by a tribe was therefore regarded as inalienable and the common property of that tribe and could under no circumstances become the property of an individual. In line with ecological and conservation principles, certain restrictions were however placed on the unlimited exploitation of the land and its resources by any member of the tribe.

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<sup>34</sup> The use of the name "Hottentot" (which appears to have derived from one of their dance chants) is commented upon by one of the earliest observers of the Namaqua at Leliefontein mission station.

Barnabas Shaw, *Memorials of South Africa*, (Cape Town: C Struik, 1970), 17: "Even the name by which they [Hottentots] have been distinguished is a fabrication. Hottentot is a word which has neither place nor meaning in their language. They receive the appellation under the idea that it is a Dutch word; and I never knew one amongst them who could pronounce it correctly."

San, pronounced [Zahn] in the Nama tongue, meaning "socially undesirable", of lower social standing. (J F Hein, personal communication, Lekkersing, Richtersveld, 1992) Indications are that contemporary San prefer the term 'Bushman'.

<sup>35</sup> R Elphick, *Kraal and Castle: Khoikhoi and the Founding of White South Africa*, (New Haven and London: Yale University Press, 1977), Introduction, xvi.

<sup>36</sup> W P Carstens (ed.), *The Social Organisation of the Nama And Other Essays* by Winifred Hoernlé (Centenary Volume), Johannesburg: Witwatersrand University Press, 1985), 39 : "The old form, Namaqua, is probably derived from the dual form, *Namakha* , *Namab* being the masculine singular, *Namas* the feminine singular, and *Naman* the common plural".

<sup>37</sup> T H R Davenport and K S Hunt (eds), *The right to the Land: Documents on Southern African history*, (Cape Town: D Philip, 1974), 9.

By the turn of the 18<sup>th</sup> century, Dutch control of Khoi chiefs extended only nominally to the country of the Namaquas. Here, before the arrival of white colonists, the Nama Khoikhoi moved with their flocks and herds (the preferred mode of life) throughout the whole area. This pastoral mode of life and subsistence of the Namaqua and the unsuitable climatic conditions under which they lived, had resulted in their distribution over the country in small thinly-spread out communities, giving rise to the notion that this timeless landscape was unoccupied in terms of European concepts of land ownership. In the end, this nomadic lifestyle coupled with weak political control was their undoing as land ownership passed to Dutch, Baster and other arrivals.

Unfortunately, little information has survived regarding the sentiments of the Khoikhoi towards their land, except for a fragment of evidence from the anthropologist Winnifred Hoernlé, who in one of her papers, maintains that even as late as the early years of the twentieth century, the old tribal land was still closely linked in the minds of the people with their ancestors. These aborigines also had a nuanced view of land ownership, explaining that the land is not so much owned by them but used to sustain themselves, the tribe and Khoi society. This notion of land is encapsulated in the expression which says that “the land does not belong to us, we are of the land”, signalling a profound shift to implications of custodianship and stewardship of land. Closely connected to land is what lies beneath it -- its mineral resources.

### Mineral knowledge

What makes it unlikely that the Khoikhoi were a Stone Age people is the fact that at the time when they came into contact with Europeans they already possessed the art of working in metal. “The heads of their arrows and spears, their cutting instruments and other tools they fashioned from iron, while copper was worked into ornaments; and they were able to smelt the ore for themselves.”<sup>38</sup>

Mining activities in Southern Africa predate the arrival of the first European explorers and settlers since indigenous metal-working clans had sporadically exploited the region’s generous metal-bearing deposits of iron ore, copper and tin. Because many of the early mining sites were simply regarded as indications of rich mineral deposits, much of the archaeological evidence was destroyed by colonial and post-colonial prospectors and miners.<sup>39</sup>

The first contact with the Namaqua was made at the southern border of their region by an expedition sent out in 1661 by Jan Van Riebeeck, under the leadership of Pieter van Meerhof. An air of mystery surrounded the Namaqua whom Van Meerhof described as follows:

Their hair was the same as that of the Cape clans, but by attaching copper ornaments to some of the tufts, they managed to stretch them out so as to fall around their heads. On their arms they wore ivory and copper rings. They were acquainted with the art of smelting copper and iron, of which metals they manufactured ornaments and weapons.<sup>40</sup>

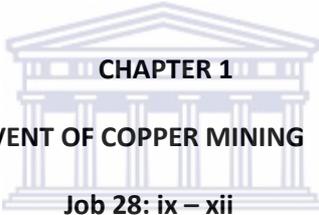
<sup>38</sup> I Schapera, *The Khoisan Peoples of Southern Africa*, (London: George Routledge & Sons, Ltd, 1930), 315.

<sup>39</sup> Jade Davenport, *Digging Deep. A History of Mining in South Africa 1852 – 2002*, (Johannesburg & Cape Town: Jonathan Ball Publishers, 2013), 5.

<sup>40</sup> G M Theal, *Foundation of the Cape Colony*, Vol 3, (Cape Town: Struik, 1964), 112.

These copper ornaments came from the workings of the Namaquas, the semi-nomadic people from the arid lands some 400 km north of present-day Cape Town. It is against this background that first Baster pioneers and later Dutch frontier farmers would from 1750 onwards enter and take over the land of the Little Namaqua between the Buffels and the Orange Rivers.

And in this region the first commercial copper mine would be established in 1850 by an English company on a site at Springbokfontein, part of the farm Melkboschkuil granted in 1850 to the seven sons of Lang Kowie Cloete.



**CHAPTER 1**  
**ADVENT OF COPPER MINING**  
**Job 28: ix – xii**

*Man sets his hand to the granite rock  
and lays bare the roots of the mountains;  
he cuts galleries in the rocks,  
and gems of every kind meet his eye;  
he dams up the sources of the streams  
and brings the hidden riches of the earth to light.  
But where can wisdom be found?  
And where is the source of understanding?*

### **The Namaqualand frontier 1795**

The name Namaqualand is derived from the Nama or Namaqua, a branch of the Khoikhoi people who crossed the Gariiep or Groot River more than 2 000 years ago and moved into the dry, western areas of South Africa. One lesser known but acceptable explanation offered as to the origin of the name “Namaqualand”, is “land of the nanny”, meaning it is according to tradition connected to a remote ancestress of the people.<sup>41</sup>

In the intervening years since Van der Stel’s expedition to the Copper Mountains of Namaqualand in 1685, colonial expansion towards the northwest frontier of the Cape had grown in leaps and bounds.

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<sup>41</sup> Charles F Hein, Personal Communication, Springbok, 1993.

In spite of this, the Dutch and thereafter early British authorities, knew on the whole very little about the Namaqualand Frontier. The vast under-administered district of Stellenbosch, which in 1795 stretched up to the Buffels River in Namaqualand, had an estimated white or Christian population of just over 7 000 in its 55,000 square miles, and most lived in the well-watered south-west around the town of Stellenbosch.<sup>42</sup>

Nonetheless, by the year 1730, Dutch Colonists had already reached the fertile valley of the Olifants River; north of this they encountered the arid waste around present-day Bitterfontein and the majority turned eastwards away from Namaqualand to the Calvinia district. "The deterrent effect of this waterless region slowed the northward trek by Boers to a trickle, and was one factor which clearly facilitated the survival of Baster communities in Little Namaqualand."<sup>43</sup> Three decades later around the year 1760, there were reports of Dutch farmers who had followed earlier Baster families to the Kamiesberg, and for the next 90 years permanent settlement proceeded slowly into the mountain chain stretching northwards in the middle of Namaqualand, i.e., the areas of highest rainfall.

In summary then, during the period between 1750 and 1847 the frontier of the Cape Colony would shift in several stages to the Orange River, thus including by the latter date the whole region of Little Namaqualand (beyond the Buffels) as Crown Land. The boundary was at each stage extended to maintain an appearance of control over the outward movements of colonials and of indigenous people displaced from areas further to the south, as well as monitoring their relationships with the original inhabitants of the region.<sup>44</sup>

Some general observations may be made about inter-group relations. Towards the end of the 18<sup>th</sup> century, mainly as the result of the process of racial and social interaction, a very distinct class-structure developed on the north-west frontier zone. At this time three main groups could be distinguished: the Baster clans, a handful of Dutch frontiersmen, and those remaining Khoikhoi who had not yet migrated further to the north. The Dutch frontiersmen claimed superiority over all the other groups, and the Bastards or Bastaards of mixed European-Khoi –Slave parentage came to be regarded as a lower class of European both by their White fellow-colonials and by the colonial government, which had now begun to take a more active interest in the affairs of the northern frontier.<sup>45</sup>

The north-west frontier zone of Namaqualand and the Orange River was not simply a melting-pot of different races, but also "a haven of opportunity, a destination for people of mixed race or lowly social status from other parts of the colony".<sup>46</sup> Here, given the great distance and relative isolation, miscegenation was common and for some time sparsely populated Namaqualand proved hospitable

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<sup>42</sup> Cf Nigel Penn, *The Forgotten Frontier. Colonist & Khoisan on the Cape's Northern Frontier in the 18<sup>th</sup> century*, (Athens: Ohio University Press & Cape Town: Double Storey Books, 2005), Introduction, 3.

<sup>43</sup> J S Sharp, "Community and Boundaries", 1977, 29. Sharp examines the notion of *burgerskap* (citizenship) in the reserves of Komaggas and Concordia.

<sup>44</sup> J S Sharp, "Community and Boundaries", 1977, 21-52.

<sup>45</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 1966, 235.

<sup>46</sup> N Penn, *The Forgotten Frontier*, 2005, 166.

to Basters who were able to acquire loan farms there. By 1793 'gedoopte Bastaards' such as Kok, Diederiks, Owies, Brand and Meyer managed to take out farms on loan, "while 'Bastaard' sons of white fathers were able to occupy their fathers' farms quite unobtrusively in their fathers' names".<sup>47</sup> Typical Namaqualand trekboer and Baster surnames were: Engelbrecht, Beukes, Cloete, Mostert, Bok, Brand, Meyer, Morton [Martin?], Rossouw, Van Rooyen and Bezuidenhout. Other Baster surnames originating from white knechts and others included Bensch, Clause, Diergaardt, Diederiks, Eyman, Korter, Model, Owies, Otto and Zaal.<sup>48</sup>

The culture of the Basters (including the Cloetes of Melkboschkuil) is best described as a synthesis of the two traditions, Dutch and Khoi. During the 18<sup>th</sup> century the term Basters (originally Bastaards or Bastards) came into use to refer to these South African frontiersmen of mixed race. The early Basters tended to emphasise their White ancestry in order to justify their feelings of superiority over the aboriginal population and other people of colour. Considering themselves (infinitely) superior to their maternal ancestors, they tended to marry amongst themselves. Some did however marry Khoi women while others again were taken up into the ranks of the Dutch.

These Basters, who are widely regarded as the pioneers or Voortrekkers of Little Namaqualand, were mainly responsible for defeating and driving out the Bushman, and in certain mission stations they also seized, with the assistance of individual missionaries, the political power of the Khoikhoi.<sup>49</sup>

The importance of the Basters in South African history lies in the fact that they were the pioneers on the northern and north-western frontiers of the Cape Colony, the vanguard of the Whites who followed closely on their heels after new territory had been made relatively safe for habitation. Writing of the Griqua Basters, J S Marais says: 'They were in fact typical frontiersmen, more so than many of the Boers themselves, whom they nevertheless resembled in a number of ways. They fought in the Boer manner; ... and their leaders were often at loggerheads with one another.'<sup>50</sup>

Several generations after the influx of Basters into Little Namaqualand, Barnabas Cloete (a member of an old and respected lineage, the /arta Cloetes), on 7 February 1955 wrote to the Commissioner for Coloured Affairs, complaining about the Mission Stations and Communal Reserves Act (No. 29/1909). He throws further light on the situation at the time:

My great-grandfather and his brothers lived at this place Kookfontein, later called Steinkopf, after the year 1700; they drove the wild Bushmen out of this territory; they were the Pioneers here in Little Namaqualand and so the land belonged to them until they died, when it was inherited by their children.

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<sup>47</sup> Idem, 2005, 165.

<sup>48</sup> Idem, 2005, 165.

<sup>49</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 1966, 19.

<sup>50</sup> D J Potgieter (ed.), *Standard Encyclopaedia of Southern Africa*, Book 2, 1970, 190.

In 1812 the first Whites made their appearance; these were the London Missionaries, who later in 1838 handed over their work to the Rhenish Missionary Society, which began to operate here in 1840. Soon afterwards the Basters and the Hottentots, who were living here together, built the church.<sup>51</sup>

It is to be expected that in view of the pressures created by class-race distinctions in the Colony, many of the Basters would opt to cross the boundary into Little Namaqualand to secure a new life free from these discriminatory practices. Here they were “free to search for fresh pastures for their livestock without fearing competition from the Whites, who were favoured by the colonial government”.<sup>52</sup> For one thing, demands mounted on Basters and “Bastaard-Hottentots”<sup>53</sup> to serve on commandos as fighting against Khoisan resisters increased along the northern frontier. “This occurred at a time when land was becoming harder to acquire within the colonial frontier and the social status of ‘Bastaards’ was deteriorating”.<sup>54</sup> To evade serving on commandos, Basters and “Bastaard-Hottentots” thus from the mid-1770s onwards began to leave the colony for Namaqualand and later trekked to Bushmanland and the Orange River.<sup>55</sup>

..., although they left the Colony as inferiors, they entered Little Namaqualand possessing guns, and regarded themselves as superior to the Khoi Khoin with whom they came in contact. It is not possible to state precisely what the Basters took with them in the way of Dutch culture apart from guns, wagons, a European style of dress, a knowledge of the Christian religion, and the Dutch language which had become their mother tongue (although they also spoke the Khoi Khoin language).<sup>56</sup>

Collectively then, they came to be known as Bastaards or Basters, and by the second half of the 18<sup>th</sup> century the Basters were already becoming a distinct people who would move and settle on the frontiers of the Cape Colony, including Namaqualand. But they would soon be followed to the far-flung regions by the white colonists, traders and prospectors for minerals.

During the first two decades of the 19<sup>th</sup> century, two important events took place in Little Namaqualand beyond the Colonial limit – events which would have an immense influence on socio-political relationships. The first was the northerly migration of Baster families who had up to this time lived for the most part in the southern half of the north-western Cape Colony; second was the arrival in 1805 of the London Missionary Society (LMS) to carry out missionary work amongst the inhabitants, Namaqua as well as Baster.<sup>57</sup>

### **Brief overview of the history of the community before annexation in 1847**

<sup>51</sup> Quoted in W P Carstens, *The social structure of a Cape Coloured Reserve*, 1966, 147.

<sup>52</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 235.

<sup>53</sup> Bastaard-Hottentots, the offspring of slaves and Khoikhoi (N Penn, *The Forgotten Frontier*, 2005, 20)

<sup>54</sup> N Penn, *The Forgotten Frontier*, 2005, 165.

<sup>55</sup> *Idem*, 165.

<sup>56</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 235.

<sup>57</sup> W P Carstens, *The social structure of a Cape Coloured Reserve*, 1966, 19.

Before the annexation of Little Namaqualand on 17 December 1847, to the passing traveller Little Namaqualand was “a worthless tract of country”. The inhabitants were an aboriginal and mixed coloured population, consisting “almost entirely of Namaqua Hottentots and Bastards of mixed races, coloured, colonial, and others, whose lazy indolence could only be equalled by their filthy and disgusting habits of life.”<sup>58</sup> Surveyor-General Charles Bell, aware of course of the fact that “a census of such an unsettled race will always be difficult”, nonetheless gives us a rough estimate for practical purposes. Making proportional allowance for those who occasionally crossed the Orange River boundary, he estimated the number at fourteen hundred souls, in groups under:<sup>59</sup>

T’Kamghaap (a San chief), 8 men, 48 souls (ii) Paul Lynx, 100 men, 450 souls (iii) Those on the books of Steinkopf and a few of the Komaggas people, 150 men, 900 souls.

From James Backhouse, a missionary on his visit to Namaqualand to discharge a religious duty, we learn much about Little Namaqualand during the 1840s.<sup>60</sup>

Undertaking a circular tour lasting 48 days through Little Namaqualand in the summer months of January and February, his party visited, starting from Lily Fountain: Robbe Bay, Steinkopf, Nisbett Bath (now Warmbad across the Orange in southern Namibia), and Springbokfontein, and returned to Lily Fountain.

From Lily Fountain (Leliefontein), Backhouse and party set off on their journey for bleak and windy Robbe Bay (Bay of Seals, today Port Nolloth), where they were heartily welcomed by the German missionary J H Schmelen and company who were from Komaggas mission station on a visit there. On that occasion, Schmelen<sup>61</sup> and a man named April, formerly a slave, and another named Adam, held a church service and prayed with the people of the village, the congregation numbering about 20 persons.<sup>62</sup> The travellers also saw Namaqua women and children from the adjacent village of mat-houses, frying and eating fish during most of the day, and they took a large quantity home with them. The name of the village next to Robbe Bay, and opposite the little island known as Robbe or Seal Island, was Aukotowa, or, “The place which took away the old man”. He was swept out to sea while attempting to reach the island on a log of wood.<sup>63</sup>

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<sup>58</sup> Richard Bright, “Lecture on Namaqualand and its Mines”, (Cape Town: Saul Solomon & Co., 1855), 4.

<sup>59</sup> G8—1855, *Reports of the Surveyor-General Charles D Bell on the Copper Fields of Little Namaqualand and of Commander M S Nolloth*, 8. Report by Nolloth at back of Bell’s Report (C 8 – 1855).

<sup>60</sup> James Backhouse, *A Narrative of a Visit to the Mauritius and South Africa* (London: Hamilton Adams & Co., 1846).

<sup>61</sup> Johann Heinrich Schmelen, born 7 January 1777 – died 26 July 1848. Headstone in graveyard at Komaggas (G Meyer, *Uit die Verre Noordweste*, Kaapstad – Pretoria: N.G. Kerkuigewers, 1960, 1).

<sup>62</sup> J Backhouse, *A Narrative of a Visit*, 1844, 539.

<sup>63</sup> *Idem*, 1844, 537.

There are recorded incidents of English traders who had penetrated the area beyond the colonial boundary. Although outside of the boundary of the Cape Colony, two Englishmen who made a sort of raft, clubbed scores of seals on the islet opposite the bay -- enough to load two wagons with skins -- but in the process scaring off the seals from this place.<sup>64</sup>

*One of the men had a gun of inferior quality which he purchased for forty-five shillings of a trader. The men wore jackets, trousers, and waistcoats of leather, and had hats or caps; the women had sheepskin karrosses, and a sort of petticoat of leather; few of them understood Dutch. The village is considerably above the shore, among sandbanks which extend far back from the coast, and which, in some places, are destitute of vegetation.*<sup>65</sup>

Here at Robbe Bay, the carcasses of whales harpooned by the crews of whaling ships, were occasionally cast up on the shore, providing fare for the feasts of the Namaquas who often subsisted for weeks on flesh preserved by burying it deep in the sand. The presence of whalers on the coast is explained in the Report by Commander Nolloth of HMS "Frolic", who during 1854 examined the Namaqualand coast south of the Orange River. The Natives in a statement to Nolloth described how 20 years earlier American whalers, including 3-masted vessels, used Robbe Bay as a base. Part of a wreck was then still found on the beach, and the coast seen to be strewn with whale bones.

About 30 km south of Robbe Bay there was another Namaqua village on the boundary at the mouth of the Kousie or Buffels River, and one north from Robbe Bay at the mouth of the Orange River. In 1840 these were the only three inhabited spots on the desolate, foggy coast of the extra-colonial part of Little Namaqualand.<sup>66</sup>

The Namaqua inhabitants at the coast traded with settlements in the interior, in which direction the visitors were then headed. "They take fish by means of lines, and barter them in a dried state, with people in the interior, for tobacco and a few other articles."<sup>67</sup>

From Robbe Bay, Backhouse and company set off over the sandy semi-arid coastal plain to the interior for Kookfontein, about 120 km due east. Kookfontein,<sup>68</sup> with several other small places or

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<sup>64</sup> J Backhouse, *A Narrative of a Visit*, 1846, 537. Cf James Alexander's recording of an incident regarding an English trader at Robbe Bay (*An Expedition of Discovery into the Interior of Africa*, 1838); also Phillips & King and their sealing expedition under "The influence of Phillips & King" in chapter 10.

<sup>65</sup> *Idem*, 1844, 538.

<sup>66</sup> J Backhouse, *A Narrative of a Visit*, 1846, 538.

<sup>67</sup> *Idem*, 538.

<sup>68</sup> Kookfontein: "A clear but cold spring boiling up from the ground gives this place its name; the water irrigates a few rather unproductive gardens, and is soon lost again in the sandy ground." (J Backhouse, *A Narrative of a Visit*, 1844, 543).

outstations, formed the missionary Institute of Steinkopf. The ruins of the old mission house can today still be seen at Byzondermeid, the first site of the mission station just south of Kookfontein.

At Kookfontein, the home of missionary Michael Wimmer<sup>69</sup> served as a chapel to where the congregants were called by the blowing of a bullock's horn. Wimmer's two daughters welcomed Backhouse and his travelling companions. "We were kindly received at Kok Fontein by Margaret Wimmer and her sister [Elizabeth], in the absence of their father, who had been for a long period a labourer in the Gospel under the London Missionary Society."<sup>70</sup>

At a religious meeting held here on 24 January 1840, the number of people were small since many were absent having moved off to the interior to Bushmanland in search of pasturage for their cattle during the summer months. Also, the prevalence of the measles had caused the suspension of the infant school as well as that for older children. The school was in the care of Margaret Wimmer, "an active young woman who took a general charge, both in civil and religious affairs, in the absence of her father".<sup>71</sup>

Leaving Kookfontein a second time (the party had returned here from Nisbett Bath across the Orange), the visitors bade farewell to the mission family (Wimmer had since returned) and continued the journey to Springbokfontein, accompanied by a detachment including Corporal Gert Wegland (probably Vigilant), Willem Smid, Jozias Engelbrecht, and Klaas Jantje.

On 25 February 1840 the group left early for Springbok Fontein, where a family of "Dutch extraction", Lang Kowie Cloete and his extended family, were settled.<sup>72</sup>

... they had grown a considerable quantity of wheat, and we obtained from them a good supply of chaff for our horses, which in this sterile land is considered good forage! There was a feeble spring of excellent water at this place, rising in a white-quartz hill, and watering a little garden, in which pumpkins, caffer-melons, tobacco, and dakka were cultivated. There were also a few small pools in the hollow below.<sup>73</sup>

This tiny settlement at Springbokfontein consisted of two hartebeest houses<sup>74</sup> used for storing corn, and seven mat huts, traditional dwellings of the Khoi made from reed-matting, enabling these

<sup>69</sup> Michael Wimmer. Veteran missionary, born in Austria in 1761, studied at the seminary of the London Missionary Society in Gosport. He reached Bethelsdorp in 1810. Removed to Pacaltsdorp in 1813, Zuurbraak 1816, to Steinkopf in Namaqualand in 1821, where he died on 21 June 1840 in his 77<sup>th</sup> year at Fries Klip. Remains interred at Kookfontein on 24 June, with fellow-missionary J H Schmelen officiating. (J Backhouse, *Narrative of a Visit*, 1844, 579).

<sup>70</sup> J Backhouse, *A Narrative of a Visit*, 1844, 544.

<sup>71</sup> J Backhouse, *A Narrative of a Visit*, 1844, 544.

<sup>72</sup> The Cloetes of Melkboschkuil.

<sup>73</sup> J Backhouse, *A Narrative of a Visit*, 1844, 581.

<sup>74</sup> Hartebeest houses: simple dwellings in the vernacular style plastered with mud or clay.

pastoralists to come and go with the seasons. Many of the people were down with measles; but several of them gathered in one of the houses, and Backhouse and company had an interesting religious service with them. The visitors then sat down to a meal:

A loaf of bread being obtained here, and some caffer-melons, which were pared, cut into slices, and boiled with some wheat-meal, our whole company had an excellent dinner; to this was added a liberal supply of tea, of which some of the family of our host also partook; as we were drawing near to our wagon, we could afford to be more free in the use of this refreshing beverage.<sup>75</sup>

It was February, and as is usual in this arid land, the fierce heat of summer beat down on a parched landscape:

A shelter is sometimes formed in this country of four upright stakes, to which cross-pieces are attached, over which mats are thrown, as a protection from the sun. One of these was a great comfort here: under it, the corn for our dinner was ground, in a mill consisting of a pair of little stones turned by the hand.<sup>76</sup>

In the afternoon the group left Springbok Fontein and continued their journey southwards to Leliefontein mission station within the Colony, riding till midnight with only one rest; most of the way was over sand along the side of a periodical river. Long after dark they met a party of about 40 "Hottentots", who had been on a journey with some pack-oxen, and were now returning home to Little Namaqualand across the boundary. At the Kouse, or Buffels River, on the boundary of the Colony, the company passed the house of a *boer* named Niekerk.<sup>77</sup>

Finally on 26 February 1840, the expedition reached Lily Fountain and were again warmly welcomed by the missionary couple, Joseph and Mary Ann Jackson. On this journey lasting from 9 January to 26 February 1840, they covered 970 miles, and used twenty-three horses.<sup>78</sup> On the 29<sup>th</sup> February the guides who had come with them from Kookfontein, returned -- rather disappointed at not being able to obtain some seed-corn in the neighbourhood. "The only Boor in the vicinity, who had any to spare, asked a high price for it of a coloured person, though he parted with it to persons of his own class, for a moderate sum".<sup>79</sup>

In this country north of the Buffels River, Backhouse observed, "copper ore frequently occurs; it is so plentiful in some mountains which we passed, that they are called Koperbergen, *Copper Mountains*."

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<sup>75</sup> J Backhouse, *A Narrative of a Visit*, 1844, 580 - 581.

<sup>76</sup> *Idem*, 581.

<sup>77</sup> J Backhouse, *A Narrative of a Visit*, 1844, 581.

<sup>78</sup> *Idem.*, 582.

<sup>79</sup> *Idem.*, 583 – 584.

Probably it might be collected advantageously by the Namaqua Hottentots, and transmitted, in their skin knapsacks, to some place on the coast where they might exchange it for other commodities; ...”<sup>80</sup>

But he realised (like others before him) that to smelt the ore would present enormous difficulties as the only supply of wood that could be used for this was on the banks of the Orange River, and a few tributary streams, where the belt of wood is very thin. But not long after Backhouse’s visit, prospectors would indeed take up the challenge to unlock the mineral wealth of the region.

### Initial prospecting expeditions

From the earliest times the Land of the Little Namaquas had been the home of a few hundred Namaqua and bands of Bushman who felt almost protected in such an arid land from European intrusion. As noted already, the original inhabitants were later joined by the Baster pioneers who crossed over into Little Namaqualand in small waves of migration. Nonetheless, this was not to last “as few parts of the world are richer in mineral wealth” than this harsh, uninviting region which attracted the attention of early Dutch rulers through stories and legends.<sup>81</sup>

The beginning of the 19<sup>th</sup> century saw world industrialisation and a steady rise in the value of copper. It was not until Captain James Edward Alexander inspected the mineral sites in the Richtersveld and commenced the actual collecting of some specimens of copper ore, that any real measure of attention was given to the mineral resources of Namaqualand. On invitation from the Royal Geographical Society to undertake an African Expedition of Discovery, and “having always

had a strong desire to attempt to discover some of the secrets of the great and mysterious continent of Africa”,<sup>82</sup> Alexander proceeded to Namaqualand and Damaraland, which “countries” were little known at this time.

Leaving Cape Town, Alexander (regarded by some as the ‘real father’ of Namaqualand copper mining)<sup>83</sup> set out in an ox wagon and on 18 October 1836 he inspected Van der Stel’s old prospect shafts at the Koperberg near Springbokfontein. At the site of the present town of Springbok, his party met the first permanent inhabitants: “three fat women grinding corn at the mat huts of a Bastard, Lang Cobus Cloete, had a curious appearance. The millstones were fixed close to the ground in an upright frame, with a long handle ...”<sup>84</sup> From here the party continued to the Richtersveld

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<sup>80</sup> Idem., 581.

<sup>81</sup> G M Theal, *History of South Africa since 1795*, Vol. 7, 84.

<sup>82</sup> J E Alexander, *An Expedition of Discovery into the Interior of Africa through the hitherto undescribed Countries of the Great Namaquas, Boschmans and Hill Damaras*, (London, 1838) (2 vols), (Cape Town : C Struik, Facsimile Reprint, 1967, Introduction, VI)

<sup>83</sup> Captain Alexander (1805 – 1885), an officer in the regular British army, was not a trained mining engineer or geologist. Obtaining long leave from military duties, he published an account of this “Expedition of Discovery”. (W L Speight, *The 1820 Settler’s Magazine on Southern Africa*, 26, 4, 1954, p. 12)

<sup>84</sup> J E Alexander, *An Expedition of Discovery into the Interior of Africa*, 1967, vol. 1, 139.

where Alexander was led by one Willem Joseph, a Baster, to other outcrops of copper at such places as Numees and Kodas.

Several specimens of copper ore were obtained by the expedition from the southern banks of the Orange River, about 80 miles from the sea, and sent to Mr George Thompson, a merchant of Cape Town. The best of these specimens were assayed by Sir John Herschel, and were found to contain 65 per cent of pure copper. "The remaining specimens were taken to London by a Mr Samuel Bennett, and submitted to an assayer in Hatton Garden, who certified that they contained a percentage of 27.875 pure copper". Upon receiving the results of the assay, Mr Bennett tried to form a company in England to work the mines, but was unsuccessful.<sup>85</sup>

### **Thomas Fannin and the South African Mining Company**

Whether Sir James Alexander actually worked the Richtersveld deposits after his journey of exploration (1836-1837) has not been definitively established, although several writers such as Fred Cornell<sup>86</sup> described the operations as if mining had in fact taken place. This much is certain -- that the next journey of mineral exploration under one Thomas Fannin from England took place in 1845.

Acting on Thomas Fannin's suggestion, it was decided to determine the exact site of the mine or mines of James Alexander, and the feasibility of working the deposit. Fannin, who was to conduct the survey, left Cape Town on 1 December 1845 in a light ox-wagon, and reached the Wesleyan Mission Station at Kamiesberg in Namaqualand on December 20. He set out from here and arrived at Komaggas mission station near the Buffels River boundary on December 24, where he was given a friendly welcome by the Rev. Mr Schmelen, and from whom 'most reliable' information was obtained about the Richtersveld community who at the time were settled outside of the Cape Colony:<sup>87</sup>

... and on the object of the journey being fully entered into and explained to Mr Schmelen, he [Schmelen] acknowledged the great benefits likely to result to the natives from the working of the mines ...<sup>88</sup>

Thomas Fannin, together with his guides, reached the mine on the Orange River on 31 December 1845, and arrived back in Cape Town from the Richtersveld on 20 January 1846. Following on his recommendations, it was decided to form a joint stock company to be known as The South African Mining Company. In order to ascertain the legal position of such a venture outside the colonial boundary, the guidance and support of the Government was enlisted and Fannin reported that he was examined before the Governor and Council on the matter,<sup>89</sup> which places in context the subsequent annexation of Namaqualand by Sir Harry Smith in December 1847.

<sup>85</sup> G M Theal, *History of South Africa since 1795*, Vol. 7, 84, 85.

<sup>86</sup> Fred C Cornell, *The Glamour of Prospecting*, (Cape Town: David Philip, 1986).

<sup>87</sup> J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, 24.

<sup>88</sup> *Shipping and Mercantile Gazette*, 3 April 1846 quoted in J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, 24.

<sup>89</sup> J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, 26.

Originally established in 1846 with a nominal capital of £20 000, The South African Mining Company was the first company in the Cape and the first public mining company in South African history, formed for the express purpose of working minerals. Thomas Fannin acted as manager and honorary secretary.

Several decades later, Mr M G Fannin of Pietermaritzburg, a grandson of Thomas Fannin, gave this account of the operations of the company. His narrative appearing in the *Mining & Industrial Magazine* of 7 March 1928, was based on letters and written statements of his grandfather. Owen Letcher in "Namaqualand, Cradle of Mineral Development" gives a condensed version extracted from this professional magazine:

It was in 1845 that my grandfather, Thomas Fannin, arrived at Capetown from Liverpool with his wife and family, aboard the Conway Castle.

Soon after his appointment as manager of S A Mining Company, Thomas Fannin was sent to Namaqualand to open up the copper deposits.

Two Welsh miners were engaged to do the work, and a cartload of gunpowder taken for blasting.

At the mines some work was done and rich copper ore opened up, but the two Welsh miners grew discontented with the lonely life, and in the end, when a vessel from the Cape touched at the mouth of the Orange River, they returned by her.

Fannin and his young sons carried on the work, and loaded up a quantity of ore, which was taken by wagon back to Cape Town, where eventually the expedition returned safely.

Before leaving Cape Town in 1847, Thomas Fannin sold out his interest in the copper venture, and bought a farm in Natal. "He was so tired of desert country that he clinched the bargain without seeing it, on hearing that the farm had six perennial streams running through it. Thus ended in failure this early attempt to develop the copper deposits of Namaqualand."<sup>90</sup>

A few years after the "disastrous expedition" to the Richtersveld, we hear from Thomas Fannin himself when he claimed remuneration for opening up the Namaqualand mines between the years 1845 to 1847. Writing from 'The Dargle' near Pietermaritzburg, Natal, to His Excellency Governor Sir George Grey, Fannin stated his case as follows:

My case then stands thus: Immediately on my arrival in South Africa, ten years since, at the risk of my life, and solely at my own expense, I opened up the copper mines in Namaqualand. In consequence of the information I laid before Government, those mines were brought within the boundaries of the colony, by extending the latter to the Orange River. 21 December 1855. The mines are now producing large and increasing returns, and are of immense value to the colony.<sup>91</sup>

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<sup>90</sup> "M G Fannin's Account" in O Letcher, *Namaqualand, Cradle of Mineral Development in Southern Africa*. Reprinted from the *Mining & Industrial Magazine* (Johannesburg, September 1932), 23 – 25.

<sup>91</sup> "A Statement of Mr Fannin's claim for compensation for his Discoveries and Investigations in Namaqualand in 1845, 6, and 7, supplementary to his Memorial to His Excellency Sir George Grey, KCB, intended to be laid before Parliament, in the First Session 1856". Thomas Fannin's statement (of 21 December 1855) in regard to the mine was published in *Silberbauer's Mercantile Gazette; The Mail; Commercial Advertiser; The Legislative Council*. (CO 4080 Refs F14 & F15 : Fannin's Memorials)

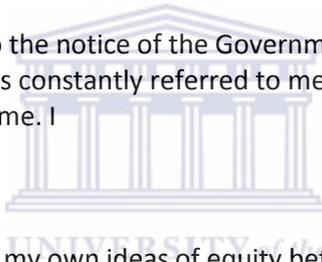
The reports from the workings in the Richtersveld were not very favourable, so it is hardly surprising that Mr Fannin soon sold his interest in the Company in 1847 and bought a farm in Natal with the proceeds. The mineral lease worked in the Richtersveld, was found not to answer to expectations. Thereafter the S A Mining Co appears simply to have been dormant for a few years without ever having been formally wound down.<sup>92</sup>

### **Extension of the border in 1847**

Thomas Fannin claimed (with a great degree of truthfulness) that as a result of the information in regard to the copper deposits of Namaqualand which he laid before Government in 1846, the boundary of the Colony was extended from the Buffels to the Orange so as to include the rich mineral resources. As will be pointed out later, there were other (lesser) factors at play.

By proclamation of 17<sup>th</sup> December 1847, Sir H G W Smith annexed the land between the Buffels and the Orange, thereby including Little Namaqualand in the Cape Colony. The proclamation effecting annexation made no provision whatsoever for the definition of native rights. The Colonial Secretary, C H Darling, rightly points out this anomaly:

I have constantly brought this to the notice of the Government; but questions entirely dependent thereon have been as constantly referred to me without any reference to the principles which ought to guide me. I



have been left to the dictates of my own ideas of equity between man as the individual, or mankind in sections of communities, and the whole community, under the name of the Government.<sup>93</sup>

In consequence of this glaring omission, the whole “native question” was left unresolved, as remarked on by the Surveyor-General of the Cape Colony himself: “When the Government of this Colony, without their consent, extended the frontier beyond them, they found several tribes and many individuals in the undisturbed possession of land. The claims arising therefrom yet remain unsettled.”<sup>94</sup>

All the mission stations in Namaqualand at various stages between the years 1843 to 1930 received from Government Tickets of Occupation or Certificates of Reservation to roughly 40 % of the land, which extended to them occupational and surface rights. All mineral rights were reserved to the Crown, as was the case on all Crown Land in the rest of the territory. At the same time, large tracts

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<sup>92</sup> SC 5 – 1856, *Report on the Petition of Leaseholders of Land in Namaqualand*, 19.

<sup>93</sup> G8 – 1854, *Correspondence upon the subject of the discovery of Metals in Namaqualand*, 17.

<sup>94</sup> A8 – 1865 : *Report on the Select Committee appointed to consider petitions with regard to the Namaqualand Roads & Tramway* (Saul Solomon & Co., Cape Town, August 1865) , Charles D Bell re-examined on 1 August 1865, 32.

of the remainder of Namaqualand were cut up into private farms and leased, sold or granted on perpetual quitrent by Government to Dutch farmers, mining companies, and others.

Some four years after the arrival at Kookfontein, now called Steinkopf, of a youthful and energetic minister of the Rhenish Mission Society, the boundary of the Cape Colony was extended and the captains and people of Little Namaqualand became British subjects. This is how the Reverend Mr Ferdinand Brecher described the annexation in a petition of 1891:

The natives of the land were a freed people and were against the extension of the Colony from the Buffel's to the Orange River, but when, in 1846, the Government intended to extend the boundary, the natives were requested by the Civil Commissioner and Resident Magistrate, Mr. Ryneveld of Clanwilliam, whether they would like to become British subjects or not, I advised them to give their consent to this request on account that the British Government was a good Christian Government which would do them no harm but protect them, against anyone who might like to do them wrong. So the Captains of Steinkopf (Jakobus Engelbrecht) and the Orange River (Paul Links) gave their consent to the proposition of the Government, and my Captain at Steinkopf said, 'Wat de groote Baas wil doen, daar kunnen wy niet voor, wy met ons volk onderwerpen ons aan de koningin met deze condisië, dat Harer Majestyds Gouvernement voor ons en ons volk onzen van ouds af bewoonden grond moet beschermen tegen Boeren en anderen die niet van ons zijn, opdat wy een gerust stil en eerlyk leven voeren kunnen.'<sup>95</sup> These words I told His Excellency, Governor Barkly, when His Excellency paid us a visit in August 1873, and which words to hear pleased His Excellency very much. By this opportunity His Excellency, the Governor, said to me, 'Mr. Brecher, you must have a good community, as Mr. Boyes, the Magistrate at Springbok, told me that as long as he has been magistrate at Springbok, never a case has come before him from Steinkopf.'<sup>96</sup>

Extensive correspondence between the missionaries on behalf of the inhabitants of the Mission Institutions, and the Colonial Office, the Surveyor-General and the Resident Magistrate and Civil Commissioner of Springbokfontein on the subject of the annexation of the territory, as well as the granting of mineral leases and land, are well recorded and can form the subject of several studies.

The extension of the boundary in 1847 had in fact already been proposed a decade earlier. James Alexander himself in his report of 1836 – 7 had drawn attention to some proposals to extend the boundary of the colony to the Orange River, listing the following reasons:

There are a number of farmers living beyond the Kowsie, or Buffalo river the limit of Clanwilliam, who have paid taxes to government for the last thirty years; these or their predecessors obtained their farms in the following strange manner. In the Dutch time they applied for places **beyond the Olifant river**. Now, in these days, the information of the Cape authorities was very limited regarding the geography of the colony, and matters were

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<sup>95</sup> 'What the great Master wishes to do I do not know; I and my people, submit ourselves to the Queen on these conditions, that her Majesty's Government shall protect us and our land, which we have occupied from olden days, from Boers and others who are alien to us, so that we may live peacefully and honestly.' (W P Carstens, *The Social Structure of a Cape Coloured Reserve: a study of racial integration and segregation in South Africa* (Cape Town: Oxford University Press, 1966), 23.

<sup>96</sup> Quoted in W P Carstens, *The Social Structure of a Cape Coloured Reserve*, 1966, 23-24.

conducted in so careless a manner, that the farms in question were granted, and it turns out that, not only are they beyond the Olifant river, but beyond the boundary also, which the applicants well knew when they applied for them. These farmers continue to pay taxes, that they might have a claim on colonial protection.

Secondly, it is proposed to extend the boundary to the Orange river, because the present limit is badly defined, and in some places it is impossible to say where Clanwilliam ends.

Thirdly, it is proposed to extend the boundary, because in seasons of drought, colonists, white and coloured, itinerate beyond it to feed and water their cattle.<sup>97</sup>

Captain Alexander had, however, at the same time also expressed the fear that in all this, the rights of the aborigines – the Bastards and Namaquas – were overlooked. But if these people were willing to be incorporated into the Cape Colony, then there would be no objection on the part of Alexander to the extension of the boundary to the Orange River.

Not much later a Memorial from the “Inhabitants of Namaqualand”, which included several Dutch colonial farmers and a handful of Basters, the latter already beyond the Buffels River boundary, was addressed to Sir George Thomas Napier, Governor and Commander in Chief of the Cape of Good Hope:

The Memorial of the Inhabitants of Namaqualand, Camiesberg, Buffels River, and neighbourhood most humbly sheweth:<sup>98</sup>

That Your Memorialists on account of the increase of Population on this northern boundary, are obliged to live two and three families on one farm, and more so are obliged to migrate annually with their flocks even over the boundary, on account that their farms are not sufficiently large for grazing of their cattle --

Your Memorialists therefore most humbly pray that Your Excellency may be graciously pleased that the boundary on this frontier may be extended to the Orange River, so doing Your Excellency will not only extend the British Colony, but will bestow a valuable increase of land for its Inhabitants, Her Majesty’s faithful subjects --

Your Memorialists humbly beg to inform Your Excellency that the taking possession of that land as far as the Orange River will not injure any tribe of Hottentots or Namaquas, whereas its lawful proprietor Capt. Cupido Witbooy has left that tract of land for about 5 years, and now resides over the Orange River.

Your Memorialists also beg to inform Your Excellency that already some of the Inhabitants of the Clanwilliam District are residing over its present boundary --

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<sup>97</sup> J E Alexander, *An Expedition of Discovery into the Interior of Afric*, 1967, 35-36.

<sup>98</sup> CO 4012, Ref. 113: “The Memorial of the Inhabitants of Namaqualand, Camiesberg, Buffels River and Neighbourhood, 10<sup>th</sup> June 1842”.

Your Memorialist[s] humbly solicit that Your Excellency may be graciously pleasing [sic] to appoint a Magistrate for this remote District ---

And Your Memorialists as in duty bound, will ever pray --

Namaqualand, District Clanwilliam, 10<sup>th</sup> June 1842.

The Memorial document lists on a separate page the names of loan farms (*Namen van Request plaatsen*) over the Buffels River boundary, namely De Witte Klipfontein; Klipfontein; Caries; Dans Kraal; Doornfontein, aan de lelyke pad; Koperberg aan Springbokfontein; de een Doorn; de drooge Daap and Clamvontijn. Melkboschkuil (included in the boundary demarcation of 1805) had already in 1840 been surveyed by J M Wentzel for Jacobus (Lang Kowie) Cloete so that we can safely assume that “Koperberg aan Springbokfontein” was at this time effectively occupied by the Cloete family.

It is a matter of significance that the Signatories to the Memorial are led off by several Basters and one solitary ‘Hottentot’, at this time all no doubt already residing and occupying land over the Colonial boundary : Pieter Jubert (Hottentot); mark of J Cloete; Nuclaas Cloete; Adriaan Cloete; Gert Cloete; Piet Cloete; Jacowes Cloete; D Caroles Cloete; G Beukes; Jan Beukes; Gert Beukes; Jacob Beukes; Piet Beukes; mark of Jan ?; mark of K Kok; mark of Coenraad Saal; mark of P Saal; mark of W Saal. Several of these signatures appear to have been made in the same hand, and not appended to marks, but this should not cast doubt on the credibility of the exercise.<sup>99</sup>

The signatures of the above parties are followed on the next page by those of Jacobus Kotzee (field cornet) and some 29 signatories, including John Archer, Jasper Jacobus Coetzee, Adriaan Alettus Coetzee, Johannes Erasmus Smit, John Kenedey, J A de Klerk, T H J Basson, Aleweijn Depenaar and H J C Engelbregt -- presumably all Dutch and a few English colonial farmers within the Cape Colony south of the Buffels River boundary.<sup>100</sup>

The reply to the above-mentioned Memorialists is indicated in a draft note dated 17 November 1842, and written on the original Memorial document, to the effect that: “Memorialists are informed it is not in the power of the Governor to extend the boundary of the Colony or to appoint a Magistrate to this District (17 November 1842)”.<sup>101</sup>

In a letter to the Colonial Secretary, John Montagu, dated 30 June 1843, the writer from the Surveyor General’s Office, felt it a matter of duty to report that on the basis of information subsequently obtained, “I am led to doubt the accuracy of their [Memorialists’] statements.” He suggested that the said Memorial from the Inhabitants of Namaqualand be forwarded to the Civil Commissioner of Clanwilliam for his report thereon.<sup>102</sup>

<sup>99</sup> Annexure 5.

<sup>100</sup> CO 4012, “The Memorial of the Inhabitants of Namaqualand”, 1842.

<sup>101</sup> Idem. .

<sup>102</sup> CO 4016 Surveyor-General’s Office to John Montagu, Secretary to Government, dated 30 June 1843.

A Report was in due course drawn up by J van Ryneveld, Civil Commissioner of Clanwilliam district, on 1 August 1843. This report confirmed the reservations expressed by the Surveyor-General's Office. Van Ryneveld wrote that there are only three registered Loan Places situated beyond the boundary of the Colony, namely:

- (i) Zilverfontein of Hermanus Engelbrecht [Dutch farmer]
- (ii) Rietfontein and Tweekuilen of Gert Beukes [most probably a Baster] , for which the usual rent is paid to Government

With the exception of H A van Zyl, the first mentioned Petitioner who had purchased one half part or share in the Place Zilverfontein of Hermanus Engelbrecht already mentioned, not one of the others had any land registered on their names. "The farms alluded to by them I therefore consider to be nothing else, but Waste Land which they have been occupying for some time without the consent or knowledge of the Government, and for which no rent whatever has been paid by them to government. The taxes and dues stated to have been paid by them are the Usual Assessed Taxes paid by every Inhabitant."<sup>103</sup>

About a month later a Major Mitchell of the Surveyor-General's Office wrote on 29 August 1843 in regard to this matter. Mr Ryneveld's report distinctly shows that the Memorial contains a gross misrepresentation in that the parties describe the lands occupied by them as Loan Places whereas the Civil Commissioner "not only denies that any of the farms or places are registered as such, but adds that their occupation has been illegal inasmuch as without consent or previous knowledge of Government."

Major Mitchell therefore recommended that the Memorialists be allowed to remain in undisturbed occupation (as the safest measure in this respect) until Government was in a position to define the border. To which report His Excellency The Governor, John Montagu, appended a note: "I concur in Major Mitchell's recommendation but I think that the party should be informed that the Government is satisfied that they have been guilty of a gross misrepresentation."<sup>104</sup>

This was the general state of affairs when Annexation was proclaimed on 17 December 1847, and Little Namaqualand between the Buffels and the Orange Rivers came under the sovereignty of Great Britain. For ten years after the incorporation of the territory, little if any contact was established between the Government of the Cape Colony and, for example, the community of Steinkopf, where Kaptein Jakobus Engelbrecht, assisted by the missionary, still ruled. In 1856, however, a Civil Commissioner and Resident Magistrate was appointed to take charge of the newly created fiscal division of Little Namaqualand, and from his seat of magistracy at Springbokfontein this official administered the Khoikhoi, Basters, Dutch and Bushman inhabiting the territory. Field-cornetcies were established, and as far as the 'native' areas or mission stations were concerned, a period of indirect rule began.<sup>105</sup>

<sup>103</sup> CO 4016 Report by J van Ryneveld, Civil Commissioner of Clanwilliam, 1 August 1843.

<sup>104</sup> CO 4012, "The Memorial of the Inhabitants of Namaqualand", 1842.

<sup>105</sup> W P Carstens, *The Social Structure of a Cape Coloured Reserve*, 1966, 24.

Namaqualand had up to then been regarded by the colonists as an arid waste of not much value; but “fortunately for us, Sir Harry Smith, a few years ago, extended the boundary from the Kousie to the Orange River, and thus was this contemned country included within the Colony.”<sup>106</sup>

The Baster pioneer family, the Cloetes, of Little Namaqualand at Melkboschkuil alias Springbokfontein alias Koperberg, would on 21 January 1850 be granted individual title to land they had occupied long before the annexation of Little Namaqualand on 17 December 1847. They would however soon after be dragged into the industrial age and subjected to tremendous pressure to sell off their land to a mining company who wished to work the copper deposits.

For various reasons Alexander’s venture came to nothing, but it paved the way for the formation of other mining enterprises, notably the South African Mining Company in 1846, generally credited with being South Africa’s first public mining company.

The small deposit worked in 1846 by South Africa’s first commercial mining organisation – the South African Mining Company – in the heart of the Richtersveld, in reality heralded the start of the Namaqualand copper mining industry, although the Richtersveld operation turned out to be a short-lived venture. The discovery of far richer and vaster deposits at Springbokfontein and the commencement of mining operations there by Messrs Phillips & King in 1852, spelt the end of the Richtersveld workings, and introduced the modern mining era in South Africa.

Mining would be followed by trade and industry and colonial administration, in this instance to Springbokfontein on the farm Melkboschkuil of Lang Kowie Cloete and his seven sons and extended families.

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<sup>106</sup> A G Bain’s account of the geology of Namaqualand, 36. In G 8 – 1854: *Correspondence upon the subject of the discovery of Metals in Namaqualand and of the Leasing of Lands in that part of the Colony.*

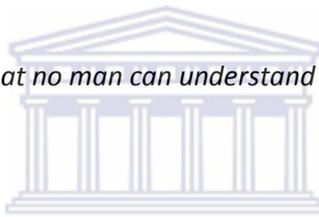
See also, the Proclamation of the Northern Border of the Cape Colony by H Smith in *Government Gazette* No. 2195, dated 23 December 1847.

Note: J E Alexander, *Expedition into Interior*, etc. contains the oldest map of the entire area of Namaqualand.

## CHAPTER 2

### THE SALE OF MELKBOSCHKUIL

*As a matter of fact I am quite sure that no man can understand Namaqualand without spending two or three summers there.*<sup>107</sup>



#### **Opening up the first copper mine at Springbokfontein on the Farm Melkboschkuil**

After the annexation of Little Namaqualand, active interest in the mineral resources of the region increased in intensity and quickly led to the opening up for mineral development the central area around Springbokfontein.

As noted in the previous chapter, Sir Harry Smith extended the limits of the Cape Colony in December 1847 and so the farm Melkboschkuil now fell within the sphere and jurisdiction of the Cape Government. The farm had at this time (1847) not yet been formally granted to the Cloetes, the actual long-time occupiers, and was granted to them only in 1850.

The first farm beyond the Buffels River – Kameelboom -- had already been granted in 1847, followed in 1850 by Lelyke Pad (Nababeep), Brakfontein alias Groot Brak (Okiep), Eselsfontein, Klipfontein, Koornhuis, Drogedap, Vogelklip (Olieboomsdam), and of course, Melkboschkuil alias Koperberg.<sup>108</sup> Within the next fifty years large tracts of individually owned farm land and reserve areas would be carved out of this incorporated territory. Once the Basters, along with the remaining Nama, had been granted communal lands at the mission stations or reserves, a handful of individual Basters

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<sup>107</sup> William C Scully, Resident Magistrate & Civil Commissioner, Namaqualand, 1890s.

<sup>108</sup> P W Kotze, *Namakwaland. : 'n Sosiologiese Studie van 'n Geïsoleerde gemeenskap*, 1943, 112.

also managed to obtain quitrent farms north of the Buffels in the newly annexed territory. The two instances which lie at the heart of this study are:

- (i) The farm Melkboschkuil (site of the town of Springbok) to which seven brothers, the sons of the Baster Jacobus (Lang Kowie) Cloete obtained title on 21 January 1850. By 18 October 1853, all seven Cloetes had disposed of their undivided equal shares in the land to the copper mining company, Phillips & King.
- (ii) The farm Brakfontein, location of the present-day town of Okiep, which was granted to Jan 'Baster' Cloete by Title Deed CIW Q8 – 27 of 21 January 1850. Jan 'Baster' sold out to Phillips & King by Deed of Transfer dated 11 July 1850. A copy of the Deed of Grant is filed in the parish records of St Augustine's Anglican Rectory at Okiep.

These two farms were among the last to be granted by the Cape Colonial government to individual Baster families in Namaqualand.<sup>109</sup> The farm Nababeep alias Lelyke Pad is also of interest because it was likewise purchased by Phillips and King at the time in 1850, but (as indicated earlier) does not strictly form part of this study.

The Cloetes were (as far as can be established from the records) the first permanent occupants of Melkboschkuil from before the year 1836 – the colonial limit was extended and adapted specifically to include this land in the boundary demarcation of 1805, so that the farm fell within the Camiesberg Field Cornetcy. There would however be some (official) confusion as to which of the two streams originating in the Copper Mountains and bifurcating at a distance of some 20 miles from the sea, was to be considered the Buffels River boundary followed up to its source.

What is also known is that Jacobus Cloete senior (also called "Lang Kowie" Cloete) had as early as 8 December 1840 applied through the Resident Magistrate of Clanwilliam for the "Grant of the Land called Koperfontein at Springbokfontein Field Cornetcy Camiesberg". According to the diagram attached to the Deed of Grant for Melkboschkuil, surveyor Wentzel had surveyed the farm in 1840, some ten years before the formal grant to the Cloetes. Judging from the name Koperfontein, the existence of copper deposits on the farm must have been known long before the arrival of a prospector, one Albert von Schlicht, and Phillips & King. Indicating that Jacobus 'Lang Kowie' Cloete was unsuccessful in his initial application for a grant of land, is the fact that the following columns in the Surveyor General's Reference Book (reflecting payments made for the inspection and survey of the farm), were left blank: (a) when called upon to deposit (b) date of deposit (c) date of inspection (d) folio in ledger (e) date of report (f) remarks.<sup>110</sup>

It is worth noting that on the very same date of Cloete's application, the Civil Commissioner of Clanwilliam coincidentally received one more request for a grant of land from a Baster named Jan

<sup>109</sup> Over time, the following Baster families would lose their land rights to the following farms: Six Klassen brothers of Kaauwgoed Vlakte in Bushmanland; Gemsbok Hoek claimed by the Klaasens, and Roode Berg Kloof also in the Kamiesberg, jointly occupied by Gert and Anna Karsten (Karse/Kaas) as well as the Dixons, recent immigrants from Ireland. .

<sup>110</sup> Surveyor General (SG) Reference Book Clanwilliam/Calvinia (1840 – 1865) and Namaqualand (1865 – 1880).

Hendrik Eyman, "Praying for the Grant of Land comprizing the Springs Danzekraal, Vogelklip & Melkboskuil Field Cornetcy of Namaqualand." In the event, Jacobus Cloete would by reason of prior occupation be the successful applicant for Melkbosckuil a decade later.

We are indebted to John Blades Currey, who recorded the dramatic and contentious period (1850 – 1900) in which he lived in South Africa, for an account of the sale of a portion of the farm Melkboschkuil at Springbokfontein on which the first South African commercial (copper) mine was to be opened. Currey, to be sure, heard the account of the sale of the portion of Melkboschkuil known as Springbokfontein, directly from John Wild, first manager of the mine there. As manager of the neighbouring copper mine at Concordia, J B Currey had had close business and social ties with his counterpart since 1856.

Currey wrote that , some time after the unsuccessful expedition of the South African Mining Company to the Richtersveld in 1846, a German named Albert Von Schlicht went to Namaqualand and discovered by a stroke of luck that on the farm Springbokfontein, alias Melkboschkuil, alias Koperberg, there was visible just above the homestead an immense deposit of fine copper ore which .... 'stuck out of the mountainside in full view like a huge wen' [tumour].<sup>111</sup>

Von Schlicht hurried back to Cape Town from Springbokfontein, and announced the good news, but despite displaying the specimens of copper ore, he was unable to interest either investors or merchants in his find.

In light of the failure of The South African Mining Company earlier, this was hardly unexpected. The place was too far off, on the Colonial border, and there was too much uncertainty about this venture to interest prudent business people. John Blades Currey attributed the lack of interest in Von Schlicht's discoveries to the popularity of Sir Walter Scott's novels. In one, *The Antiquary*, a German swindler named Von Dousterswivel persuaded Sir Arthur Wardour to invest large sums in fictitious copper mines which almost led to the ruin of the Wardour family.<sup>112</sup>

At this time Mr Von Schlicht was sharing lodgings with another gentleman, also of German extraction, named Henry Jencken,<sup>113</sup> to whom he -- as one would expect -- told the story of his

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<sup>111</sup> P B Simons (ed.), *John Blades Currey 1850 to 1900. Fifty Years in the Cape Colony*, (Houghton: The Brenthurst Press, 1986), 79. While still in his twenties (1856), John Blades Currey was involved as mine manager at Concordia in the early stages of copper development in Namaqualand ; but far from turning the experience to his advantage, he tried to persuade his principals to close down their operations as he mistakenly believed that the ore body had already been worked out. (Idem, 19)

Albert von Schlicht, a German immigrant, was outmanoeuvred by his friend, Jencken, in opening up the Springbokfontein copper deposit.

<sup>112</sup> Idem, 79. .

<sup>113</sup> Henry Dietrich Jencken, public notary and entrepreneur, was a witness to the Melkboschkuil and Brakfontein land purchases by Phillips & King, the copper mining company.

discoveries. When Von Schlicht was subsequently away from Cape Town for several years, Henry Dietrich Jencken, who was in business with the support of the merchant firm Phillips & King, got into financial difficulties. With a view to repaying his principals (who would later become central figures in the copper mining industry), he expressed his readiness to travel up to Namaqualand to open a general store and at the same time look thoroughly into this “copper question” – a deal which was agreed to by Phillips & King.<sup>114</sup>

This was duly arranged and Jencken soon sent back such rosy reports of these deposits at Springbokfontein that Phillips & King decided to send up a Mr John Wild, a trusted employee in whom they had complete confidence, to investigate further.<sup>115</sup> Wild was in total agreement with Jencken’s findings, and in this way “the business of copper mining, or rather copper gathering, was entered upon but only in a quiet and tentative way without making any shipments ... “

<sup>116</sup>

Since the company was not sure what action the Government would take in the matter, its mining activities were kept out of the public eye, notwithstanding the fact that Springbokfontein and its mine fell within the Cape Colony. At this time the Cloete brothers, the occupiers, had not yet been granted title to the farm.

After an absence of several years, Albert von Schlicht returned to Cape Town and naturally inquired after his friend who had meanwhile disappeared. On learning that Jencken had left for Namaqualand some time ago, it was at once clear to him that it was his discoveries which had induced that gentleman to go to that place. Accompanied by two of his friends, Von Schlicht promptly set off for Namaqualand on the long overland journey of 300 miles, or to be more specific, the farm Springbokfontein. On arrival there, the party found a vast quantity of copper ore stacked in heaps, which showed what was going on. Making good use of the opportunity while John Wild was away, Von Schlicht’s party made friends with the “Boer” who owned the farm, and immediately entered into negotiations for the purchase of the farm, or rather a portion of the mineral-bearing land. These discussions were it seems at an advanced stage before they all retired for the night, intending to close the deal first thing in the morning, but

... while they slept Mr Wild who always travelled by night came home and he was not a man to let the grass grow under his feet. A glance at the neat Cape Town travelling wagon told him enough, and getting in at the back door of the house he quietly roused the farmer and his wife

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<sup>114</sup> John King, of the Cape Town firm Phillips & King, had been one of the directors of The South African Mining Company, and in a position to have known about the existence of these mineral deposits mentioned by Thomas Fannin in his reports. (J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, 49)

<sup>115</sup> See Annexure 6.

<sup>116</sup> P B Simons (ed.), *John Blades Currey 1850 – 1900*, (1986), 80.

and at sunrise he met the travellers with a smiling face and the deed of sale of the farm in his pocket.<sup>117</sup>

Thus was the foundation of the copper mining industry of Namaqualand laid, and “poor Mr von Schlicht and his friends returned to Cape Town sadder but wiser men if they had fully learnt the force of not putting off till tomorrow what can be done today.”<sup>118</sup>

The unfortunate (Hugo Wilhelm) Albert von Schlicht, outmanoeuvred by Jencken and Wild at Springbokfontein, subsequently applied for citizenship in a Memorial dated 22 May 1851, addressed to His Excellency Sir H G W Smith, Governor of the Cape Colony:

Memorialist is a native of Prussia and arrived in this Colony about ten years ago. He has during all that time resided in Cape Town and carried on the business of a Chemist and Druggist. Memorialist is to be granted his Deed of Burghership upon him taking the oath of allegiance to her Majesty the Queen and upon paying the usual fee. Referred to the Superintendent of Police on 22 May 1851 for report.<sup>119</sup>

The requested Report by the Police Office, Cape Town, dated 22 May 1851, duly stated that they were not aware of any reason why “the indulgence applied for should be denied to the Memorialist.”

Despite his setback with the mine at Springbokfontein, Albert von Schlicht’s destiny lay in Namaqualand. In about 1858 John Blades Currey, then manager of the copper mine at Concordia, asked to be released from his position as the work proved to be extremely hard:

--Just at that time the Mr von Schlicht who had been one of the discoverers of the copper beds offered his services which were accepted; and on his arrival I said goodbye to my friends in Namaqualand from some of whom I was sorry to part, especially Mr Wild who never could understand how I tamed the terrible Agenbag.<sup>120</sup>

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<sup>117</sup> Dated 16 March 1850, the deed of sale for Springbokfontein kopyy was witnessed by H D Jencken and John Wild; transfer was effected some months later, on 28 October 1850. (Annexure 6).

<sup>118</sup> P B Simons, *John Blades Currey*, 1986, 80.

Albert von Schlicht, a German pharmacist and prospector, settled in Concordia in the late 1850’s, where he opened up (and later co-owned) the copper mine. An amateur botanist, his plant collections were sent to Hamburg. (S Elovson, *Namaqualand in Flower*, (Johannesburg: Macmillan, 1972).

<sup>119</sup> CO 4061 Ref. S 4 Memorial of Hugo Wilhelm Albert von Schlicht of Cape Town, 22 May 1851 to H.E. Sir H G W Smith, Governor.

<sup>120</sup> P Simons, *John Blades Currey*, 1986, 86-7. Jan Agenbag, according to J B Currey, was a hot-tempered fellow (and fond of drink) owner of the farm Kookfontein on the copper road to Hondeklip Bay. Agenbag refused to sell up to Phillips & King, but granted Currey outspan rights without a written contract. (J B Currey, ‘Half a Century in South Africa’, MS, 102 – 107)

Years later W C Scully, who was resident magistrate and civil commissioner of Springbokfontein from the early 1890s, met “old Von Schlicht who had spent most of his life in Namaqualand”, at Klipfontein railway station, a few kilometres west of Steinkopf village.<sup>121</sup>

### **Sale of portion of the farm at Springbokfontein**

According to the Agreement of Sale dated 28 October 1850, the seven sons of Lang Kowie Cloete had a few months earlier on 16 March of the same year, sold for the sum of £50 sterling, “a certain copper mountain or koppie” situated on the farm called “Melkbosch Kuyl, alias Kopper Berg, alias Spring Bok Fonteyn, District of Clanwilliam, (Field Cornetcy of Namaqualand).” It is uncertain what weight we should attach to John Blades Currey’s account of events during which the sale of the “copper koppie” was supposed to have been concluded by John Wild, while Von Schlicht and his party slept. We learn from the afore-mentioned Agreement of Sale that the purchase price of £50 for the mining site (Erf 385) was paid to the Cloetes, but that the said document for the portion purchased – in extent 10 morgen, 351 sq. roods 75 sq. feet – was only formally completed on 28 October 1850 at Melkboschkuil. This Agreement of Sale was witnessed by H D Jencken and John Wild.<sup>122</sup>

The sale of the copper mountain or koppie was in the following proportions: 3/6 ths to Silvanus Phillips, John King and Charles Phillips, “trading under the style or firm of Phillips & King”, Cape Town; 2/6 ths to Peter Clarke Daniels, and 1/6 th to James King.

Peter Clarke Daniels subsequently disposed of his shares to Phillips & King, ½ of 1/6 th on 23 May 1852; and ½ of 1/6 th share to the same company on 25 May 1852.<sup>123</sup>

Apart from the “copper mountain or koppie”, Phillips & King obtained by this document (Agreement of Sale dated 28-10-1850) the base mineral rights to the rest of the farm and, in addition, sufficient ground annexed to each future mineral discovery for the erection of any buildings and works that might be considered necessary. The company further acquired the right of grazing their cattle, horses, goats and sheep which might be required for the working of the mine or mines<sup>124</sup>; as well as the right to the use of water and the rights of free access and of making roads to any mining site.

<sup>121</sup> W C Scully, *Lodges in the Wilderness*, New York, 1915. Von Schlicht appeared to have been in the employ of the Cape Copper Company.

<sup>122</sup> The Agreement of Sale dated 28-10-1850 is filed in the Deeds Office, Cape Town, together with Deed of Transfer No. 197, dated 26-12-1850. Note that the Deeds Office was open for business on Boxing Day, which is now a public holiday.

<sup>123</sup> J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, Note 10, 49.

<sup>124</sup> Animals belonging to the mining company grazed at “Weihoek”, to the north just outside of Springbokfontein village. “Weihoek” was renamed Bergsig Township in the 1960’s. Note “Wei” (Dutch: graze) plus “Hoek” (literally, Corner), later corrupted to “Wynhoek”. (Jan ‘Primus’ Cloete, personal communication, 1993).

The issue of mineral rights would be clarified seven decades later in a communication dated 13 July 1923 from the Registrar of Deeds to the Department of Mines and Industries, explaining that there were no reservations as to mineral rights in the original grants of Mesklip, Kameelboom and Honingboom farms, district Namaqualand. In view of the fact that these properties were granted on quitrent tenure, “they would apparently fall under the terms of Sir John Cradock’s Proclamation of the 6<sup>th</sup> August 1813, which governs the granting of land from that date and imposes conditions as to mineral rights being reserved to the Crown.”<sup>125</sup>

On 17 July 1923 the Department of Mines and Industries accordingly informed the enquirer, J F Gordon of Cape Town, that the conditions contained in Cradock’s Proclamation of 1813 only refer to the mining of precious stones, gold or silver. The following extract from the proclamation was inserted for his information:

(4) “Government reserves no other rights but those on mines of precious stones, gold or silver; as also the right of making and repairing public roads, and raising materials for that purpose on the premises : other mines of iron, lead, copper, tin, coals, slate, or limestone, are to belong to the proprietor.”<sup>126</sup>

This Proclamation of 1813 was also applicable to the quitrent farms Melkboschkuil, Brakfontein and Lelyke Pad, paving the way for Phillips & King to secure the base mineral rights over the entire farm of Melkboschkuil from the Cloetes and thereafter commence mining for their own account.

Phillips & King had by this shrewd move (the Agreement of Sale dated 28 October 1850) in an indirect manner gained effective use and control over the whole of Melkboschkuil farm, thereby obstructing and hampering any current and future farming activities of the Cloetes. Through this strategy the mining company had also strengthened their hold over the Cloete brothers and increased the likelihood of their gaining possession of the remainder of the farm in the years to follow.

### **Purchase of remainder of farm Melkboschkuil**

Through a series of transfers from the seven Cloete brothers between the years 1851 to 1853, the remainder of the farm was subsequently acquired by Phillips & King for the total sum of £2 344 10s. It should be borne in mind that title to the farm was granted to the occupiers, the Cloete brothers, only in 1850. Of the first eleven farms granted in the newly annexed part of Namaqualand, three (Melkboschkuil, Brakfontein and Lelyke Pad) would become the sites of Phillips and King’s copper mining venture.

Melkboschkuil farm had been granted in equal, unsurveyed portions (undivided shares ) to Nicolaas, Jan, Gert, Jacobus, Piet, Dirk and Jacob Cloete and the quitrent amounted to £4 per year on the 21

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<sup>125</sup> MNW 691 Ref. mm 3514/23: Registrar of Deeds to Dept of Mines & Industries dated 13 July 1923.

<sup>126</sup> MNW 691 Ref. mm 3514/23: Registrar of Deeds to Dept of Mines & Industries dated 13 July 1923.

410 morgen<sup>127</sup>. This quitrent place was situated in the Division of Clanwilliam and bordered by the farms Groot Brak, Lelyke Pad, Eendoorn and Biesjesfontein. From 13 September 1851 to 20 September 1853, the seven Cloete brothers “at regular intervals sold their shares” in the farm Melkboschkuil to Philips & King, “until it was over and done with the rights of the Cloetes”.<sup>128</sup>

After the initial purchase of the mining site for £50 in March 1850, Phillips & King would strive to acquire the remainder of the farm in a series of transfers.

On the 13<sup>th</sup> September, 1851, Jacobus Cloete sold his seventh share to Phillips & King for the sum of £100 (Deed of Transfer 242 – 29/10/1851). At the end of the same year, Jacob Cloete followed suit and sold his share, also for £100 (Deed of Transfer 33 – 4/12/1851). The other five brothers were unwilling at that stage to sell, and so an arrangement was entered into whereby Phillips & King acquired a first right of refusal to purchase in return for paying each of the brothers the sum of £5. They all eventually sold out as follows:

Jacobus: Deed of Transfer No. 242 – 29/10/1851	£100—0—0
Jacob: Deed of Transfer No. 33 – 4/12/1851	£100 – 0 – 0
Gert: Deed of Transfer No. 68 -- 3/6/1853	£375 – 15 – 0
Dirk: Deed of Transfer No. 69 -- 3/6/1853	£375—0—0
Piet: Deed of Transfer No. 70 -- 3/6/1853	£393—15—0
Nicolaas: Deed of Transfer No. 185 -- 18/10/1853	£500—0—0
Jan: Deed of Transfer No. 186—18/10/1853	£500—0—0
(Total)	£2 344—10—0

(Source: N P Cleary, Erf Register Folios & J M Smalberger, “Aspects of the History of Copper Mining in Namaqualand (1846 – 1931)”, M A thesis, University of Cape Town, 1969)

While prospecting and preparing the mining site and at the same time negotiating to get a firm hold on Melkboschkuil, Phillips & King also purchased the adjacent farms with copper bearing outcrops, namely Brakfontein and Lelyke Pad.

In this way then, the firm of Messrs Phillips & King gained a foothold in Namaqualand and started the copper mining industry which would become the barometer and backbone of the local economy for the next century and a half.

### **The Great Copper Speculation (1854 – 1855)**

<sup>127</sup> The Melkboschkuil Grant document followed the normal format, giving details of the extent and location of the farm, shareholding proportions, quitrent payable annually; servitudes (*fontaine*, access roads and public spaces) and included a survey diagram.

<sup>128</sup> P Van Heerde et al, *Springbok*, 1952, 12.

News of the early successes of Phillips & King spread rapidly so that by early 1853 mercantile houses in Cape Town started to show a keen interest in the copper prospects of Namaqualand. The publication of a government proclamation on 13 September 1853—it dealt with the issue of leases for the mining of non-auriferous metals – produced a fever of copper speculation which swept throughout the Cape. Favourable reports by the well-known geologist, A G Bain, further whipped up interest in copper mining and ignited an unprecedented appetite for instant wealth among the inhabitants of the Colony. To add fuel to the fire, there was also the recent discovery of gold in California and Australia and as payable gold had still to be found in South Africa, copper at the time seemed to be the only worthwhile investment in minerals.<sup>129</sup>

At the height of the boom in 1854, the Surveyor-General of the Cape, Charles Davidson Bell, visited the copper fields and submitted a glowing report of the prospects. Also, during November and December of that year, Captain M S Nolloth of *HMS Frolic* surveyed the northern part of the Namaqualand coast as far as the Orange River, paying special attention to any little coves to provide possible anchorage for ships loading copper ore. This signalled the start of large-scale preparations to exploit the mineral resources of the region and his name was subsequently honoured in the re-naming of Robbe Bay, the original name of Port Nolloth.

The copper rush would, however, leave a sense of insecurity among the inhabitants of Namaqualand. On Surveyor-General Bell's first visit to Namaqualand in 1854, he saw that his activities were watched by the natives with "very anxious and gloomy looks". He paid no attention to this until one of the most respectable Basters of Kookfontein made him aware in the course of conversation, that he was looked on as "*the ear and the eye of the Government*", and that they were all anxious to know how "the oppression" would affect them:

I asked, 'what oppression?' and was answered, 'Our lands, with this copper business' (werschaf). I said, 'I am not the tongue of the Government, whatever else I may be, and I will not talk to individuals on such subjects, so as to have my words passing from mouth to mouth, until distorted versions become the fireside gossip of your wives and children, no one then knowing what to believe. I am not aware of any intention of oppressing you; on the contrary, a clause protecting you against loss or damage has been inserted in every mineral lease'.<sup>130</sup>

Hearing children speak of "copper robbers" and suspecting that there might be much discontent suppressed -- the natives fearing that he might take offence -- Bell was on occasion forced to give his private opinion. He therefore reduced the whole question of "the copper business" to a few simple principles for the benefit of the locals:

I said, 'it appeared to me that copper was one of the Creator's gifts to man, and that their country, although poor in other respects, was rich in that metal; while in many portions of the earth, otherwise rich nations had need of it, and would gladly send food and clothing, and tools and money, to Namaqualand, in exchange for it. I spoke of the skill, and labour, and expense they saw bestowed on the few mines opened, and asked them if they were fit to open all the mines, so as to offer to exchange their produce with the rest of the world, or whether they could smelt and work up and use the copper themselves. The reply usually was, 'No no; take the copper, we can't raise it, and don't want it'. I then further said, all that the

<sup>129</sup> 'South Africa's First Commercial Mining Venture' in *Lantern*, vol. 28, 1979, 88.

<sup>130</sup> G-8 – 1855 *Report of the Surveyor-General*, 3-4.

Government appears to me to have done, has been to prevent quarrelling and oppression, by saying that no one shall dig for copper without leave, and by giving, to such men as will honestly pay for what damage they do, leave to dig copper ore : nothing more. <sup>131</sup>

As a “friend of (their) race”, the Surveyor-General then took the opportunity to warn them that the prices received for their labour, carriage of ore and crops should not be squandered in folly and vice :

And if, hereafter, your sons have difficulty in finding healthy and respectable wives of their own race, you will recollect, with bitterness, the drink, food, clothing, or indifference that induced you to shut your eyes while your daughters tempted the crowds of single men now landing on your coast. The Government cannot protect men who will not protect themselves in these respect (sic), and struggle against the great oppressors of this land, namely, idleness and improvidence. <sup>132</sup>

The mine manager at Concordia, John Blades Currey, remarked on this copper mining mania which had the inhabitants confused yet pleased about the prospects,

And so after two hundred years this one of Africa’s secrets had been dragged from her and the Cape went mad about copper mining. The government threw the country open for what is now termed ‘prospecting’ and scores of people – with no more knowledge of copper mining than I – had rushed up and took out ‘centres’ as they were called and sent down flourishing accounts, and joint stock companies without limited liability were floated by the dozen. It did not last long. Wild and Jencken had examined the whole country and at once took out the best places, and the small working capital of the new companies being soon exhausted, they faded out of existence. <sup>133</sup>

The Reverend Henry Tindall in his “Two Lectures” delivered in 1856 before the Royal Geographic Society, captured the hopeful expectations and excitement of the early years of copper “mining” in central Namaqualand. The purchase of a farm by some English gentlemen (Phillips & King) was the first indication of the approaching excitement as rumours spread that they were going to dig for copper. That part of Namaqualand annexed in 1847, now attracted much notice on account of its real and supposed mineral wealth.

The copper mania spread throughout Namaqualand, and by 1854 mining companies had been formed in all the principal towns of the colony, as far east as Grahamstown. In terms of the Government Notice on Leasing of Mineral Lands, 13 September 1853, a great number of leases – from 200 to 300 – were granted in 1853 and 1854, the last lease being issued by Government before 1855. <sup>134</sup>

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<sup>131</sup> G8 – 1855 *Reports of the Surveyor-General Charles D Bell on the Copper Fields of Little Namaqualand*, 6 -7.

<sup>132</sup> *Idem*, 7.

<sup>133</sup> P B Simons (ed.), *John Blades Currey*, 1986, 80.

<sup>134</sup> A5 – 1864 : Henry Steele, Member of the House of Assembly (MLA), and manager of the Cape Copper Mining Company, examined before the Committee on Namaqualand Mines. In *Report of the Select Committee on the present system of leasing the Copper Mines in Namaqualand*, (Grahamstown, 1864), 1.

In reality, the overwhelming majority of these prospectors and miners did not have any practical or theoretical knowledge of geology and mining. But in the speculative investment frenzy, companies were floated and capital raised on the basis of the vaguest information, with the intention of making a profit by selling scrip at inflated prices to gullible investors.<sup>135</sup>

The feverish excitement is well captured by Tindall in his “Two Lectures”:

Wherever a speck of green was discovered on the rocks, beacons were erected which marked the spots where wealth was to be sunk instead of raised, where hopes were to be buried and disappointment exhumed. Vessel after vessel arrived upon the coast and discharged its cargo; men, tents, tools, and provisions were transported to different parts; stations were formed, and the sound of the pickaxe, the hammer, and the blast began to echo among the hills. New roads were opened and old ones worn out. Provisions rose to an enormous price; every wagon and draught animal in the country was in demand for transport service; and by the introduction of intoxicating drink, many parts of the country were thrown into a state of lawless excitement and confusion.<sup>136</sup>

This phase of wild speculation reached its height in 1854, by which time companies based in Cape Town were decidedly taking the lead in the matter.<sup>137</sup> To name but a few of the countless mines and companies in operation at the time:

Springbokfontein (Phillips & King); Spectakel (Phillips & King); Nababeep (Phillips & King); O’okiep (Phillips & King); Eendoorn (Enterprise Company); Ratelkraaal (Orange River Mining Company); Kilduncan (Cape of Good Hope Mining Company); Schaap Rivier (Owen Smith); Concordia (Namaqualand Mining Company); Hester Maria (Concordia), Namaqualand Mining Co.; Tweefontein (Namaqualand Mining Company); Wheal Julia (Concordia), Namaqualand Mining Company; Narap (Okiep), Namaqualand Mining Company; New Burra Burra (New Burra Burra Mining Company); Rietberg (Paarl Kolbe Mining Company); Eenriet (William Homewood); Kodas (John Owen Smith); Numees (Nabas Mining Company).<sup>138</sup>

By 1855 the copper fever had begun to fade as it dawned on a disillusioned public that there was no gold in Namaqualand, and that copper mining was a demanding and highly expensive undertaking. In 1855 the bubble burst. A feverish rush to dispose of shares lasted for a time, and ended in the closure of most of the companies, but by then the Colony had established a mining industry.<sup>139</sup> Amidst the general failures, two companies had achieved a measure of success: the property of Springbokfontein owned by Messrs Philips & King, proved to be productive, as did also their mine at

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<sup>135</sup> It is estimated that at the height of the share speculation frenzy, some £70 100 (equivalent to more than R 50 million in today’s currency) was invested in the various mining companies. (Jade Davenport, *Digging Deep*, 2013, 23)

<sup>136</sup> H Tindall, “Two Lectures on Great Namaqualand and its Inhabitants delivered before The Mechanics’ Institute, Cape Town”, by the Rev. Henry Tindall, (Cape Town : Printed at G J Pike’s Machine Printing Office, 1856), 7 - 8.

<sup>137</sup> Owen Letcher, *Namaqualand, Cradle of Mineral Development*, 1932, 28.

<sup>138</sup> P Van Heerde et al, *Springbok*, 13.

<sup>139</sup> O Letcher, *Namaqualand, Cradle of Mineral Development*, 29.

Spektakel. The mine of the Namaqua Mining Company at Concordia also remained standing after the bubble burst.

### Effects of copper mining on the inhabitants of Namaqualand

Before the advent of copper mining, Little Namaqualand was a “quiet pastoral district”, but events over a period of 5 or 6 years were to produce great changes. As regards the impact on the natives of the district before the arrival of hordes of prospectors: a few mission stations of Namaqualand had “formed centres of attraction, and places of refuge, for a people who had once roamed at large in undisputed possession of all they surveyed, but who were now glad to accept any security by which their claim for protection and property might be recognised.”<sup>140</sup> Over time and after lengthy representations to the authorities, so-called Tickets of Occupation would be granted to these mission stations, their traditional lands now shrunk considerably within finite borders. The rest of Little Namaqualand was either bought up or leased by mining companies and white farmers, or utilized by wandering trekboers.

In his Lectures, Tindall goes on to paint a rather idyllic (and flatteringly inaccurate) picture of the district before the advent of copper mining:

The farmers were living in easy and listless enjoyment of their extensive grounds, rich corn fields, and numerous flocks; there was nothing to attract the notice of the world, or to excite the spirit of enterprise; trade was advancing with a sluggish pace, and there was no prospect of any other change in the circumstances of the people, ...<sup>141</sup>

But since the copper mines were opened up, these events had affected the inhabitants of the Namaqualand District in various ways. Several of the Dutch farmers – wrote Tindall -- not used to those turbulent times and fearing a shortage of labour, disposed of their farms and moved away to the Orange River Sovereignty. Others suffered through the easy availability of intoxicating liquor, “whilst many have caught the spirit of the age, and risen a step higher in the scale of humanity.”<sup>142</sup>

Josias Rivers, Civil Commissioner and Resident Magistrate of Namaqualand during the years 1855 – 1858, was examined by the Select Committee appointed to consider petitions with regard to the Namaqualand Roads & Tramway. In 1865 he testified that when he first went there, the boers were “very poor”, but since the advent of copper mining so much money had gone into circulation by transport riding that they all had then “some ready money”.<sup>143</sup>

The natives (Basters and Namaquas) on the other hand, had also been both benefitted and harmed by events. They could obtain (relatively) high prices for their labour and produce, while employment for wagons and draught cattle could be secured; and their interaction with Europeans tended to

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<sup>140</sup> Tindall, “Two Lectures”, 1856, 7.

<sup>141</sup> Tindall, “Two Lectures”, 1856, 7.

<sup>142</sup> *Ibid.*, 8.

<sup>143</sup> A.8-1865 *Report on the Select Committee appointed to consider petitions with regard to the Namaqualand Roads & Tramway*, (Cape Town: Saul Solomon, August 1865), 5.

promote their advancement.<sup>144</sup> With the advent of copper mining, many of the natives had also profited by their employment at the mines, which opportunities improved their knowledge of various trades, enabling them to become “very efficient and respectable workmen”.<sup>145</sup>

### The sale of Phillips & King’s mining properties

It was only in the year 1852 that the export of copper ore first found a place in the Custom House records of the Cape Colony:

A mine upon private property has been worked, for some time past by a mercantile house in Cape Town, of great respectability, and possessing the command of considerable capital. This mine is, I understand, situated in the immediate locality of the Copper mountains.<sup>146</sup>

Mining commenced in early 1852 on the mining site at Springbokfontein, which had been prepared during the previous year. The mining methods employed were simple: surface or open-cast mining was carried on, not by shafts and levels, but by quarrying away the entire rock from the side of the mountain, after which the copper-bearing ore was easily separated from the waste-rock by hand.<sup>147</sup>

As is well-known, the greatest single problem affecting the commercial exploitation of Namaqualand’s mineral deposits has from the earliest times been the distance of these deposits from a market. So, it was only when Phillips & King realised the abundance of payable deposits that profitable exploitation began. Preliminary mining operations started behind the present village of Springbok, and from the open cast workings the first shipment of 11 tons of copper ore averaging 29.7 % copper were exported on August 31, 1852 by Phillips & King from Hondeklip Bay<sup>148</sup> aboard the steamer *Bosphorus*.<sup>149</sup>

This event is now taken as marking the commencement of copper production in Namaqualand and its centenary was accordingly celebrated by the successor of Phillips & King, the O’okiep Copper Company, in 1952.<sup>150</sup>

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<sup>144</sup> Tindall, “Two Lectures”, 1856, 8.

<sup>145</sup> Idem, 8 – 9.

<sup>146</sup> G8 – 1854: *Correspondence upon the Subject of the Discovery of Metals in Namaqualand and of the Leasing of Lands in that Part of the Colony* (Cape Town: Saul Solomon & Co., 1854), 6.

<sup>147</sup> G36 – 1857, *Report upon the Mineral and Geological Structure of South Namaqualand and the Adjoining Mineral Districts*, by Andrew Wyley.

<sup>148</sup> Hondeklip Bay: Copper ore was taken by ox-wagon down to the small harbour on the Atlantic seaboard, 108 km by road south-west of Springbokfontein. The village takes its name from a large boulder, 5 m high, on a rise above the village, which resembled a sitting dog until a lightning bolt struck off the head many years ago. (D J Potgieter, *Standard Encyclopaedia of Southern Africa*, Book 5, Cape Town: Nasou, 1972), 578.

<sup>149</sup> G36- 1857, *Report upon the Mineral and Geological Structure of South Namaqualand*, 6.

<sup>150</sup> “The O’okiep Copper Company in South Africa”, in *S.A. Mining & Engineering Journal*, 65(2), November 1954, 467.

An important impetus to the development of copper mining was the dawn of the Electrical Age in the early decades of the nineteenth century. Overseas demand for copper increased by leaps and bounds as the use of electrical power became more widespread.<sup>151</sup> Phillips & King was in actual fact the first local company astute enough to recognise the prospects.

The death of two of the partners in the firm of Phillips & King in 1862 would however compel the disposal of their mines and properties in Namaqualand, but according to one commentator, the mining company had in fact anticipated the impending collapse of their mine at Springbokfontein and so devised (before the demise of the two) a strategy to dispose of their properties in the town.<sup>152</sup>

While in 1862 Messrs Phillips & King were still the registered owners of Melkboschkuil (Springbokfontein), they decided to lay out a village on a portion of the farm. During the same year the company arranged for a survey of Springbokfontein by surveyor Patrick Fletcher and the general plan<sup>153</sup> of the proposed town was approved on 4<sup>th</sup> September of the following year.<sup>154</sup> A certain extent of land was appropriated for the Village; the town map showed residential plots, business stands, church sites, parks, fountains, sports grounds, open spaces, and streets (a pleasant sight on paper, indeed).<sup>155</sup> A commonage was surveyed and demarcated, measuring about 4 009 morgen, while the sale of plots in the village on the 28<sup>th</sup> October 1862, realised £6 260.

The next step involved disposing of the company of Phillips & King and its assets in Namaqualand to the Cape of Good Hope Copper Mining Company Ltd,<sup>156</sup> the latter company duly issuing a Prospectus in 1862 stating that the company was formed “for the purpose of acquiring by purchase from Messrs Phillips & King, the present proprietors, large tracts of land in the district of Namaqualand .... with the extensive Copper mines thereon, and [for the purpose of] continuing the working of the said mines (to be incorporated under the Companies Act 1862) for £150 000 share capital (£1 per share)”.<sup>157</sup>

When the mining company of Phillips & King was taken over by the Cape of Good Hope Copper Mining Company Limited in 1863 (name subsequently changed to Cape Copper Mining Co.), this sale ushered in a new era in Namaqualand’s development and subsequent history. After the disposal of

<sup>151</sup> J Davenport, *Digging Deep*, 2013, 18.

<sup>152</sup> P Van Heerde et al, *Springbok*, 1952, 14.

<sup>153</sup> No plan of the village had been filed with the Surveyor-General by 1903. (1/SBK ref. 4/5/2) Plans for private villages were filed in the offices of the Registrar of Deeds, Cape Town.

<sup>154</sup> P Van Heerde et al, *Springbok*, 1952, 14.

<sup>155</sup> P W Kotze, *Namakwaland. : ‘n Sosiologiese Studie van ‘n Geïsoleerde Gemeenskap*, 1943, 19.

<sup>156</sup> The offices of the Company was situated at 6 Queen Street Place, Upper Thames Street, London.

<sup>157</sup> *Prospectus of the Cape of Good Hope Copper Mining Company, Limited* (London: Smith, 1862).

the company, Messrs Phillips & King retired “deservedly enriched by their enterprise and energy”.<sup>158</sup> A large interest in the new company was however retained by individual members of Phillips & King. John King was for example appointed a director of The Cape Copper Mining Company,<sup>159</sup> while the firm of King & Sons acted as managers of the new company’s affairs in the Cape.

### The rise and decline of the mining industry at Springbokfontein

When operations started at Springbokfontein, a steady mining enterprise on a fairly significant scale took off. In time, conditions became rather more promising with the continued exposure of favourable ore in Phillips & King’s properties in Springbokfontein, at Brakfontein (O’okiep) and at the mine of their competitors in Tweefontein (Concordia). The history of the two companies -- Phillips & King of Springbokfontein, and at Concordia the firm of Thompson, Watson & Co. -- has, in fact, been the history of the mining industry in Namaqualand.

At the time when mining operations began to take off on a large scale, Springbokfontein in 1852 consisted of one mud cabin and a few mat huts;<sup>160</sup> two years later the government geologist observed that the nucleus of a fast-growing mining village already existed.<sup>161</sup> The growth of the village was directly connected to the opening up of the copper deposit there, so that by 1857 when operations were in progress, Springbokfontein had already become a large mining station with ...

substantial buildings, officers and workmen’s houses, mess rooms, stores, wagon-makers and blacksmiths’ shops, stables and forge stores and all the appliances necessary for carrying on an extensive mine. There is a post office, a small church, and a prison, -- a thing not altogether to be dispensed with, even in the best regulated communities. The civil commissioner’s residence adjoins the mine; and the parsonage and medical superintendent’s house are within a short distance, at Modderfontein.<sup>162</sup>

Here the first organised and successful mining operations undertaken under the auspices of Europeans in Southern Africa were initiated,<sup>163</sup> and the *koppies* of Namaqualand was the first region of South Africa “to yield mineral wealth to the picks of the white man.”<sup>164</sup>

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<sup>158</sup> J Noble (ed.), *Descriptive Handbook of the Cape Colony: its conditions and resources*, (Cape Town: J C Juta, 1875), 80.

<sup>159</sup> The Company is hereafter referred to as The Cape Copper Mining Company. In 1888 the name was altered to The Cape Copper Company, Limited.

<sup>160</sup> G.36- 1857, *Report upon the Mineral and Geological Structure of South Namaqualand*, 6.

<sup>161</sup> G.8- 1854, *Correspondence on the Subject of the Discovery of Metals in Namaqualand*, 36.

<sup>162</sup> G.36-1857, *Report upon the Mineral and Geological Structure of South Namaqualand*, 6 – 7.

<sup>163</sup> Owen Letcher, *Namaqualand, Cradle of Mineral Development*, 1932, 28.

<sup>164</sup> C Birkby, *Thirstland Treks*, (London: Faber & Faber Limited, 1936), 150.

At the start of mining operations, the labour employed on the mines was from a fairly mixed background. Andrew Wyley in his report on the geology of Namaqualand described the labouring complement in 1857:

(t)he mining population of Namaqualand, including those employed in transport, consists chiefly of artisans and labourers from the Cape, and adjoining districts, -- a very miscellaneous assemblage. Tradesmen of all sorts, soldiers and sailors, farm labourers, quarrymen, may all be found at work in the mines. There are few real miners, and from the method of mining carried on here, they are seldom required.

In Springbokfontein and Spectaakle (sic) much of the work is done, and pretty well done, by coloured people, from various parts of the colony. There is less trouble in managing these than the white workmen, who are not, as may be supposed, always of the best and most tractable character, and between whom and the various managing officers misunderstandings are pretty certain to take place, – especially when the former have succeeded in smuggling up an anker or two of brandy from Hondeklip Bay, an article which, beyond the daily allowance, is strictly prohibited. On these occasions disgraceful scenes sometimes occur, but they are not at all common. The presence of a magistrate, and a prison near at hand, act as a salutary check upon the more riotously disposed on these occasions.<sup>165</sup>

Springbokfontein would evolve into the typical mining town found in remote arid regions, and since the village was a private and not a public one, only those people of whom Philips & King approved could remain overnight as all accommodation was supplied and controlled by the Company. In the face of this inflexible stance, what chance would the Cloetes then have had of asserting any residual rights on Melkboschkuil, against an all-powerful company?

Parties having business to transact at the court, if they are not liked by the manager are not allowed to remain on the place. They may not tarry. They can receive no shelter, no refreshments for man or beast. They must be off, it matters not at what amount of inconvenience. There is no place in the vicinity where such parties can go for accommodation. The consequence is that frequently people have been put to the greatest possible inconvenience.<sup>166</sup>

Barely more than a year after its establishment in 1863, Springbokfontein, then a town of mixed fortunes tied to the rise and fall of its copper mine, had to be thrown an economic lifeline as the ore body was virtually worked out. High quality copper ore was discovered at O'okiep about 8 km to the north, and mining activities shifted to that town. This was a great blow to the newly established town of Springbokfontein. Although mining continued sporadically, operations in the town finally came to a halt in 1892.

That the first modern mining centre in Southern Africa had been eclipsed in importance is reflected by the following tonnages of ore raised by the Cape Copper Company. From 1862 to 1882, the mine at O'okiep alone produced 164 025 tonnes of copper. The following production figures supplied by

<sup>165</sup> G.36 – 1857, 52 *Report upon the Mineral and Geological Structure of South Namaqualand*.

<sup>166</sup> A.97 – 1861, 3 *Correspondence between the Government and the Civil Commissioner and Chairman of the Divisional Council of Namaqualand, on the Subject of the seat of Magistracy of Namaqualand*. Civil Commissioner, Namaqualand to the Colonial Secretary, 2 March 1860.

the Cape Copper Company reflect output from the beginning of 1883 to the end of 1904. Springbokfontein comes in a distant last:<sup>167</sup>

O'okiep	534 626 tonnes, (average value 20.2 per cent copper)
O'okiep East	19 022 tonnes, (5.02)
Nababeep	114,332, (6.16)
Koperberg	6,087, (9.49)
Narrap	1 326 tonnes (13.05)
Springbok	332 tonnes (30.5)

The eventual closing down of the mines brought a loss of business to Springbok, but the village somehow carried on as a local centre. The survival of the town at all is directly related to its position as the seat of magistracy of Namaqualand.<sup>168</sup> That Springbokfontein was selected as a district under its own landdrost in 1855 was due to the offer of buildings such as a courthouse, gaol, accommodation and the availability of supplies made by Phillips & King, which fact guaranteed the continued existence of the village as an administrative centre when the mine was worked out within a few years.

Although its copper mine was in decline, the village of Springbokfontein was despite this setback, still considered an important administrative centre for Namaqualand. In 1875 the population totaled 245, and there were 25 houses and 20 huts and tents.<sup>169</sup> The transfer during the 1860s of the headquarters of The Cape Copper Mining Company to O'okiep and the subsequent closing down of the mine at Springbokfontein – both events had a devastating effect – by 1877 gave the village the appearance of being virtually abandoned.

With the fall of Springbok down came the port of Hondeklip Bay, with only one shopkeeper remaining there --- the railway from O'okiep to Port Nolloth ruined Hondeklip, diverting all the traffic to that port.

In early November 1903, G Henry Brumell, a member of the Cape Mounted Police (CMP), Clanwilliam Detachment, was ordered to Namaqualand on account of the Bondelzwarts uprising in German South-West Africa. He recorded his observations as seen from the saddle while passing through the rugged hot landscape. At this time the village of Springbokfontein seemed to have remained basically unchanged. It was described as practically empty of all life, giving

<sup>167</sup> G11 –1905 *Report of the Commissioners appointed to enquire into the Mineral Resources of Namaqualand, with a view to consideration by Government of advisability of taking over Port – O'okiep Railway*, (Cape Town, 1905), 6.

<sup>168</sup> The first Resident Magistrate and Civil Commissioner of Namaqualand was Josiah Rivers, who took up his duties during 1856. The original borders of the newly proclaimed district were demarcated in terms of a Proclamation issued by Governor George Grey in Government Gazette No. 2637 dated 10 August 1855.

<sup>169</sup> Extract from the Census (1875) showing the urban population of :

(a) Springbokfontein 245 (Whites 129 : Male = 64; Female = 65) (Coloureds 116 : Male = 61; Female = 55)

(b) O'okiep 1,828 (Whites 317 : Male = 223; Female = 94) (Coloureds 1,511 : Male = 758; Female = 753)

(c) Rural population 12, 291 (Whites 2 688; Coloureds 9 603)

(Source : 1/SBK 5/1/6 Civil Commissioner's Office, Namaqualand 2 April 1875)

... one the impression of a place that has lost heart and has thrown the sponge up. It is nearly all in ruins, -- deserted houses of miners, with their roofs fallen in, great piles of debris from the closed copper mine, all speak for themselves. However, there are two churches, English and Dutch, a comfortable hotel, several good stores, Magistrate's Court and gaol, and about a dozen houses, including the Head Quarters of Namaqualand Division of the C.M.P.<sup>170</sup>

The only business carried on was between the storekeepers and hotel proprietor and the farmers and travellers of the district. Since 1870 the town had been in gradual decline; the once bustling village had started losing its vitality so that it was later dismissed by resident magistrate W C Scully as a town "clustered at the mouth of a disused copper-pit".

By the 1890s the decay of the village also found expression in a pervading atmosphere of boredom and despondency affecting the very social fabric of the town – even penetrating the local goal. This situation was compounded by the remoteness and isolation of a mining settlement in terminal decline. The revolving door of suspensions, dismissals and appointments of policemen and gaolers bears further proof of a general sense of laissez-faire towards duties. Efforts by the resident magistrate (W C Scully) to get rid of policemen and gaolers through official inquiries, at times (almost) descended into farce.

Before the advent of copper mining Namaqualand was described as a quiet pastoral district, but the events which followed brought about major changes as the territory was introduced to an industrial economy, with relatively few benefits trickling down to the descendants of the original inhabitants of Namaqualand. The wealth of the copper mines of Namaqualand was in fact a precursor to that produced by mining in South Africa as a whole. One outcome was that in the far-off region of Namaqualand, the development of mining called for the involvement of government to open up the mineral resources of the region. The high grade copper ore from the mines of Phillips & King at Springbokfontein, O'okiep and Spectakel was exported through the small port of Hondeklip Bay about 100 km west, and shipped over 10 000 km of ocean to the refinery at Swansea in Wales.

Despite the general progress and development of the region pictured above, it appears as if the Cloetes did not foresee the consequences of the sale of the farm as they were caught up along with others in a feverish rush to exploit the mineral deposits. Initially the scale of events must have hindered their grasping the few opportunities afforded them to pause and reflect on what had happened and project themselves into the future. The mode of purchase by Phillips & King of the farm Melkboschkuil was regarded as questionable in nature as we shall see in the next chapter, and this vexed issue would echo down generations of Cloetes. This leaves us asking whether the seven Cloete brothers ever intended alienating their land and mineral rights by disposing of the whole of Melkboschkuil farm to Phillips & King.

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<sup>170</sup> G H Brumell, 'Namaqualand as seen from the saddle' in *The New Era*, 22 June 1904, 183.

### CHAPTER 3

#### EXILE OF THE CLOETES

In 1854 – 5, Robert Moffatt, a government land surveyor on a journey from Colesberg to Steinkopf, traversed the tract of country recently annexed to the Colony. Moffatt and his party found Bushmanland an immense tract of apparently unoccupied ground --- of sombre appearance and intense heat. In this harshly defined land the travellers spotted clouds of dust which turned out to be caused by the movements of sheep and cattle of the Basters or Boers on the way to be watered at pans filled by summer thunderstorms.

En route to Steinkopf, Moffat's party passed 'Arigas or Quick Fontein, a permanent spring, and a considerable Baster and Boer lay-place during the summer months, which formed part of the tract of country claimed by the Steinkopf Institution.<sup>171</sup> Back then Basters appeared to be setting up as great a claim to the area as the white farmers. The Basters were however well in occupation of Bushmanland, also of Agenhuis and at 'Gams they found Hollenback (a Hollander Schoolmaster) and Losper, a Baster of Bushmanland.<sup>172</sup>

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<sup>171</sup> R Moffat, 'Journey from Colesberg to Steinkopf in 1854-5'. (Map included) In *Journal of the Royal Geographical Society*, 23, (London: Clowes & Son, 1857). Quick Fontein (Kweekfontein) was a permanent water-place due east of Concordia, on the borders of Bushmanland, to which in dry years the farmers resorted with their flocks when thunder rains had fallen there. (CO 2996: Civil Commissioner's Office Namaqualand to Colonial Secretary, 27 March 1860).

<sup>172</sup> Idem, 15: Aggeneys; Hollenbach (current spellings). Note: Moffat refers to Springbokfontein as "at that time the largest mine in the country."

Arriving at another great Baster lay-place called 'Haip'<sup>173</sup>, they found "numerous families of Bastards here, chiefly the Cloetes, formerly the proprietors of Springbok Fontein, and who are now on the books of the Institution",<sup>174</sup> i.e. the Steinkopf / Pella station of the Rhenish Mission Church.

### **Claims of the aboriginal Namaquas and emigrant Basters at Pella**

The claim of the Cloetes to Melkboschkuil runs parallel with and is set against the backdrop of a much larger claim : the aboriginal claim of the Namaquas (later joined by emigrant Basters) to ancestral land in Namaqualand between the Buffels and the Orange Rivers, annexed by proclamation on 17 December 1847. The aboriginal claim to Pella (a portion of the land under claim) was submitted to the Colonial authorities by the Rhenish Missionary Institution of Steinkopf / Pella on behalf of these inhabitants.<sup>175</sup>

In a Letter from the Reverend W Kupferburger addressed to the Governor Sir P E Wodehouse on 18 May 1863, the Memorialist states that he is a Minister of the German Evangelical Church at Pella, Little Namaqualand, and that the Petition is made on behalf of the Pella Community to the Colonial Government, "praying to have the lands of that Institution defined and secured to the present occupants, but that the lands at Pella are to this day still in an unsettled state, out of which many inconveniences arise : --"<sup>176</sup> As will be shown, nothing would come of this appeal to the colonial authorities to formalise the land tenure of the inhabitants of Pella, among whom were two sons of Lang Kowie Cloete, the former having recently joined the community.

Following the sale of Melkboschkuil to Phillips & King in 1853, we thus find at Pella mission station in Bushmanland (about 140 km north-east of Springbokfontein) two of the Cloete brothers, Gert and Dirk, who had moved there with their families. Together with other resident Baster families and the Rhenish Mission Society, they became part of a long drawn-out battle with the Colonial authorities for a Ticket of Occupation for the People of Pella.<sup>177</sup> During this struggle, the issue of Melkboschkuil would re-emerge, as illustrated by the following Memorial from Dirk and Gert Cloete – compiled by the Reverend Kupferburger – and quoted here in full in the original:<sup>178</sup>

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<sup>173</sup> Idem, 15.

<sup>174</sup> Idem, 16.

<sup>175</sup> The so-called Brecher Land Claim between the Buffels and Orange Rivers up to the Augrabies Waterfall -- on behalf of the original inhabitants of the country before annexation in 1847 -- was never fully addressed. The claim for restitution of rights in this land (which included Pella) was based on what is now known as the Aboriginal Title Doctrine.

<sup>176</sup> H A 65, House of Assembly Annexures, *Schedule of Papers connected with land claimed by the Missionary Institution of Pella, Namaqualand* (1866).

<sup>177</sup> Ticket of Occupation: Certificate of Reservation on Crown Land of occupational and use rights (but not freehold rights), held by a Trustee from Government on behalf of the original inhabitants.

<sup>178</sup> CO 4129, Ref. C 46 Memorials A-E. (See annexure 10)

Ticket of Occupation Pella Station. To share in.

Pella 22 October 1863

The Honorable the Colonial Secretary

*We the undersigned, since four years Members of the German Missionary Congregation of Pella, Namaqualand.*

*Humbly pray to be allowed to participate in the Ticket of occupation which his Excellency is pleased to grant to the said congregation which our worthy Magistrate refuses, as we have been formerly and at present are partly the owners of Springbokfontein.*

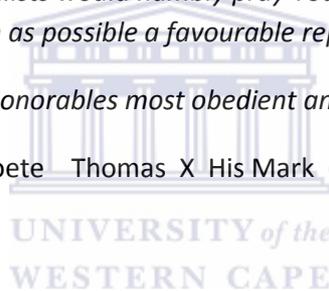
*We have been obliged to leave Springbokfontein with our Cattle and Sheep as we eight brothers with our Children and Grand-Children could not exist on the farm any longer, since thousand of*

*Cattle of Copper-Carriers grassing on the farm daily during the Riding-season, and the erection of a village ther has forsd some of us to remove.*

*And in conclusion Your Memorialists would humbly pray Your Honorable to take the matter in consideration and grant as soon as possible a favourable reply---*

*We have the honor to be Your Honorables most obedient and humbly Servants.*

David X His Mark (al. Gert) Cloete Thomas X His Mark (al. Dirk) Cloete



By order of Louis A Serrurier, for the Colonial Secretary, this Memorial of Dirk Cloete and Gert Cloete (quoted above) was referred on 10 November 1863 to the Acting Resident Magistrate of Namaqualand for a report thereon. In his answering statement, the Acting Resident Magistrate at Springbokfontein felt constrained to note that he considered this Memorial a request that could not be entertained for a moment and which only showed "how far the Bastards, under the influence of the Missionaries, are disposed to urge claims based upon no appearances of rights."<sup>179</sup>

The Magistrate goes on to report that in 1850 the farm Springbokfontein (21 399 morgen) was...

granted to the Memorialists & their five brothers in satisfaction of their claims as occupiers prior to the extension of the Colonial Boundaries. They were not 'obliged to leave' the place as stated, but sold it to Messrs King & Co. Afterwards about four years ago the two Memorialists went to reside at Pella, and they now claim from Govt. another grant in the shape of a permission to share in the ticket of occupation proposed to be issued to the aborigines there.

<sup>179</sup> CO 4129, Ref. C 46 Memorials A-E, Report by Acting Resident Magistrate, E A Judge, Springbokfontein, 8 December 1863.

If this application be granted the Memorialists will doubtless consider themselves entitled again to sell their shares and again to look to Govt. for a grant. Other similar applications will pour in, and idleness, not industry, be encouraged.<sup>180</sup>

This report by Acting Resident Magistrate Judge, gives a clear indication that despite the protestations and denials of the Cloetes that they had been forced to leave Melkboschkuil, the official version would prevail: the matter was over and done with in a normal “willing buyer -- willing seller” commercial transaction.

Judge accordingly informed Dirk and Gert Cloete on 13 January 1864 of the outcome of their request of 8 December 1863 addressed to the Colonial Secretary in Cape Town, “praying to be allowed to participate in the Pella Grant of Land”:

His Excellency the Governor “requests me to inform you from him that as you have in common with the rest of your family already received a large freehold Grant which you disposed of for your own purposes, he cannot for a moment entertain your present application.”<sup>181</sup>

In line with this hardened attitude of the magistracy at Springbokfontein, the colonial authorities afterwards followed suit and also expressed themselves against any further accommodation of the Cloetes' appeals. The Surveyor-General was therefore of the view that as the families of the Cloetes of Springbokfontein had all first claims met by Government “with as liberal a hand as was extended to their whiter neighbours, none of them can have a right on Pella, but the wife may, and although I think future rights should be confined to male descent, it may be well to place her on the list.”<sup>182</sup>

As far as is known, this official rebuff from the magistracy at Springbokfontein and the Surveyor-General put paid to the efforts of the Cloetes to obtain land as they and the community at Pella were swept up in the events that signalled the outbreak of the First Korana War of 1869. In the circumstances, the issue spluttered to an end, only to be taken up again decades later, in 1926.

The first step towards recognition of the rights of the inhabitants of Pella came in December 1863 when the Civil Commissioner of Namaqualand, E A Judge, visited Pella to investigate their claims. He used the following criteria to determine who was entitled to a grant of land, namely: “Occupation

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<sup>180</sup> Idem.

<sup>181</sup> 1/SBK 5/1/3 Letter Book E A Judge, Acting Civil Commissioner, Springbokfontein to Dirk and Gert Cloete, Namaqualand, 13 January 1864.

<sup>182</sup> H.A. 65 (1866) Surveyor-General to Colonial Secretary, 31 October 1865. “The wife” refers to the spouse of Cobus Cloete, son of Gert. Cobus himself applied to be included in the Pella Grant on the strength of his wife’s claim to Pella “citizenship”.

bona fide and beneficially<sup>183</sup> at the time of the extension of the Colonial limits”, without having shown any intention on the part of the claimant to give up his claim; “or, special services performed by the applicant in Kafir (sic) Wars and elsewhere”.<sup>184</sup>

The Civil Commissioner went on to accept the applications of 41 of 65 heads of families described as “respectable and deserving Bastards”. Those of certain “Bushmen, Damaras and Hottentots” were rejected on the grounds that they mainly led nomadic lives in the vicinity of Pella, making no sizeable contribution to the economic well-being of the community at the Mission Station. At the same time the Civil Commissioner proposed to reduce the amount of land for the community to about 500 square miles, because the amount claimed (1, 006 square miles) included all the water sources in northern Bushmanland – notwithstanding the claim by the people that they had been accustomed to making use of these springs during seasonal movements.<sup>185</sup>

Despite official procrastination and several rebuffs in regard to the request of the community for land surrounding the mission station at Pella, the matter was not laid to rest. As we know, Dirk and Gert Cloete, original owners of Melkboschkuil, as well as Cobus Cloete (a son of Gert), were all then resident at Pella, and the Cloetes became involved in the claim for land by the Pella community.

On receiving a letter from the Native Fieldcornet at Pella, Dirk van Neel, complaining on behalf of the people in the strongest terms of the encroachments of (white) farmers on the land of that Institution, Civil Commissioner Mr Judge, once more proceeded to Pella. He held a court to hear the claims of those heads of families who considered themselves entitled to a grant of land. Among the claimants was Cobus Cloete – whose father Gert was the very same person “to whom in common with his brothers, Springbok was granted.” He (Cobus) had lived at Pella since 1859, having married a daughter of Paul Engelbrecht whose name was registered on Return no. 2 (a list of claimants representing heads of families at Pella).<sup>186</sup> The official delay in granting the land to the claimants must be seen in the light of other concerns taking precedence before the just claims of the Pellanaars could be met: the question of mineral discoveries and mining rights. Consequently, the group claim by the inhabitants of Pella was left in abeyance, while the land claim of Cobus Cloete based on the status of his wife, was (as can be expected) turned down.

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<sup>183</sup> Bona fide and beneficially: the term to mean “actual and continuous occupation, and such occupation as should benefit the country in some degree and not the individual only”. (Source : H.A. 65 (1866) – Report on Pella by Civil Commissioner E A Judge, 13 December 1865)

Land occupied bona fide and beneficially without title deed at the date of the extension of the Colonial limits beyond it. (1/SBK 5/1/3 RM & CC E A Judge to Colonial Secretary on 24 March 1864)

<sup>184</sup> H.A. 65 (1866) Civil Commissioner, Namaqualand to Colonial Secretary, 24 March 1864.

<sup>185</sup> 1/SBK 5/1/3 RM & CC Judge to Colonial Secretary, 24 March 1864. In G Klinghardt, “Social differentiation and local government in Pella, a Rural Coloured Area in Great Bushmanland”, (M A, University of Cape Town, 1982).

<sup>186</sup> H.A. 65 1866 Civil Commissioner to Colonial Secretary: Report on Claims of Aborigines at Pella.

### **Gert and Dirk Cloete's Memorial, Pella, 22 October 1863**

This Memorial raises a number of questions. For one thing, the claims of Dirk and Gert Cloete relayed through their minister of religion, Reverend Kupferburger of Pella, are inconsistent with the official version of the sale of the farm. In how far then is Phillips & King's version sustainable in light of this document, or are Gert and Dirk persisting with an erroneous account as to the circumstances of the sale? How much importance should in fact be attached to Gert and Dirk's recollection of the circumstances surrounding the sale? It is difficult to question the validity of Gert and Dirk's allegations and assumptions in the absence of corroborating evidence from the other five brothers. So what are we to think in the absence of supporting evidence from the other part-owners? The investigation is therefore hampered by a lack of documentation and first-hand contemporary accounts from the remaining protagonists and other independent witnesses in regard to the sale of Melkboschkuil.

The sons and grandsons of Lang Kowie Cloete who remained at Springbokfontein and vicinity, appeared to have (along with countless other Baster and Boer inhabitants of the region), become transport riders for the mines. A random selection of the names of copper carriers shows that they came from across Namaqualand : Gert Cloete, Kook Fontein [Steinkopf], carrier, Klaas Zendeling's son (1858); Cobus Cloete, carrier, Springbokfontein (Klaas son) (1858); Gerrit Meyer, carrier of Spectakel (1859); Gert Damon, Kamaggas (1859); Gert Fortuyn, Kamaggas (1859); Gert Maas, carrier of Doordrift, Biesjesfontein (1859); John Wessel, copper rider now at Eenwilger (1860); George Jackson, carrier and farmer, Kekokies (1860); and Jacob Cloete, Klaas son, waggoner of Zwaarts Pits, Concordia (1860).<sup>187</sup>

Both mining companies, Namaqua Mining Co. of Concordia and Phillips & King of Springbokfontein, as well as the copper carriers, traders and farmers, on more than one occasion availed themselves of the services of the magistrate's court at Springbokfontein in order to get relief in matters such as civil debt, criminal assault, theft of sheep from the mining company's kraal, creating public disturbance, drunkenness & rioting, disobeying orders, desertion from service, wages due, and so forth. From these civil and criminal records the conditions at the time are brought to life, and the following selected extracts from the Civil and Criminal Books of Namaqualand will give a better picture of the situation obtaining during the 1850s and 1860s.<sup>188</sup>

On 31 July 1860, Case No. 185, M L Bensusan & Co. vs Cobus Cloete, "Old Jan's son & Jasper's grandson" refused to pay the sum of £3-18 due for goods sold & delivered to him. Or, Daniel Berrangé Nelson of Namaqualand, Trader, complains of Jacobus Cloete of Koperberg, carrier, in this district, "that the said Jacobus Cloete is indebted to him in the sum of £12-8-0 sterling, for the balance of a promissory note due to the said Daniel Berrangé Nelson, & drawn by the said Jacobus Cloete in favour of the said Daniel Berrangé Nelson, which sum the said Jacobus Cloete refuses to pay, ....." In a judgement delivered by the court, the case was withdrawn (1858). Fees 2/9.

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<sup>187</sup> 1/SBK 2/3/1. Civil Book.

<sup>188</sup> 1/SBK 2/3/1. Civil Book.

In Dreyer vs Cloete, Frederick Willem Dreyer of Concordia complained of Cootje Cloete, son of Cobus (alias Ou Cootje) of Springbok Fontein, carriers both in this district: that the said Cootje Cloete was indebted to him in the sum of £21-11-0 sterling for a promissory note drawn by the said Cootje Cloete payable to M L Bensusan & Co., which sum Cootje refused to pay. Case withdrawn 18 December 1858. Fees 4/9.

Then there was Willem van Wijk of Zandfontein near Pella, copper rider from the mines at Springbokfontein to Hondeklip Bay vs John Grenville Nicholson, a trader of Hondeklip Bay. Van Wijk claimed from Nicholson £20, the latter "having deprived him of the means of earning that sum by copper riding ... by taking away unlawfully two wheel (achter) oxen" from complainant. The hearing was set for 15 September 1859 and judgement was for the defendant.

And finally, the case against Jan Cloete (alias John Garta of Ou tKeep (Okiep), who no doubt was the former owner of Brakfontein farm on which the mining town Okiep is located. Then reduced to the status of common copper carrier, Jan 'Garta' Cloete (Jan 'Baster') must have hit out in sheer frustration and resentment at a new arrival to the copper fields, such as one Anthony Nelson, originally from the Eastern Cape Frontier:

Prosecutor (complainant) Anthony Nelson of Riet Huis in this district, carrier.<sup>189</sup>

Defendant: Jan Cloete (alias John Garta) of Ou tKeep in this district, carrier.

Crime or offence charged: assault.

Day of hearing (committed for trial): 8 October 1855.

Judgement: guilty.

Sentence: Fined £1 (twenty shillings) or in default, 14 days hard labour.

Remarks: discharged on the same day, having paid the fine.

Judging from the cases referred to above, the members of the Cloete clan of Melkboschkuil not on the books of the Rhenish Mission Society at Concordia and Steinkopf where they found some measure of security of tenure under the policies and conditions for mission institutions, had remained on the commonage at Springbokfontein and in the surrounding towns or villages connected to the copper mines.

### **The First Korana War (1869 – 1871)**

The causes of this war (centred around Pella) were long in the making before it erupted in 1869. Small bands of Bushmen who roamed the territory at this time presented a constant threat to the security of the inhabitants of the Northwest Cape. An event that stands out in the fraught relationships between the Basters and colonists on the one side and the Bushmen and Korana on the other, is the massacre about the year 1850 of Bushman at Gnamies by a Baster-Boer commando. Adding to the tensions, increasing pressure on resources of water and grazing was felt from 1865 onwards as the numbers of White and Baster graziers making use of the pasturage in northern

<sup>189</sup> 1/SBK 1/3/1 Criminal Records. Folio No. 1.

Bushmanland continued to rise steadily. The situation deteriorated rapidly and on 6 January 1869 Field Cornet Dirk van Neel was killed during a Bushman raid.<sup>190</sup>

In September of 1869 the continuing Koranna raiding and settler reprisals finally erupted into a short but bloody war, now known as the First Koranna War. In the vicinity of Pella raiders fell upon the various settlements which had developed at the principal springs, killing the inhabitants and driving off their livestock, poisoning the wells and ambushing wagon trains. Pella itself was then attacked and destroyed. The inhabitants were scattered, some under Van Wyk moving off to Great Namaqualand and eventually settling at Rehoboth. The rest fled to Concordia and Steinkopf where they were given shelter by the Reverend Ferdinand Brecher.<sup>191</sup>

After the defeat of the Koranna-Bushman alliance, the continued instability in the Bushmanland coupled with a severe drought made it impossible for the surviving inhabitants of Pella to return. In December 1872 the Rev. Brecher approached the Government for a grant of land for the use of the refugees. After some correspondence, Brecher agreed on behalf of the Rhenish Mission Society to give over all its rights to Pella to the Government in exchange for a Ticket of Occupation for a portion of land near Steinkopf, at Concordia, in extent about 70 000 morgen. "While this represented a significant step in Brecher's attempts to secure a full Ticket of Occupation for the whole of Steinkopf, it also meant that the lands in the Bushmanland were lost to the RMS [Rhenish Mission Society] and the former inhabitants of Pella and the Government could dispose of them as it saw fit".<sup>192</sup>

### **The Land Question and Colonial land policy**

By 1876 it was abundantly clear that a pattern of official wavering and evasiveness on the question of the land rights of Steinkopf mission station (and of the natives of Namaqualand generally) had been established, this land policy not entirely without reason or logic because mining for minerals had taken off apace.

Riddell, in his study of the land policy of the British Colonial Office (1763 – 1855), comes to the conclusion that in deciding the method of distributing the waste land of its colonies,

... a government must make decisions which involve choices between classes in society, between economic groups, between sections of the colony or of the empire, between conflicting objectives of apparently equal merit, and indeed between generations. The far-

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<sup>190</sup> CO 3159. Resident Magistrate, Namaqualand. Letter dated 11 January 1869 from Gert Engelbrecht of the mission station Pella, reporting the murders by Bushmen of Field Cornet Dirk van Neel and Mr Carl Schröder. The latter were attacked at Groot Rozybosch while on a journey from Springbok to Pella mission station.

<sup>191</sup> G Klinghardt, "Social differentiation and local government in Pella", 1982, 38.

<sup>192</sup> G Klinghardt, "Social differentiation and local government in Pella", 1982, 1982, 38--9.

reaching importance of those decisions is clear since they are certain to exert a fundamental influence on Colonial social and economic development.<sup>193</sup>

To illustrate this contention, there is the application of one Coenraad Wilhelmus Meyer of the District of Clanwilliam to the Honourable John Montagu, Esq., Secretary to Government, Cape Town, for the purchase of land at 'Groot Wilger'. This land was then under claim by the people of Steinkopf, but lying uncultivated. In answer to the anticipated objection by the missionary at Kookfontein (Steinkopf) that the ground formed part of the mission station, Meyer wished to state that he considered that government "never contemplated the total exclusion of the colonists ... "

I refrain from making any allusion as to the danger of allowing so vast a tract of ground on the very border of the Colony to be occupied solely by men of colour, but humbly solicit a favourable reply,<sup>194</sup>

For Meyer, it was enough simply to whisper in the official ear to sow tiny seeds of doubt as to the allegiance of the people on the vast Orange River frontier and the land beyond – the Basters, Oorlams, Namas, Damaras, Koranna, and others. Of course, Meyer correctly sensed that considerations of security would inevitably remain a principal concern with government.

The position which obtained at the time in South Africa itself was that the British were aligned closely with white colonial society and thus receptive to the latter's wishes. The Colonial authorities played a major role in the process of social stratification according to skin colour, with unfortunate consequences for subsequent generations of natives and their descendants. The history of the mission stations in Namaqualand is no exception, and shows quite clearly how the British administration let the inhabitants down several times (despite the latter's aspiring to remain loyal British subjects) when the natives' desire to secure their ancestral lands clashed with the interests of White colonists.

British policy towards indigenous people was ... shaped by several requirements – for military security, for commercial expansion and economy of expenditure. Lip-service, if not more, had to be paid to the views of philanthropists in the British Parliament and the missionary societies. Generally, however, pragmatic interests triumphed over 'idealism';<sup>195</sup>

Once the people of the mission stations of Namaqualand had accepted British sovereignty in 1847, "the administration's view was that their traditional rights to land became irrelevant; henceforth their rights depended on the largesse of Her Majesty's Government. And given the prospect of great mineral wealth in Namaqualand, the latter wanted its options over the newly-annexed territory left

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<sup>193</sup> Quoted by D G B Slade, "Aspects of the rural occupance of Namaqualand", 93 (PhD, University of Liverpool, 1974) From R G Riddell, "A Study in the Land Policy of the Colonial Office, 1763 – 1855", *Canadian Historical Review*, vol. 18, 385.

<sup>194</sup> Surveyor General (SG) 1/1/1/3 vol. 47 C W Meyer per H D Jencken, Namaqualand to Hon. John Montagu, Secretary to Government, Cape Town, dated 15 May 1851.

<sup>195</sup> J S Sharp, "Community and Boundaries", 1977, 39–40.

open: no rash promises of security of tenure were to be made for the next fifty years.”<sup>196</sup> This view, in modified form, would as well apply to the Cloetes of Melkboschkuil, and other original inhabitants.

And measured against the larger issue of the land claim between the Buffels and the Orange by the Rhenish Mission Society on behalf of the Natives, the claim by the Cloetes for restitution of land rights on the farm Melkboschkuil No. 132, Namaqualand, would in reality be a very difficult task as reflected in the chapters that follow.



#### CHAPTER 4

##### THE MELKBOSCHKUIL ISSUE RESURFACES c 1912

*The colonialists have a habit of telling us that when they arrived they put us into history. You are well aware that it is the contrary. When they arrived they took us out of our own history. Liberation for us is to take back our destiny and our history.*

(Amilcar Cabral)

After the opening up of the Namaqualand copper mines in the 1850's there was an initial spurt of development and progress over the next fifty years, but by the turn of the 19<sup>th</sup> century conditions in the countryside showed signs of general decline. So, although the period 1850 – 1910 can be described as one of relative social equilibrium in Namaqualand, the problem of impoverishment could no longer be ignored as retrogression set in, particularly on the mission stations where pressures of population on finite pieces of land and recurrent spells of drought worsened the distress.

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<sup>196</sup> Idem, 37.

Matters were certainly not helped by several successive years of drought, for example from 1894 to 1897, when throughout the arid regions the irregularity of the rainfall resulted in considerable stock losses.

In spite of these adverse conditions, the mines continued to employ hundreds of wage-earning European and Coloured miners and other casual labour, and remained the backbone of the regional economy. Was it not for the mining companies which practically were the mainstay and support of the local population, the district would have been in a state of economic stagnation; and in the event that these companies had shut down operations and withdrawn from the region, Namaqualand society would have experienced the most disastrous results.<sup>197</sup>

With the advent of the twentieth century, the richest areas of the copper ore bodies had however been worked out, signalling a difficult period for the Cape Copper Company. This was only relieved by the re-armament policy of the European nations and the demand for strategic metals before and during the First World War (1914 – 1918).

### **The South African War reaches Namaqualand**

A watershed event for Namaqualand, and indeed for the future Union of South Africa, was the Anglo-Boer War, which raged across the region from 1899 to 1902. A contemporary observer, resident in Namaqualand for about 15 years, wrote from Pella Mission Station that the entire first phase of the war unfolded without the inhabitants feeling any of its repercussions. The only news received was through the newspapers, as life continued as if there had never been any break in friendly relations between Britain and the two Boer republics.<sup>198</sup> The first signs of the war came in early 1902, as Boer scouting patrols scoured the countryside, despite the fact that at that stage the conflict was drawing to a close.

In response to the threat, the British authorities in the North-West Cape mobilised to drive back the invading forces, as set out by G Benneyworth and Glen von Zeil:

In January 1901 when Boer forces under General Smuts invaded the then Cape Province, Sir Alfred Milner dispatched Lt. Colonel W. Shelton to Namaqualand with orders to protect the copper mines located at Okiep, the railway to and the harbour at Port Nolloth. As Shelton had insufficient troops with which to protect these areas, he recruited local coloured and white men employed by the Cape Copper Company and the Namaqua Copper Company to form various units to assist the British forces. Those men who knew the terrain, could ride and shoot, were formed into a mounted unit known as the 1<sup>st</sup> Namaqualand Border Scouts (NBS). The 2<sup>nd</sup> NBS was a non-mounted unit tasked with protecting the various

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<sup>197</sup> 1/SBK 5/1/14 Letter Book June 1895. H M Blakeway, Civil Commissioner, Springbokfontein to Under Secretary for Agriculture.

<sup>198</sup> Jean Marie Simon, *Bishop for the Hottentots. African memories 1882-1909*, (New York: Benziger Brothers Inc., 1959), 135. (Translated from the French by Angeline Bouchard)

towns. Guards based at Concordia, Okiep, Nababeep, Springbokfontein and Port Nolloth were amalgamated to form the Namaqualand Town Guard Battalion (NTGB).<sup>199</sup>

Among the many Cloete men (about 600 in all) who served with the Namaqualand Border Scouts, were sons of the seven brothers of Melkbosckuil.

Shelton's British forces employed additional local Coloured men as scouts, intelligence agents, messengers, despatch riders and as transport riders. Those coloured civilians who remained on the farms and mission stations also provided the British forces with food, cattle and horses. The Boer invaders soon penetrated Namaqualand and made their presence felt. During this period several skirmishes occurred between the Boers and the NBS resulting in losses on both sides.<sup>200</sup>

Directly after the war the policy position in regard to the award of medals and honours was firmly explained by the Cape Town office of the Officer Commanding, Discharge Depot, S.A.M.I. Forces (S.A. Mounted Irregular Forces). It had been ruled by the Imperial Military authorities that bronze medals only would be issued to ex-troopers of the Namaqualand Border Scouts when specially recommended by the officers under whom these men served.<sup>201</sup>

Before awarding any medal to the S A Mounted Irregular Forces, care had to be taken to obtain a certificate from the responsible officer as regards the race and colour of the intended recipient. A case in point is that of Thomas Wolstenholme, late Private No. 731, discharged, 1<sup>st</sup> Namaqualand Border Scouts. In terms of this policy, the Resident Magistrate at Springbokfontein was requested by the OC: Discharge Depot, to investigate:

(W)ould you kindly inform me if he is a coloured man, as it has been ruled that bronze medals only, will be issued to individuals of the Namaqualand Border Scouts, and similar coloured corps, and only then, when there is a certificate from the Officer Commanding the Corps, that such individual has specially been brought to his notice on account of distinguished conduct. The Queen's silver medal with clasps, will, in no case, be issued to coloured Non-commissioned officers and Privates. In this case therefore, it is necessary that a certificate is obtained from a responsible person regarding the race and colour of this applicant.<sup>202</sup>

<sup>199</sup> G Benneyworth & Glen von Zeil, "Coloured involvement in Namaqualand", 13 September 2002. (<http://www.museumsc.co.za/mcgregor/departments/history/blacksinwar/coloured.htm>)

<sup>200</sup> Ibid.

<sup>201</sup> 1/SBK 4/9/20 Papers Received by RM & CC, Springbokfontein. OC Discharge Depot, Cape Town, 3 March 1908.

<sup>202</sup> 1 / SBK 4 / 9 / 19 Papers Received by RM & CC, Springbokfontein. Miscellaneous 1907 October -- December O.C. Discharge Depot, S.A.M.I. Forces, Cape Town. Letter not dated.

When it later also came to light that the Coloured members of the garrison guarding the mining towns were precluded from receiving the Queen's South Africa medal, the Cape Copper Co. decided to strike a medal of its own and present it to all the defenders of their property, regardless of race.

<sup>203</sup> The medals from the British Government awarded for war service during the Anglo-Boer War thus lay unclaimed at Royal Arsenal, Woolwich. <sup>204</sup>

The policies applied by the Imperial Government did not only affect the award of medals and decorations, but extended as well to issues of war pensions. After the war, applications for assistance by destitute widows whose husbands fell during the late war, were sent to the Imperial Government through the Civil Commissioner of Namaqualand. From Komaggas the Reverend M Weich of the Rhenish Mission Society appealed to the Civil Commissioner for some relief for the widows. Before consideration of such appeals, the Civil Commissioner's office was required to investigate the circumstances of the widows and furnish marriage certificates, birth certificates of the children, as well as information on the sources of income of the families.

The widows of the late Johannes Cloete and Stephanus Cloete, who were killed in action during the War, beg to appeal to your influence for some sort of pension. They have both been left with a large number of children, and with barely any means of subsistence. They cannot send their children any more to school for want of clothing. Creditors send in their accounts, and they do not know how these must be met. <sup>205</sup>

In the overall context of war policies relating to the involvement of irregular forces, the response was predictable. At the beginning of December 1903, the Resident Magistrate received a reply in regard to the widows' applications for assistance:

... regret to have inform you that no pension or gratuity from Army Funds can be awarded to the widows of the late Troopers Johannes and Stephanus Cloete, Border Scouts.

The War Gratuity of £5 due to each of the deceased Troopers has been remitted to the Master of the Supreme Court, Cape Town, for issue to the widows. <sup>206</sup>

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<sup>203</sup> D J Potgieter (ed.), *Standard Encyclopaedia of Southern Africa*, Book 8, (Cape Town: Nasou, 1973), 312.

<sup>204</sup> Medals Unclaimed Anglo-Boer War: Corps -- Namaqualand Town Guard; Namaqualand Border Scouts; O'okiep Volunteers; Springbokfontein Town Guards. SA medals lying unclaimed at Royal Arsenal, Woolwich. (Source: 1/SBK 4/3/4. Letters received by Colonial Secretary 1907 – 1910. Letter dated 10 December 1909 received from The Secretary, War Office, London, S.W.)

<sup>205</sup> 1/SBK 4/9/11 Papers Received by RM & CC. Rev. M Weich, Komaggas to Civil Commissioner, Springbok, 20 August 1903.

<sup>206</sup> 1/SBK 4/9/11 Acting CSO, The Castle, Cape Town to RM, Springbokfontein, 8 December 1903. Application for assistance by widows Elizabeth Cloete and Cornelia Cloete, Komaggas.

The widow of another trooper, the late Pte H Henn attached to the Namaqualand Border Scouts, was informed accordingly. The War Office “cannot grant a pension as Mrs [Elizabeth] Henn is not eligible, as widows of members of Irregular Corps raised in South Africa are not provided for under the Royal Warrant”.

With the land in political upheaval during the South African War, it was to be expected that in the aftermath of the conflict social and racial tensions would be aggravated. Several young (white) farmers who had served with the Namaqualand Border Scouts were very bitter against the rebels (who joined the Boer forces) and the farmers generally, as they (the Scouts) were treated by them “with great contempt and socially ostracized.” If, on the other hand, one allowed the rebels to unburden themselves, there was the awareness of bitterness and animosity against everything English and against anyone who had taken up arms for the Crown.<sup>207</sup> This was the sad state of affairs at the end of the war when an uncompromising attitude was being assumed by the one section of the Dutch-speaking people against the other.

On the part of the non-white combatants who fought on the side of the British forces, there seemed to have been an underestimation of the level of hostility and animosity aroused by their participation.<sup>208</sup> After the National Party victory of 1948, they would feel the brunt of such lingering resentment through policy decisions and legislation acted out in everyday life situations.



### **The Melkboschkuil issue resurfaces**

Long after this major event in South African politics which brought about critical shifts of public opinion and attitudes, the Melkboschkuil issue seems to have kept on smouldering in the collective mind of the descendants of Lang Kowie Cloete and Jan ‘Baster’ Cloete, flaring up occasionally. As early as 1912 we again pick up references to this contested matter when the Reverend H Kling, the Rhenish missionary at Steinkopf,<sup>209</sup> declared in notes written in the margin of a letter he received that the “mining centres of Springbok, Okiep (and) Nababep were possessions of said people of

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<sup>207</sup> 1/SBK 5/3/5 Report on State of District, 20 December 1902. `Papers despatched by RM & CC, Namaqualand.

<sup>208</sup> During 2001, a headstone for Stephanus Ramsden was unveiled on the site of his original grave. Ramsden, a soldier serving in the 1<sup>st</sup> Namaqualand Border Scouts, was killed in 1902 while on a mission. Research to find the grave near the top of Spektakel pass was carried out by Glen von Zeil. After the war, the Rebel Abraham Coetzee was wanted on a charge of murdering Stephanus Ramsden near Spektakel in 1902. (Source: Mondaypaper, “Namaqualand history is full of surprises”, Vol. 21 No. 25, 13 Sept. 2002. (<http://www.uct.ac.za/general/monpaper/2002no25/namaqua.htm> )

<sup>209</sup> Reverend H Kling succeeded Ferdinand Brecher, Rhenish missionary at Steinkopf, who died in 1902.

missionary institutions who sold same having no written Title but government recognised it.”<sup>210</sup> Heinrich Kling, who arrived at Steinkopf in 1902, could not have been entirely under a misapprehension. The diagram of Melkboschkuil framed in 1840 before the annexation of Little Namaqualand, shows the land to the north of Melkboschkuil as “waste government ground” – which would have included the farms Brakfontein and Lelyke Pad (Nababeep) as falling within the sphere of colonial land after the extension of the boundary in 1805. This fragment of information gathered by H Kling is therefore not without some foundation.

The Reverend Ferdinand Brecher of Steinkopf also takes up this theme of clandestine dealings in his Petition to the Colonial Office drawn up three decades earlier. “(W)e have lost Springbokfontein, O’okiep, Modderfontein, and Nababiep which places belonged to us and were secretly bought by White people from our people, besides other land which the Government cut off from us under the pretence that the land was too large for us ... We are, however, now quite satisfied that our Mission ground is surrounded by beacons and will keep it as it is now.”<sup>211</sup>

In a letter dated 16 October 1917 to Reverend Kling, Gustav Mollat of the mining town of Concordia noted that as far back as 1805, the London Missionary Society had been active in Little Namaqualand and its representatives were given assurances by the colonial government that no immigration would be allowed beyond the then boundary unless sanctioned by the L.M.S. Notwithstanding this assurance, the Rhenish missionary Hugo Hahn on his return to Cape Town from Damaraland, was in 1842 requested by the Steinkopf community to report to the Colonial Government the presence of Boer squatters on their land and to urge their removal. Reverend Hahn was successful and the intruders were expelled.<sup>212</sup>

To Mollat it appeared that the squatters mentioned above must have been identical with those of whom an old inhabitant had informed him. Johannes Cloete (Dirk zoon)<sup>213</sup> told him that after disposing of Nababeep farm (Lelyke Pad) to Phillips & King, they (the squatters) trekked to the Free State. “How it was possible for this company to take the risk (was it ignorance of facts?) of acquiring from these Boers a farm to which the latter had presumably neither title nor claim is a problem which I cannot explain and which I leave to you to guess.”<sup>214</sup>

<sup>210</sup> SK – G 4/2/2 Letter, December 1912.

<sup>211</sup> Brecher’s Petition reproduced in W P Carstens, “The community of Steinkopf: an ethnographic study and an analysis of social change in Namaqualand”, PhD, University of Cape Town, 1961. Appendix B, 446.

<sup>212</sup> SK – G 4/2/2 Letter from C G A Mollat to Rev. H Kling, dated 15 October 1917.

<sup>213</sup> Johannes Cloete, Dirk zoon, could certainly have been the son of Dirk Thomas Cloete, joint owner of Melkboschkuil. (cf Chapter 7 at “Dirk Cloete the First”)

<sup>214</sup> SK – G 4/2/2 Letter from C G A Mollat to Rev. H Kling dated 15 October 1917. Although, according to the Quitrent Book, Lelyke Pad was in 1850 granted to one Pieter Gideon van Zyl, it is also recorded that in 1852 an applicant of the same name received the quitrent place Dikgat on the Buffels River near its mouth. Both farms were sold to Phillips & King. There is however a persistent rumour (unconfirmed) that Pieter Gideon van Zyl (P son) never applied for a grant of Lelyke Pad, the site of the future copper mine of Phillips & King.

Mollat's letter to Reverend Kling written in 1917, presents clear evidence that the matter of Melkboschkuil (and Brakfontein) was still remembered by well-placed persons in the community of Namaqualand. C G A (Gustav) Mollat -- referring to the farms acquired by the Cape Copper Company (the successor of Phillips & King) -- observes that

Reverting to farms acquired by the C.C.C [Cape Copper Company], Major Alexander mentions the name of a person whom he found occupying the ground at and around Koperberg. This person was "Lang Koos Cloete", an ancestor of the Cloete family who sold Springbok, Koperberg and Naroe bis (all three today comprised under the official nomenclature of Melkbosch Kuil).<sup>215</sup>

I have personally seen evidence in the shape of a document given by the C.C.C. in 1853 testifying to Dirk Cloete having sold to this company 2 sevenths of what is to-day known as above mentioned farm [Melkboschkuil] for the sum of (if I remember correctly) 600 rijksdaalers and signed by 2 persons of the respective names of "King" and "Wilde". The latter is still remembered by the older people here as the company's first local manager.<sup>216</sup>

Further amplification is given in notes made by H Kling in the margin of this letter from Mollat: 'Dirk Cloete one of the seven bothers died in 1904 on his own ground at O'kiep<sup>217</sup> where he was allowed to remain until his death. His children had to trek then'.<sup>218</sup>

An incident which may throw light on conditions prevailing at the time when Phillips and King started operations in Namaqualand, was told to Gustav Mollat by Koos van Heever. This was in connection with the placing of beacons "in consequence of the sale of Melkbosch Kuil". Mollat feared that as hearsay evidence, it had not much value, but from the information he got from Van den Heever who died about 1915/16, it appeared that the Cloetes wanted to encroach on Steinkopf communal ground at Concordia "by placing a corner beacon at Homeep thus enclosing the rich copper lodes at no. 6 into the ground they sold to the C.C.C.". <sup>219</sup>

The Basters of Concordia, who were on the alert, considered this an infringement of their rights and urgently dispatched a mounted messenger (this same Koos van den Heever) to Reverend Brecher at Steinkopf "whose personal appearance on the spot foiled this project and the beacon was eventually placed at 'Baakenkop' in a westerly direction from 'Ratel Kraal' ".<sup>220</sup>

<sup>215</sup> Note appended by Rev. H Kling in the margin of this letter from Mollat: "Lang Koos Cloete [Lang Kowie] whose son as a very old man is still living at Steinkopf".

<sup>216</sup> SK – G 4/2/2 Letter from C G A Mollat to Rev. H Kling dated 15 October 1917.

<sup>217</sup> See Chapter 7 Place of death -- own house, Willowdale, Namaqualand (Source: Death Notice Dirk Thomas Cloete, MOOC 1903 vol. 6/9/482 Ref. 2836).

<sup>218</sup> Remarks: Dirk Cloete (original grantee) probably lived on the commonage of Melkboschkuil adjacent to Brakfontein Farm and died in the mining company hospital at Okiep.

<sup>219</sup> Homeep, site of a disused copper mine 17 km northeast of Springbok.

<sup>220</sup> SK-G 4/2/2 G C A Mollat, Concordia to Reverend H Kling, Steinkopf. Letter dated 15 October 1917.

From the above, it is clear that members of the Cloetes had continued to live on the outskirts of Melkboschkuil farm at Homeep to the northeast and elsewhere on the Commonage, and that the Melkboschkuil issue had remained hidden under the surface ever since the sale of the farm in 1853. The observations of Mollat and Kling are of significance in so far as they show that the Melkboschkuil-Brakfontein issue still enjoyed the attention of prominent figures in Namaqualand society more than half a century after the Cloetes had disposed of their land.

### The Cloetes & Le Fleur

The Rhenish Missionary Society was active in Namaqualand from 1840 to 1934, but by the 1920's it was unable to draw funds from Germany and as a result the church had either to find a religious denomination willing to take over the work or leave the community without a minister. It was agreed that the Nederduitse Gereformeerde Kerk would take over, but the changeover from one Church to another was not effected without difficulties.

While matters relating to the transition were being debated, the head of the Griqua Independent Church came to Namaqualand "with new promises of eternal salvation – and ways of recovering from the government land which had been expropriated."<sup>221</sup> The Reverend Mr Le Fleur, described in Steinkopf as 'n bruinman met 'n agterstevoor koller (a Coloured man with a back-to-front collar),<sup>222</sup> had launched what can be described as a politico-religious movement promising a self-reliant existence, which quickly spread like wildfire through the Namaqualand Reserves. If anything, Andries Stockenstroom Le Fleur proved to be a thorn in the flesh of the Union government whose report in 1922 on the rebellion of the Bondelzwarts in southern South West Africa, labelled him - amongst others - as a "notorious Griqua agitator" who could be relied upon to be the source of much political incitement: "(a)ny sinister influences in Namaqualand, on political matters, centre round the name of le Fleur".

In 1921 in the vicinity of Namaqualand, Le Fleur's emissaries had been promoting the Griqua Independent Church and its rural farming settlements. During the first half of the following year, Le Fleur himself and one of his sons held meetings in the Richtersveld, Leliefontein, Okiep, Steinkopf and Pella.<sup>223</sup>

Rumours spread that A A S Le Fleur would restore to the Coloured people all the land which they had lost in Namaqualand, and despite the opposition it encountered from government officials and

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<sup>221</sup> W P Carstens, *The Social Structure of a Cape Coloured Reserve*, 1966, 34.

Cf. U.G 16 – 1923: *Report into the Rebellion of the Bondelzwarts*, 26. Andries Stockenstroom Le Fleur came into prominence in 1898 when he was arrested in connection with the Griqua Rebellion, was convicted and sentenced to 14 years' imprisonment. On his release from prison, Le Fleur made use of his extraordinary influence with the Coloured people in the Cape to organise his commercial and religious programmes.

<sup>222</sup> W P Carstens, *The Social Structure of a Cape Coloured Reserve*, 1966, 34.

<sup>223</sup> M P Besten, "Transformation and Reconstitution of Khoe-San Identities: AAS Le Fleur I, Griqua Identities and Post-Apartheid Khoe-San Revivalism (1894 – 2004)", (PhD thesis, Leiden University, 2006), 129.

reserve management boards, Le Fleur's movement managed to gain a significant following, especially among Khoikhoi descendants in Leliefontein, who were drawn to the settlement schemes. Attempts to curb Rev. Le Fleur's influence and thwart his schemes were in any event made ineffective because of the worsening social and economic conditions. By 1920 the copper mines in Namaqualand had closed down and unemployment reached crisis levels. Food was in short supply and many people were starving. Reserve taxes became an added burden.<sup>224</sup> Amid these harsh socio-economic conditions, the movement's ideas therefore resonated with the inhabitants.

Although the Reverend Le Fleur later lost influence amongst the large number of followers he attracted, his visit did, however, have one very important effect. "It inspired a number of people to become active political agitators by giving impetus to the ill-feeling and antagonism towards the central government which had already been brought about by the 1909 Act, and he made people more conscious of the land that had been expropriated in former years".<sup>225</sup>

After the application of the Mission Stations and Communal Reserves Act (Act 29 of 1909), which required the payment of a poll tax (*hoofd belasting*), several disgruntled people, particularly from the reserves, left with Reverend Le Fleur to settle at Stylhoogte near the town of Klawer. The settlement was soon flooded by people from Namaqualand who had embarked on a trek there despite all efforts from government officials to dissuade them.<sup>226</sup> Several members of the Cloete family also joined, imbued by the ideals of the movement.<sup>227</sup>

### Tour of the Governor-General through Namaqualand (1926)

In the wake of the First World War, the copper mines of the Cape Copper Company were forced through weak demand to close down operations, and dark days descended on the region. Reports of raids on general dealer stores by crowds of starving native women were reported under headings such as "Starving Women in Namaqualand", "Raids on Stores" and "Dr Steenkamp on the Situation".

Ouma Ellie Cloete of Kaboegap (see chapters 5 & 6) is said to have played a prominent role in these forays into grocery stores and in the marches mounted by the women on the magistrate's offices. In an interview conducted at the time, Dr W P Steenkamp, MP for Namaqualand, told a reporter of *The Argus* "that conditions were becoming so serious in his constituency that the Governor-General would have to consider seriously the advisability of making his intended trip through Namaqualand

<sup>224</sup> Idem, 132.

<sup>225</sup> W P Carstens, *The Social Structure of a Cape Coloured Reserve*, 1966, 34. Andrew Abraham Stockenström le Fleur "was a deeply religious man blessed with prophetic vision, and because of this, he is still known in popular parlance as *Die Kneg* (servant of God)" (Source : Dept of Cultural Affairs and Sport, "Servant of God", website article accessed 15/06/2007)

<sup>226</sup> M P Besten, "Transformation and Reconstitution of Khoe-San Identities", 2006, 132.

<sup>227</sup> Personal communication, Jan 'Primus' Cloete, on 18 September 1993.

at the beginning of April. It might be found wiser to postpone the tour until conditions had improved.”<sup>228</sup> A vivid description of the disturbances is contained in a letter sent to Dr Steenkamp by Mrs Kitto, wife of the manager of the Cape Copper Company at O’okiep.<sup>229</sup>

Mrs Kitto’s letter (quoted in *The Argus* report) stated that they were living in times of great excitement. One afternoon about 60 desperate women (“natives” of Okiep) raided the stores. She said they first stormed one store and let the proprietor know they were going to take food because they wanted to be put in gaol where they would get fed. The storekeeper was prepared to give them food on condition that they leave and ask the other storekeepers as well. At first the other traders did not want to give the foodstuff, but he persuaded them to do so as the people were in a desperate state.

The crowd, wrote Mrs Kitto, regrouped and then decided to march to Springbok the next day, but found the magistrate out of office, and on March 11 (1926) repeated the journey. In the meantime Mr Kitto had appealed to the magistrate for help for the people of O’okiep, and in response, ten bags of meal and mealie-meal were sent. When the women arrived at the magistrate’s office, he told them that he had given the meal to Mr Kitto, and that they should go back to O’okiep to get it.

The women though, were having none of it – they seemed to have been engaged in a long-standing running battle with the magistrate and his staff. The marchers got back to O’okiep at about 2.30 p.m. and about 100 of them stormed Mr Kitto’s office. The scene resembled a huge funeral gathering, wrote Mrs Kitto, but she managed to get some other women to help her, and together they distributed the food rations at the recreation hall.

Mrs Kitto “never thought O’okiep women were so fierce”. She told them in a gentle tone of voice she was ashamed of them, and that by contrast the men were so different, and was interrupted by a voice from the crowd: ‘Oh, they are too *bang*’.”<sup>230</sup> Mrs Kitto grudgingly admired their pluck, but found them extremely cheeky, and determined to have food.

Commenting on the contents of this letter from Mrs Kitto, Dr Steenkamp believed that conditions in Namaqualand then were worse than they had been in the memories of the oldest inhabitants there. But despite these reservations and unprecedented economic distress, the much-awaited visit (described as a “remarkable event in the annals of Namaqualand”) did in fact go ahead.

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<sup>228</sup> GG 1423 Ref. 45 / 163 Tour of Governor-General through Namaqualand.

<sup>229</sup> Frank Kitto and his wife were actively involved in community work during the Great Depression when starvation was rife. Kitto’s grandfather, William Kitto, was general manager of the Cape Copper Co. during the 1890s. Frank followed in the family tradition and came out to Namaqualand with his wife and family in 1914 to manage the copper mines. (P Jowell, *Joseph Jowell*, 1994, 113)

<sup>230</sup> GG 1423 Ref. 45 / 163 Tour of Governor-General through Namaqualand.

His Excellency the Governor-General, the Earl of Athlone, accompanied by consort royal H.R.H. Princess Alice, and entourage, arrived at Blaauwstatie, four miles from Springbok, at 5.15 on Saturday afternoon, 1 May 1926.<sup>231</sup>

The distinguished visitors were met and welcomed to the district by 34 motorcars, a fair number of farmers, a guard of honour, together with about 30 returned soldiers (from the First World War). The Governor-General was much impressed with the number of medals worn by some of the ex-servicemen, and in a short speech he expressed his appreciation at so large a number of people coming out to welcome himself and H.R.H. Princess Alice.<sup>232</sup>

The royal party then proceeded to Springbok, where an arch of welcome and a decorated village awaited them. The children of the school were lined alongside the road and as the Royal car drew up to the “welcome” archway, they greeted the visitors with song – “Die Stem van Suid-Afrika”. Here His Excellency stopped and spoke to the principal, Mr Van Heerden<sup>233</sup>, and a bouquet was presented to H.R.H. Princess Alice by one of the school children. A stop was also made where the coloured mission school children were lined up, under Miss McKegney, the children having scattered pepper-tree leaves on the roadway to form a ‘green carpet’.<sup>234</sup> The prolonged cheering along the route was indicative of the warm, enthusiastic welcome accorded the party.

On Sunday afternoon the next day (2 May 1926) the distinguished visitors were taken out to Koperberg where they were shown the historic spot from which Governor Van der Stel, in 1685, removed to Cape Town some specimens of copper ore.

Monday morning saw a visit to O’okiep, and from here to Concordia where arches of welcome were erected by the coloured community. Both white and coloured school children were drawn up in lines, giving the party an enthusiastic reception. After being shown over the Namaqua Copper Company’s smelter and converter works, where they watched with much interest the actual make of blister copper bars, the visitors returned.

At O’okiep preparations had been in hand for several days and the gaily decorated village was flying flags from every point of vantage. All the school children, European and coloured, were gathered in the square (in the vicinity of the officials’ club) with the whole population of the village.

As the Governor-General stepped from his car all joined in singing the National Anthem, this being accompanied by a “Royal Salute” of mine detonators from a nearby kopje. His Excellency was then

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<sup>231</sup> GG 1418 Ref. 45/110. *The Cape Times*, 8 May 1926: ‘Governor-General in Namaqualand’; ‘A Royal Welcome’; ‘Villages en Fete’.

<sup>232</sup> *Idem*.

<sup>233</sup> Van Heerde, Piet(er): Born Cape Town 1893, educated at SACS and UCT. Headmaster of Springbok Secondary School (1926). (Source: Phyllis Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand*, 1994, 74).

<sup>234</sup> Pepper trees were introduced to the mining towns as a ‘greening project’ in the late 19<sup>th</sup> century.

introduced to the superintendent of the Cape Copper Company, who on behalf of the community extended him a hearty welcome.<sup>235</sup>

During His Excellency's speech he expressed the hope that the dark days experienced here would soon pass, that the mines would be re-opened, and that O'okiep would once more enjoy its former prosperity.

In the afternoon, the Divisional Council and Village Management Board of Springbok gave a reception in the school grounds, where the guests met the farmers, a large number having come from the Sandveld, Port Nolloth and Steinkopf. A large number of visitors also came from Concordia and O'okiep. Addresses of welcome by the Village Management Board, the Divisional Council, the School Board, and the Coloured community, as well as speeches in response made in English and in Dutch by His Excellency, were warmly applauded.

During a meeting with members of the "Coloured Community of Springbok", a formal Address of Welcome to the Governor-General of South Africa was presented to His Excellency. While cautiously optimistic in tone, reference is made to the hardships endured:

To Major-General His Excellency the Right Honourable the Earl of Athlone ... Personal Aide-de-camp to His Majesty the King, High Commissioner for South Africa, and Governor-General and Commander-in-Chief in and over the Union of South Africa.<sup>236</sup>

MAY IT PLEASE YOUR EXCELLENCY

*We, the Coloured Community of Springbok wish to accord Your Excellency and HRH Princess Alice a hearty welcome to Namaqualand ... We cannot but believe that Your Excellency's visit here will have beneficial results to our small community : we ever try to do our duty and prove our loyalty to His Majesty the King whom Your Excellency represents in South Africa.*

*We, the Coloured Community have a hard struggle for existence here: we earn very little and the cost of living is very high.*

*However, we have hopes for the future especially with the extension of the Railway to these parts when we trust conditions will improve.*<sup>237</sup>

*Springbok, Namaqualand, 3<sup>rd</sup> May 1926.*

*On behalf of the Community*

*(Signed) Thomas Karsten Jan Booize*

<sup>235</sup> GG 1418 Ref. 45 / 110 *The Cape Times*, 8 May 1926. 'Governor-General in Namaqualand'; 'A Royal Welcome'; 'Villages en Fete'.

<sup>236</sup> GG 1418 Ref. 45 / 110.

<sup>237</sup> The Cape Town – Klawer railway line was extended, reaching the railhead at Bitterfontein (210 km south of Springbok) in 1927.

In his reply, the Governor-General was generous in his praise, showing sensitivity to their hardships while pressing home the belief about their abiding desire to be seen as loyal (British) subjects:

*I am aware that the coloured inhabitants of Namaqualand represent a section of what was once a powerful tribe, the original Hottentots of South Africa.*

*I am aware that you have to contend with adverse circumstances. Not only are climatic conditions in Namaqualand such that at the best the rainfall is low and precarious, but I understand that during the last few years you have suffered from an almost unbroken succession of droughts. The result has been that you have been unable to rely upon regular harvests and have accordingly been compelled to look less and less to agricultural pursuits as a means of livelihood.*

*The whole of South Africa, in common with most countries of the world, is at present suffering under an almost unprecedented economic depression and I am aware that that depression has made itself felt as acutely in Namaqualand as in any other portion of the Union.*

*Money is scarce, unemployment is rife and I am distressed to learn that the copper mines, upon which so many of you have depended for your livelihood, have been compelled to close down thereby rendering an already difficult position more serious still, with the result that many of the inhabitants are today suffering from actual want and privation.*

*I am pleased to learn that the coloured population of Namaqualand enjoy the reputation of being law-abiding and loyal citizens and I am sure that you will continue to live up to and merit that reputation.*<sup>238</sup>

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#### **Enquiries by Dirk Petrus Cloete, D/son 1926**<sup>239</sup>

Three or so days after the Governor-General of South Africa and his party had left Namaqualand -- the community no doubt still basking in their unexpected good fortune and emboldened as such by the visit -- cautious and hesitant efforts were once again made to re-open the matter of the sale of Melkboschkuil.

On 11 May 1926, more than eight decades after the sale of Melkboschkuil, one Dirk Petrus Cloete, Dirk/son, of Concordia, wrote to The Secretary for Native Affairs, Houses of Parliament, Cape Town, to order a diagram of the farm "Milkbosch Kuil alias Kopperberg of Cloete and six others".<sup>240</sup> The reference is correctly supplied by the applicant as 21 JA 1850 CL. 8.28 folio 908.

Perhaps influenced by the politico-religious awakening brought about by Reverend Le Fleur's movement, Dirk Petrus Cloete's initiative to find out the true circumstances surrounding the sale of

<sup>238</sup> GG 1423 Ref. 45 / 163.

<sup>239</sup> Dirk/Son or Dirk/Zoon, patronymic derived from the name of his father.

<sup>240</sup> BAO 2283 File No. 115/305. (Annexure 8)

Melkboschkuil represents one man's search for justice. A saga of dashed hopes and disappointment would unfold, as seen from the correspondence. In his letter of application for a diagram, Dirk Cloete gave some graphic particulars regarding his family's efforts to gain more information about the sale of the farm Melkboschkuil. Sketching with simplicity in his own words the sequence of events, his sense of the principles of natural justice makes up for lack of knowledge of formal law (and grammar, spelling and punctuation):

Sir

*In my letter of last month addressed to the Secretary of Native Affairs, I asked a question whether Springbok was purchased by Messrs Philip and King, as they stated in their unlawful acknowledgement document that they purchased from my late father Dirk Cloete his one seventh share of placed called Milkbosch Kuil.*

*(O)wing to lack of Education, I did not fully express myself what information I wanted from the Secretary of Native affairs; my letter was referred to the Superintendent of Communal Reserves to inquire into my letter as it was not understood by the Secretary of Native Affairs.*

*My particulars are as follows for over 15 years ago after the death of my late father Dirk Cloete I have tried hard to get the information of farm Milkbosch Kuil alias Kopperberg (which) was sold to messrs Philip and King .I asked ex -Superintendent (J L Deane) of the Cape Copper Coy Ltd about messrs Philip and King purchasing any ground from my late father Dirk Cloete the ex-Superintendent's reply was, I am troublesome and I must clear out. After then I then went to Springbok to seek an advise from the Assistant Magistrate Mr W B Bidulph to assist me in my case. I handed him messrs Philip & King unlawful acknowledgment document – he read same and handed document back and told me he will investigate the matter. I waited in vain and heard nothing.*

*I then went to the present actg Superintendent Mr Frank Kitto and also asked him about ground being sold by my late father Dirk Cloete to the Company. Mr Kitto replied that he is not a superintendent ...*

*I was in a fix until recently. I asked a friend an advice what am I to do to get the right information about Milkbosch Kuil alias Kopperberg. My friend advised me to write direct to the secretary of Native Affairs and ask him to purchase a diagram of Milkbosch Kuil alias Kopperberg and he said as soon as the Diagram comes my eyes will be opened. (I)n the meantime I must apply to the Secretary for Native affair for the price of the Diagram of Milkbosch Kuil alias Kopperberg.*

*I am therefore applying for the purchase price of the Diagram of Milkbosch Kuil alias Kopperberg [of] Cloete & six others.*

*I hope the Secretary for Native Affairs will sympathise with me in my trouble and help me in the Diagram of the above...*

*My letter was sent to the Superintendent of Communal Reserves, Namaqualand. I reserve my reasons.*

*Your obedient Servant*

*Dirk Petrus Cloete Dirk/son*

*My address Dirk Petrus Cloete D/son*

*P.O. Concordia* <sup>241</sup>

On 26 May 1926 the Department of Native Affairs replied to Mr Dirk Petrus Cloete, Dirk/son, advising him that copies of the diagrams of surveyed land in this Province could be obtained against payment from the Surveyor-General in Cape Town. <sup>242</sup> In further remarks, the Secretary for Native Affairs felt that if Dirk Cloete was “merely endeavouring to subserve some personal interest”, then the Department could not intervene in the matter. His department passed on the letter to the Surveyor-General to deal with it.

On the part of the Office of the Surveyor General, the purpose of this inquiry from Dirk Petrus Cloete relating to the farm Melkboschkuil was likewise not at all clear. From the contents of the letter it was not obvious to them what the writer’s real grievance was. In any case, the Surveyor-General judged that it was only imaginary, and if not, Cloete’s only course was to seek legal advice on the subject. <sup>243</sup>

The Surveyor General was moreover of the view that

(t)he enquiry relates to the farm Melkboschkuil alias Koperberg which was granted to Dirk Cloete (presumably the writer’s father) and six others on the 21<sup>st</sup> January 1850; on part of this farm the township of Springbok has since been laid out. On reference to the Cape Town Deeds Registry I find there is a registered transfer- deed (No. 69 dated the 3<sup>rd</sup> June 1853) transferring the said Dirk Cloete’s 1/7<sup>th</sup> share in the farm to Messrs Phillips and King at a purchase price of £375. This is no doubt the transfer referred to by the writer, but there would appear to be no justification for querying its validity, especially at such a late stage as this. <sup>244</sup>

A certified copy of the diagram of the farm would cost approximately 35/- to 40/-, “but it would contain no information that would throw any further light on the subject”.

By 2 July 1926, the Secretary for Native Affairs communicated this information from the Surveyor-General to the applicant, Dirk Petrus Cloete, once again restating the facts as set out by the Surveyor-General (above). Referring to the (disputed) transfer referred to by Cloete, the Secretary was quite clear in his mind that there appeared to be “no question as to the validity of the transfer

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<sup>241</sup> BAO 2283 File no. 115 / 305. Dirk Petrus Cloete D/son, PO Concordia to The Secretary for Native Affairs, Houses of Parliament, Cape Town, 11 May 1926.

<sup>242</sup> BAO 2283 File No. 115/305 Department of Native Affairs, Cape Town to Mr Dirk Petrus Cloete, P O Concordia, 26 May 1926.

<sup>243</sup> BAO 2283 File no. 115 / 305 : Surveyor-General to Secretary for Native Affairs, 26 June 1926.

<sup>244</sup> BAO 2283 File no. 115 / 305 Surveyor-General to Secretary for Native Affairs, 26 June 1926.

and it seems to me that you would be very ill advised to endeavour to impugn it at this stage.”<sup>245</sup> A certified copy of the diagram of the farm “would contain no information that would throw any further light on the subject so that it would hardly be worth your while to procure one.”

It is starkly clear from the letter that the intention of the Surveyor-General was to discourage and stifle any further queries regarding the sale and transfer of Melkboschkuil.

Four years later, Dirk Petrus Cloete found himself at Dwarsberg near Okiep, from where he once again applied for a copy of the Diagram of Melkboschkuil, through a Mr R L Kwaza of Gembob, Okiep. He was evidently not one to let the matter rest. A brief exchange of letters ensued between himself and the Surveyor General and the Department of Native Affairs in connection with the correct amount to be transmitted for a copy of the diagram of Melkboschkuil.

On 25 February 1930 Dirk Petrus Cloete (Dirk’s son) wrote from P.O. O’okiep per R L Kwaza to inform the Secretary for Native Affairs that, due to his having mislaid the letter sent way back on 2 July 1926, he had been unable to remit cost of a certified copy of the diagram of the farm earlier. He has now “thought it judicious to procure one, as it will be a help to us in the boundaries of the above farm.” A money order for £2 was enclosed in payment of a certified copy of the diagram of Melkboschkuil.

As reflected in this chapter, an Mfengu emigrant from the Eastern Cape, Constable Reuben Kwaza,<sup>246</sup> was instrumental in bringing the land claims of the Cloetes of both Melkboschkuil and Brakfontein to the attention of the administration. Appointed in 1906, he was required to perform the duties of office messenger, interpreter, and clerical assistant in the office of the Resident Magistrate at Springbokfontein. On 4 July 1906 Mrs Maud Kwaza left Table Bay on board the *SS Eduard Bohlen* bound for Port Nolloth (her passage paid by the civil commissioner, Namaqualand); from the port she proceeded by train to Okiep to join her husband. Mrs Kwaza acted as interpreter and office messenger on the staff of the Resident Magistrate. The first school at Springbokfontein was opened in 1865 and conducted in an old building near the open mine. The wife of Reuben Kwaza was also one of the earlier schoolmistresses there.<sup>247</sup>

This was not the end of Dirk Petrus Cloete’s difficulties in regard to obtaining the Diagram of the farm Melkboschkuil. With reference to his letter of 25 February 1930 (above), the Secretary for Native Affairs returned the Money Order for £2.0.0 with the request that Cloete arrange with the Postal Authorities that the amount in question be made payable to the Surveyor-General at Cape

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<sup>245</sup> BAO 2283 File no. 115 / 305 Secretary for Native Affairs, Pretoria to Dirk Petrus Cloete, Concordia, 2 July 1926.

<sup>246</sup> AG 1633 Ref. 7289: Reuben Lloyd Kwaza. Appointment as Constable (1906). Salary £112 per annum, taking effect from 8 February 1906 in the room of John July who has been pensioned (July retired on pension). Date of birth: 26 February 1873. Transferred from Locomotive Dept, Cradock. Trade or calling: Coalman & Schoolmaster. Born: Cradock. Nationality: Fingoe. Married: 2 boys.

<sup>247</sup> Source: All Saints Anglican Church, Springbok, Namaqualand. /Ancestry24 website. In 2013 the site was forced to discontinue.

Town. "Kindly return the Money Order, duly amended, to this office at your convenience in order that the further steps necessary in the matter may be taken by the Department."<sup>248</sup>

After protracted correspondence between the parties in regard to the correct remittance for a certified copy of the Diagram of the farm, the Acting Surveyor-General on 13 June 1930 forwarded the document to the Secretary for Native Affairs. The Acting Surveyor-General wrote with a palpable sense of relief:

I shall be greatly obliged if, when you forward the copy of the diagram to Mr D P Cloete ... you will kindly advise him not to apply for any further documents in connection with the matter referred to in his letter...

The Acting Surveyor-General is moreover of the view that "(i)n this respect the certified copy now applied for will be of no assistance to him. It is possible that he does not clearly understand the meaning of 'undefined' 1/7 share."<sup>249</sup>

By 24 June 1930 the Acting Secretary for Native Affairs was in a position to forward to Dirk Petrus Cloete a certified copy of the diagram of the farm in question. Revenue Stamps to the value of £1.13.6 had been affixed to the document and cancelled and the balance of the £2 remitted was returned in the form of penny postage stamps to the value of 6/6d.<sup>250</sup>

At long last on 17 July 1930 after four years of enquiries, Dirk Petrus Cloete (Dirk/son) acknowledged receipt of a certified copy of the diagram of the farm Melkboschkuil, together with the balance of postage stamps to the value of 6/6, from the Secretary for Native Affairs in Pretoria.

His address was then given as Middelpos, P.O. Concordia and witness to his mark was Mr R L Kwaza of Gembok, P.O. O'okiep.<sup>251</sup>

### **Melkboschkuil Issue re-emerges circa 1947 – 1949**

Some seventeen years after the enquiries of Dirk Petrus Cloete D/son, in what must be considered one more attempt to answer persistent questions arising from the sale of Melkboschkuil almost a century earlier, Mrs Elizabeth Cloete of "Oubegas" (widely known as Ouma Ellie), Post Office Okiep, followed up the matter and engaged the services of R W Bowen of Chambers, 148 St George's Street, Cape Town.

<sup>248</sup> BAO 2283 File No. 115/305 Secretary for Native Affairs to Dirk Petrus Cloete, c/o R L Kwaza, P.O. O'okiep, Namaqualand, 7 March 1930.

<sup>249</sup> BAO 2283 File No. 115/305 Acting Surveyor-General, Cape Town to Secretary for Native Affairs, Pretoria dated 13 June 1930.

<sup>250</sup> BAO 2283 File No. 115/305 Acting Secretary for Native Affairs, Pretoria to Dirk Petrus Cloete, c/o R L Kwaza, P.O. O'okiep, Namaqualand, 24 June 1930.

<sup>251</sup> BAO 2283 File No. 115/305 Dirk Petrus Cloete, Middelpos, O'okiep to the Secretary for Native Affairs, Pretoria, 17 July 1930.

“Dear Mrs Cloete,<sup>252</sup> please accept my thanks for monies received Five Guineas, and in respect of which please find my receipt.”<sup>253</sup>

In this letter dated 10 December 1947, she was informed of the facts as follows, Bowen once again traversing the same ground as covered in other formal sources:

The investigation made in the Deeds Offices Cape Town and which refers to the grant of land from the Governor General to the seven Cloetes, discloses that on the first (sic) day of January 1850, 21 410 morgen of land, named Melkboschkuil was granted to them in perpetual quitrent of FOUR POUNDS to be paid to the Civil Commissioner every twelve months, the roads and outspans remaining Government property.

Then follows (the now familiar) details of transactions of sale and purchase of the land recorded since the Cloete brothers acquired possession of the property up to the time of their disposing of the farm.

All these items have been verified from the records in the Deeds Office, and reflect the acquisition of and entire disposal of the Lands known as Melkboschkuil by the seven Cloetes and this being so there appears to be no residue left in this estate.

The dramatic intervention of the Second World War had earlier pushed the issue from the foreground as several men from Namaqualand enlisted in the Cape Coloured Corps to go to the front. During the war officials from the municipality of Springbok saw their opportunity while enforcing council regulations and policies, to harass the women on the Commonage.

Meanwhile, the Municipality in 1942 had purchased from the Okiep Copper Company Ltd (OCC) the Commonage<sup>254</sup> attached to Springbok town. Matters took a turn for the worse and tensions mounted as two parties laid claim to rights on the Commonage: the Municipality of Springbok and the descendants of the Cloetes. After the end of the war, continued efforts would be made to harass and remove certain of the occupants from the Commonage who had by and large remained there since the sale of the farm in 1853.<sup>255</sup>

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<sup>252</sup> Elizabeth Cloete (née Gilbert) was the wife of Johannes ‘Jaap’ Cloete, a descendant of one of the seven sons of Lang Kowie.

<sup>253</sup> Annexure 9.

<sup>254</sup> Commonage: Portion of the Farm Melkboschkuil No. 132, attached to and surrounding the town of Springbok. In 1942 the land was surveyed and sold to the Municipality of Springbok. Extent: 3 832.0841 morgen. (Annexure 10)

<sup>255</sup> See M Opper, *I loved that place Tdjoubogas*, (Cape Town: Kwela Books, 2004). A fictional account of a family’s life in Namaqualand and their struggle to remain on the land when the government decides they must be moved from Springbok Commonage into the new coloured township. The novel is loosely based on historical fact.

During the late 1940s, Sam Khan,<sup>256</sup> advocate and South African Communist Party leader, was approached to handle the Melkboschkuil case for the Cloetes. The delegation of Cloete descendants travelling to Cape Town to consult advocate Khan, included amongst others, Freddy Karsten, Dick Cockerill, one Gibson, and Herman Karsten. One land claimant, Wilfred Cloete (Willy), father of Jan 'Primus', was not taken along as a member of the party and on the delegation's return, he assaulted Freddy Karsten, throwing the ranks of the claimants into confusion and putting paid to any concerted effort to present a united front.

Willy Cloete demanded that the claimant group hand over the Diagram of Melkboschkuil to him, and was subsequently arrested and charged with assault. The Diagram had, however, all along been in the hands of Jowell and Scholtz, attorneys at Springbok, from whose offices the document is believed to have disappeared without trace.<sup>257</sup>

The intrigue amongst the descendants themselves as claimants on the land only serves to complicate matters. Generally, the claimants seem to have had a fascination with Diagrams, and their absolute faith in these 'Kaarte' is wonderful to behold. To what extent the diagram may be helpful without the title deed and the relevant deeds of transfer, would in time become clear to the Cloetes.

The complicated nature of the story of Melkboschkuil is perhaps best reflected in the following cryptic incident told to me by Jan 'Primus' Cloete. Attorney Daantjie Scholtz, who was involved in protracted negotiations between the Cloete descendants and the town council in regard to handing over a piece of the commonage in full and final settlement of their claims, was Mayor of Springbok in 1947.<sup>258</sup>

Scholtz addressed a meeting of White ratepayers on Jowell's Plein. Illustrating his point in regard to the land question of Melkboschkuil with a handful of pebbles (*klippies*), he is reported to have said to the assembled citizens: 'Soos ek hierdie klippies uitmekaar skop, so is Springbok huidiglik. As ek die klippies bymekaar sit dan het julle niks'. (If I scatter these pebbles, it would resemble the situation in Springbok today. When I collect and put the pebbles back once more, you will have nothing). At a public meeting in the 1950's, Scholtz is said to have repeated this analogy of the 'klippies'. To the initiated, this meant: unravelling the puzzle of the Melkboschkuil land issue would lead to some unexpected and unpleasant results.<sup>259</sup> The analogy of the "klippies" can indeed be considered a fitting metaphor for the unresolved land issue of Melkboschkuil.

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<sup>256</sup> Nothing appears to have come of it as Khan was banned and prevented from practising law; at this time he left the country temporarily.

<sup>257</sup> Personal communication, Jan 'Primus' Cloete, 18 September 1993. The diagram of the farm was considered an indispensable document in the quest for restoration of their land.

<sup>258</sup> Ibid.

<sup>259</sup> Personal communication, Jan 'Primus' Cloete, 18 September 1993.



## Chapter 5

### ATTEMPTS TO SETTLE PRESCRIPTIVE CLAIMS ON THE COMMONAGE

*There's nothing more precious to people than their homes ... where their families, memories and possessions are.*

Over all the intervening years the Melkboschkuil issue had kept on smouldering, and would be set alight occasionally. In time, the struggle to reassert the ownership rights of the original Cloete brothers on Melkboschkuil Farm would be transposed to the area known as the Commonage –

unenclosed waste land surrounding the town of Springbok. This land of roughly 4 000 morgen was theoretically open to the public, but held by the Cape Copper Co. Here a battle developed between the claimants (by and large Cloete descendants) on the one hand, and on the other the local authority -- the Village Management Board of Springbok which replaced and took over the functions of the Divisional Council in 1922. The human drama played itself out on the Commonage, in the chambers of the Village Management Board (later Municipality), the magistrate's court and the local gaol.

As far as can be ascertained from available oral and written sources, the descendants of the former owners of Melkboschkuil, along with hundreds of mine labourers, transport riders and others, had continued to effectively occupy and use the commonage well into the 1900s. Here they had virtually free reign. They put up informal dwellings, some sowed and reaped grain on patches of land and herded their handful of stock in the manner of their forefathers. Phillips & King and their successors either turned a blind eye to this state of affairs or gave their tacit approval to continued settlement on the Commonage, thereby creating a pool of labour from which to draw if and when required.

Throughout these years the Melkboschkuil issue ignited occasionally as events unfolded. From this land struggle on the Commonage, eight Cloete descendants emerged as land claimants out of the hundreds of occupants. But the road to a final settlement with these eight would indeed be a rocky one. They were forced to fight a rearguard battle to retain at least a portion of the farm Melkboschkuil by claiming part of the Commonage on which they lived.

It should be pointed out that the local government of Springbok town had very early on in the course of their council meetings articulated policy which mainly affected the occupants of colour on the Commonage. It insisted that these occupants should realise that, if an agreement or understanding about ownership of the land could not be reached, they would lose everything, including the grain growing on the land. The town council felt it had done everything in its power to meet them (the land claimants) halfway if they would only be reasonable and enter into negotiations about the land issue. These occupants of the Commonage were therefore invited to present proposals and suggestions from their side, through a body such as a Coloured (Advisory) Council. The Mayor had (patiently) explained to their representatives and made it abundantly clear that the local authority did not wish in any way to exclude and treat them unfairly, but to act justly towards them, subject of course to the Regulations.<sup>260</sup>

### **From Private Village (1863) to Village Management Board (1922)**

From the start of copper mining, Springbokfontein as a private village fell under the direct administration of the mining authorities, but after the closure of the mine these functions were in the early 1890s transferred to the Namaqualand Divisional Council, which had held its first meeting on 19 February 1861.<sup>261</sup>

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<sup>260</sup> 3/SBK 1/1/1/4 Special Meeting, Town Council, 22 November 1944.

<sup>261</sup> P van Heerde et al, *Springbok*, 1952, 17.

By the late 1880s the state of the Commonage and the village left much to be desired, as pointed out in a letter from local attorney Mr Servaas van Niekerk, complaining of the “disgraceful dirty” state of the village and utter destruction of the dams by the animals of squatters on the Springbok Commonage – mainly animals of those who had huts on the Commonage without any legal right to be there.<sup>262</sup> Several squatters were to be removed at once “to the place appointed for them under the mountain, commonly called the Location”, east of the village.

As far back as 1892, a suggested attempt to form a village management board did not bear fruit. At Springbokfontein the Resident Magistrate called a meeting of the inhabitants for the afternoon of Thursday 8 September. Only four persons appeared, prompting him to remark:

I have, however, doubts as to how this measure would suit local circumstances. There are, exclusive of officials, and of Hottentot squatters, only eight householders in Springbokfontein, and as those commanding the most influence are the greatest sinners in respect of bad sanitation, it is not likely that any improvement will result from the formation of a Village Management Board. However, it might be advisable to try the experiment. The following would be the definition of the area to be proclaimed viz.: ‘The Village and commonage of Springbokfontein.’<sup>263</sup>

Three decades later on 27 June 1922, a Village Management Board was established in Springbok(fontein) after sustained agitation by the residents for proper sanitation.<sup>264</sup> With the establishment of the Board, the village of some 200 inhabitants (including several hundred more “squatting” on the commonage), retained its status as the principal town of the district. At the time the district of Namaqualand, which comprised some 17 500 square miles, had a population of 6 605 Europeans and 15 220 Coloureds.

Meanwhile the Cloete clan must have clung to what they regarded as their ancestral land on the Springbok Commonage. The Village Management Board – and after 1933 the municipality -- also proceeded to serve notice on the descendants of the “old Cloetes” and others, ordering them to subject themselves to regulations or vacate the land on the Commonage, occupied by them for generations.

At the first meeting of the newly-established Springbok Village Management Board held on 22 November 1922, it was unanimously resolved as one of the first orders of business, “that the Cape Copper Company be asked to pass Transfer of the Commonage of Springbok to the Board without

<sup>262</sup> 1/SBK 5/2/4 State of Commonage and Village 1887. Acting Resident Magistrate C N Vaughan to Mr C Waring, Chief Constable & Messenger of Court, Springbok, 20 January 1887.

<sup>263</sup> 1/SBK 5/2/6 Village Management Board. Suggested formation of – 1892. Resident Magistrate W C Scully to The Under Colonial Secretary, 12 September 1892.

<sup>264</sup> Village Management Board established in terms of Proclamation No. 130 of 1922, under provision of Ordinance No. 10/1921. (Province of the Cape of Good Hope Official Gazette No. 809, 23 June 1922) (Inventory of the Archives of the Secretary, Village Management Board Springbok, 1922 – 1933, Ref. 3 SBK, Western Cape Archives & Repository Services).

delay, and that the Commonage be surveyed after such Transfer had been effected.”<sup>265</sup> It was further resolved that the Cape Copper Company be asked “to authorise the Board to manage and control the commonage pending Transfer”.

Following on this resolution of the Board, a public meeting of registered voters was duly held the next year on Wednesday the 14<sup>th</sup> November 1923 at 8 p.m., for the purpose of deciding upon what action to take in connection with the Commonage.

The Minutes record the presence of 23 residents, all registered voters: I J Friedlander (chairman), Julius Gordon (secretary), Israel Gordon and JDJ Scholtz (members of the Springbok Village Management Board). Also present were F Kitto, RA Good, DF Loubser, JH Rossouw, S Cawker, E Bernstine, B Saharin, JJP Scholtz, L Hornemann, M Shapiro, SS Killian, S van Niekerk, GG du Plessis, PJ v d Heever, CE van Rensburg, J Trent, J Smith, JJ Wippenaar and F Troy.

Notice convening the meeting was read and upon the request of the Chairman, the Secretary gave a résumé of the facts in regard to the Commonage.

Mr JDJ Scholtz proposed that the matter be left as it was and that no action be taken in regard to obtaining transfer of the Commonage to the Board, but that the Board carry on with full power and control of the Commonage. The motion was seconded by Mr L J Hornemann and carried unanimously. On the part of the mining company, Mr Kitto reassured the meeting that in so far as he was concerned and while he was Superintendent of the Cape Copper Company, “nothing would be done by the Company to the detriment of the Board’s control of the Commonage and no action would be taken should, for instance, boreholes be made”. On the contrary, the Company had in the past assisted the inhabitants of Springbok and would continue to do so. The meeting thereupon terminated.

Notwithstanding these assurances from the mining company, the Village Management Board, after intense discussions at several of its subsequent meetings, reached general consensus that until such time as it had full control of the Commonage, including the streets and open spaces in the village which were then still owned by the Cape Copper Company, this mining company would be an impediment.<sup>266</sup>

Over the next several years, control of the Commonage was a recurrent theme and item of (heated) discussion in meetings of the Village Management Board while the situation on the Commonage appeared to have been fluid and unstable at times.

In order to avoid further friction with the Cape Copper Company and avert a court case, the Board deemed it necessary to make an offer of £500 to the Company for the transfer to itself of all rights to the Commonage, streets and open public spaces of Springbok. This offer from the Board was not taken up until much later.

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<sup>265</sup> 3/SBK Village Management Board Minutes 1922 – 1929 (Vol. I). November 22, 1922.

<sup>266</sup> 3/SBK Village Management Board Minutes 1922 – 1929 (Vol. I). Minutes of Meeting of Springbok Village Management Board, 13 June 1924.

### From Village Management Board to Municipality (1933)

By Proc. No. 73 of 1933, the Village Management Board of Springbok was abolished and a municipality established in its place.<sup>267</sup>

“There were financial advantages to this course, not the least of which was that it would provide access to bank loan facilities, which the village needed to provide much needed public amenities and services – beyond the scope of a Village Management Board.”<sup>268</sup> The newly formed municipality would also inherit the endemic problems of sanitation, water, the streets, public open spaces, and of course the Commonage, which was still in the hands of the mining company.

The elected members of the first Municipal Council of Springbok were:

J Jowell, I Gordon (attorney), D J Basson (Secretary, Divisional Council), J D du Plessis (Jowell’s business partner), J N Kotze (businessman), and M Shapiro (hotelier). As it turned out, Israel Gordon served as the first mayor of Springbok.<sup>269</sup>

Responding to a letter from the South African Copper Co. Ltd (the successor of the Cape Copper (Mining) Co.) in regard to the proposed sale of land, Council unanimously decided on 1 April 1937 to take the necessary steps to secure a loan of £1 000 for the acquisition of the Commonage, Fontein Erf 428 and open/public spaces, namely :<sup>270</sup>

- (i) Purchase price £750
- (ii) Survey costs £200
- (iii) Transfer costs £50



During the month of November 1937 discussions started between the Okiep Copper Co. Limited (the new owners of the South African Copper Co.’s mining properties) and Council. Negotiations were formalised in a Commonage Deed of Sale signed at Cape Town on 21 May 1938, and ratified by Council with grateful acknowledgement to Messrs J Jowell and D J Scholtz for their outstanding and valued contribution in this regard. It was only four years later however that efforts by the

<sup>267</sup> PAS 2/796 Ref. L72/c/3. Province of the Cape of Good Hope Official Gazette No. 1445, 19 May 1933.

<sup>268</sup> Phyllis Jowell & Adrienne Folb, *Into Kokerboom Country*, 2004, 112.

<sup>269</sup> P Jowell, (assisted by Adrienne Folb), *Joe Jowell of Namaqualand*, 1994, 81.

Israel Gordon: Born March 1887, qualified as an attorney-at-law; practised first in Heidelberg, Cape, then Riversdale, and, finally settled in Springbok, Namaqualand, in 1916. He was one of the leaders in forming the Springbok Village Management Board. On the formation of Springbok Municipality in June 1933, he became its first Mayor. Died in January 1949 and is buried in the Pinelands Jewish Cemetery, Cape Town. The public paid him the unique honour of holding a memorial service for him in the Springbok Dutch Reformed Church. (Source: Julius Gordon, *Julius Gordon Africana Centre: List of Africana Collection*, Cape Town: ABC Press, 1965).

<sup>270</sup> 3/SBK Ref. 1/1/1/2 Council Minutes 1936 – 1937 Acquisition of Commonage 1936. Ordinary Meeting of Council held on 1 April 1937.

Municipality of Springbok eventually bore fruit and on 26 February 1942 the Commonage was registered in its name.<sup>271</sup>

The Beacons of Springbok had already in 1940 been determined by surveyor P J Power, and a comprehensive report brought out on the survey. The properties of the Springbok Municipality acquired from the O'okiep Copper Co. Limited, would eventually comprise:<sup>272</sup>

- (i) Springbok Commonage ("A certain piece of abolished quitrent land measuring 3 832.0841 Morgen ...")
- (ii) Lot 428, meas. 1 morgen 216 square roods 120 square feet (Fontein Erf)
- (iii) Burial Ground in extent 8 morgen 200 square roods
- (iv) Land east of the town for a Location (Lokasie) : 72.5605 morgen, purchased for £50 (piece of redeemed quitrent land being Portion 9 – a portion of portion 8)

### **Lease of Arable Lands (Plough Lands)**

The arable lands amongst the rocky hills on the Commonage surrounding the town of Springbok, are of a sandy nature, ploughed and grain sown immediately after April and May, if adequate rains had fallen. The success of those who leased patches of land, thus depended largely on the annual rainfall, which is seldom more than 180 mm. It is instructive to note that a lot of time, energy and resources were expended by the Village Management Board (and since 1933 the Municipality) on the Commonage, which must have provided a good source of income to itself for a modest layout.

While some mines had closed down in 1919 after the Great World War, the copper mining industry finally came to a halt in 1931. Hundreds of workers found themselves unemployed and desperate, a large number of them gravitating to the Commonage and swelling the ranks of its occupants. Although it did not own the Commonage, Springbok Village Management Board had nonetheless in the 1920s gone ahead and proceeded to lease plough lands on the Commonage. A rough sketch plan of the Commonage was drawn showing the position in relation to the village and approximate extent of each of the plough lands proposed to be leased:

Period of lease is to be for one full year ; the approximate area required for sowing one bag of seed wheat is 12 morgen; the valuation placed by the Board on the plough lands is 15/- per morgen; copy of conditions of lease forwarded herewith.<sup>273</sup>

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<sup>271</sup> Melkboschkuil Commonage (remaining extent of the farm Melkboschkuil, measuring 3 832.0841 Morgen, including streets, commonage, public market place, outspans, etc. as shown on General Plan S.24); the Burial Ground; and Lot No. 428 were transferred to the Municipality of Springbok by Deed of Transfer No. T1640/1942. Purchase price: £750.

<sup>272</sup> Cf P Van Heerde et al, *Springbok*, 1952, 24.

<sup>273</sup> PAS 2/796 Ref. L72/c/5 Springbok Village Management Board. Lease of Plough Lands on Commonage. Secretary Julius Gordon, Village Management Board to Provincial Secretary, Cape Town, 20 June 1924.

Minutes of Meeting on 11 April 1924 thus records that plough lands to lease were allocated to the following persons, subject to approval obtained from the Administrator in accordance with the applicable law and at own risk : <sup>274</sup>

C B Fisher (Doornpoort se Lande); J Wolstenholme jr (Vaalwater se Lande); C C Fisher (Taaiboshoek se Lande); J Gordon (Moordenaarskop se Lande); J H Burnett (Plaatje se Lande).

The Administrator's consent for the proposed lease of plough lands on the Commonage was next applied for in terms of Section 52 of Ordinance 10 of 1921, as per notice, which was duly advertised in the *Cape Times*, and in *De Burger*. As no objections had been lodged, it was decided that this matter be expedited as early as possible as the ploughing season was then on hand. <sup>275</sup>

The Administrator's permission was accordingly obtained to lease plough lands on the Commonage to the above-mentioned occupants. This was readily agreed to, in contrast to the endless hassles and protracted action the town council experienced with the "non-white" occupants on the Commonage, who were claiming the "birth right" of the Cloetes and / or rights based on prescription.

This stand-off with claimants on the Commonage led two decades later on 22 November 1944 to a Special Meeting of the Springbok town council to find a final settlement to what had by then become the endemic Commonage issue. The meeting was held in Councillor Jowell's office with the following members present: - <sup>276</sup>

G J van Zyl (Mayor) and Councillors J D du Plessis, J A Botha, A P van Niekerk, and J Jowell.

Councillor Du Plessis reported back to Council that the majority of those who had ploughed the Commonage, refused to come to any understanding with Council, whereupon the defaulters were given another chance by Council to reap their grain, and leave the Commonage. This decision was unanimously approved.

Amongst those who refused to reach any form of agreement, and/or who were regarded as defiant, the Street Constable as well as Councillor Du Plessis, named as follows : -

Joseph Osborne; Willem Cloete; Piet Cloete; Ellie Cloete; John Newman; Gert Cloete; Takkie Cloete; Carools Davis; Albert Cockrell; S P Skriker; Jan Cloete (Kaboegab); Freddy Karsten and Elias van Wyk.

After discussion, the following proposal by Councillor J D du Plessis was unanimously adopted:

<sup>274</sup> 3/SBK Village Management Board Minutes 1922 – 1929. Springbok Commonage. Lease of plough land (arable land). April 11, 1924.

<sup>275</sup> PAS 2/796 Ref. L72/c/5 Lease of Plough Lands on Commonage. Village Management Board to Provincial Secretary, Office of the Administrator, Cape Town, 15 May 1924.

<sup>276</sup> 3/SBK Ref. 1/1/1/4 Minutes of Special Meeting held on 22 November 1944. (Translated from Afrikaans)

That all occupants of the Commonage who have failed to apply to live on the Commonage, be notified in writing to vacate the Commonage within three months, provided that applications to permit them to live on the Commonage be received by Council for consideration during the course of the next three months.

At this point in the proceedings, Freddy Karsten, one of the resisters, was called in. The Mayor explained that Council was more than willing to accommodate the Coloureds if they decide to be reasonable and negotiate. He further pointed out that repeated attempts had already been made from their side to negotiate, but up till then such overtures were completely ignored. Karsten was furthermore asked to speak to the other fellow- objectors to come forward with proposals, even if these should come by way of a person or body from outside, such as a Coloured Council, Advocate or whoever.

Freddy Karsten's probable intervention must have had some success and brought the claimants to other insights, for on the item of commonage affairs at a subsequent meeting about a year later, Councillor J D du Plessis was in a position to report that he, accompanied by Councillor Botha and Attorney D J (Daantjie) Scholtz, had called on the Commonage. If there was a possibility to settle with the persons claiming ownership rights, it was recommended that a piece of ground be given up to them by the Municipality.



### **Stricter regulations governing occupancy of the Commonage**

One of the earliest matters to engage the new town council's attention in 1942 was tenancy of the Commonage. Despite strict regulations governing occupancy, the Town Clerk reported that Commonage dwellers were once again clearing land for the ploughing season without the necessary permission. A decision was therefore taken to issue a notice to those engaged in such activities, and if they did not comply with regulations, to make a test case of such defaulters.

During and after the Second World War, according to oral accounts, an on-going battle was developing to stop Coloureds from ploughing on the Commonage. Council is reported to have taken advantage of the situation during the war, when the men were serving on the front.<sup>277</sup> But instead of in each instance resorting to the courts, different (and less expensive) tactics were employed as can be seen from several nasty incidents involving the occupants of the Commonage and workers of the municipality, who were responsible for evictions, demolition of houses, and setting alight the ripened grain of intransigent persons.

A letter dated 11 September 1943 from the town council to the Police in respect of ploughing on the Commonage, showed the involvement of law enforcement agencies at an early stage after the acquisition of the Commonage by the municipality. As directed in terms of this stricter policy, a constable of the South African Police (SAP) carried out an inspection and reported that on 16 June 1944 Coloureds (who appear to have regularly fallen foul of municipal regulations after generations of unimpeded access to the land allowed by the mining company) were ploughing on the

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<sup>277</sup> Cf Martin Oppel, *I loved that place Tdjouboegas*, (Cape Town: Kwela Books, 2004).

Commonage. In view of this development, Council decided that legal steps be at once taken to prosecute those ploughing on Commonage land.

Accordingly, in the course of his duties, the municipal official in charge of the Commonage would on several occasions hire a car and accompanied by the police, carry out an inspection. So also, was the Mayor, councillor Joseph Jowell, in a position to report that he had unofficially spoken to Major Jonker and that the latter was “desirous of further looking into (the matter) of the claimants on the Commonage”. It was decided by Council that attorney Israel Gordon be kindly requested to assist by furnishing the police with the necessary information.<sup>278</sup>

By 3 July 1945 (some three years after the initial decision to prosecute) Chairman of Council reported that legal steps were indeed being taken against several persons trespassing on the Commonage or who were occupying the Commonage without admitting the ownership rights of the Municipality. This case against the trespassers was due to be heard on 6 July 1945, and to Council it appeared that the Coloureds were in their defence going to claim rights based on prescription.<sup>279</sup> As instructed, Mr Gordon was busy taking down statements for the municipality’s case. Council was moreover going to ask for a postponement, so it appears that subsequent delays must have held up proceedings.

By all accounts, the town council of Springbok was then carrying out a policy of harassment against those regarded as illegal occupants of the Commonage, as shown by the following instance. In letters of 19, 22 & 29 July 1944 to Council from P D Johannes, the public relations officer of the *Regtes Komitee* (Rights Committee), grievances were listed under the heading “Verdrukking van Kleurlingsoldate op Springbokgronde” (Oppression of Coloured Soldiers on Springbok Lands). Before responding to and addressing the grievances contained in these letters, Council however wished in the first place to be “... furnished with facts to substantiate their allegations”,<sup>280</sup> which must have been of a serious nature to warrant this delaying tactic. When granted audiences to vent their grievances before Council, the aggrieved party would at such sessions (as standard practice) express a word of thanks and then in carefully chosen expressions expound on mutual duties and obligations. The “necessity of co-operation between the two races” would receive special attention. In any event, the town council seemed to have avoided going to court and risk a situation where claimants might ask for a declaration of rights to land on the Commonage.

The following examples are illustrative of what transpired at such meetings between the town council and disaffected Commonage dwellers. At an ordinary meeting held on 17 July 1944,<sup>281</sup> Albert Cockrell accompanied by several others, called as a deputation concerning matters on the Commonage. The following correspondence emanating from the deputation were dealt with by Council:-

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<sup>278</sup> 3/SBK 1/1/1/5 Springbok Town Council. Ordinary Meeting, 18 February 1947.

<sup>279</sup> 3/SBK Ref. 1/1/1/4 Minutes of Meeting, 3 July 1945.

<sup>280</sup> 3/SBK Ref. 1/1/1/4 Council Minutes: Meentsake, 31 July 1944.

<sup>281</sup> 3/SBK Ref. 1/1/1/4 Council Minutes: Meentsake 1944, 17 July 1944.

- (a) Letters from the *Regtes Komitee* (Rights Committee) dated 3 July 1944.
- (b) Objection to letting residential plots on the Commonage, dated 6 July 1944.

After hearing them out, Council was of the view that although it appeared that the deputation had nothing definite to present, one way or another the community felt aggrieved over, amongst others, not being consulted at all about affairs on the Commonage. It was clear to Council from what transpired at the meeting that they (Coloureds) regarded the Commonage as their own property. The parties thereafter agreed that the disaffected group would go and put down in writing precisely what their position was as to what they wanted and return to meet with Council.

Some four months later, on 13 November 1944, the following two persons appeared before Council in connection with the cultivation of grain on the Commonage – this despite Council's efforts to show a lenient approach to the matter : Dirk Cloete, representing himself, and Albert Cockrell, on behalf of the rest of the Coloureds who were alleged to have unlawfully ploughed.

Present were G J van Zyl (Mayor) and Councillors J A Botha, A P van Niekerk, J D du Plessis and J Jowell.<sup>282</sup>

Dealing with the reaping of the existing grain on the land, the above-mentioned respondents declared as follows. Dirk Cloete stated that he rejected Council's proposal to hand over to it any portion of the harvest, while Cockrell on behalf of the rest, likewise refused to give up any of the grain they expected to reap.

Replying to Councillor Jowell's question whether they in fact realised that if they did not come to an agreement with Council, they would altogether lose out and get nothing at all, Cockrell stated that he had nothing at all to say to that. Hereupon the aforementioned two persons appearing before Council were dismissed and the following decisions taken: -

- (i) mr F G Kotze (caretaker on the Commonage) to proceed to the land to estimate the exact quantity of grain to be harvested, and to report to Council in this regard;
- (ii) that the caretaker impound all animals found on the cultivated lands;
- (iii) further, that the said Mr Kotze be authorised to give the right to anyone who has changed his mind (and come to his senses), to retain a third of the harvest;
- (iv) that Council calls for tenders to reap the defaulters' grain on the Commonage.

What was intended by the town council as measures taken to resolve the conflict, had indeed had the opposite effect of further antagonising the disgruntled community on the Commonage. It is understandable that in the course of duty, anger would be directed towards municipal officials, especially against the much maligned Meentwagter. Those occupants of the Commonage who identified closely with the land and its past history and who resented his unwelcome attentions to enforce commonage regulations, felt especially aggrieved.

<sup>282</sup> 3 SBK 1/1/1/4 Minutes of Meeting, 13 November 1944.

As early as 1 January 1942 the following regulations were made applicable to all occupants of the Commonage (not on Erfholders in town and/or residents of the Location): -

1. Applications for the right to occupy the Commonage to be directed to the Town Clerk.
2. On payment of 2/- per month in advance applicants allowed to occupy the Commonage.
3. Only 5 head of small stock allowed on the Commonage.
4. No large livestock ("grofgoed") to be kept.
5. Applicants not allowed to plough and sow or lay out gardens.
6. Any occupant who has not applied to reside on the Commonage or who has defaulted on paying the monthly fee in advance, will without further notice be removed.

By order of the Town Clerk, 19 November 1941.<sup>283</sup>

In all this, the Meentopsigter was a key official tasked with controlling the settlement and activities of tenants on the Commonage. By December 1942, G Kotze was appointed as Commonage Guard and supplied with a horse costing £8 to patrol and enforce regulations.

Swept up in a flurry of administrative duties and actions, his office was a hive of activities. A flood of applications streamed in to the municipality from both Whites and non-whites wanting to reside on the Commonage; these applications were approved or turned down on conditions laid down by the municipality. Popular areas of choice to reside on the Commonage included Wynhoek, Lokasie, Die Tol, and Doornpoort. At the same time, efforts were made to collect outstanding commonage and grazing fees while excess livestock were removed.

Besides applications to reside on the Commonage, applications to brew 4 gallons of *kaffir* beer were considered (two allowed). Council also had to deal with one Piet Dyker's application to reside on the Commonage. Dyker was subsequently on the instructions from the mayor ordered to leave the Commonage and his shack knocked down, which actions initiated by mayor Jowell carried Council's approval.<sup>284</sup> Several years later in 1957, the mayor once again reported that a Sergeant Hanekom had phoned to inform him that a "native" named Dyker had allegedly set up a meeting to discuss their complaints. This called for the demolition of the offender's dwelling and notice to leave Springbok immediately, which course of action carried the approval of Council.

Other municipal functions included investigating applications by undesirable Coloured persons to reside on the Commonage. J H M Stramrood (who doubled as Commonage Caretaker, Collector of dog tax, Pound Master, Foreman (Streets), and General Municipal Worker) reported that an intransigent worker (of Mr Gillman, the dairy owner) and her family were permanently living in with

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<sup>283</sup> 3/SBK Ref. 1/1/1/3 Council Minutes 1942 – 1945: Commonage Regulations, Springbok, 19 November 1941. (Translated from the Afrikaans)

<sup>284</sup> Dyker, a stone mason and builder originally from Bechuanaland, by 1959 appeared to be mentally unbalanced delivering 'sermons' of a religious nature to all and sundry in town or from the western Koperberg range separating Matjeskloof village from Springbok.

another family in Wynhoek. Stramrood was thereupon instructed to investigate the matter and to take vigorous steps 'against the *meid* in order to force her to relocate from Wynhoek'.<sup>285</sup>

Under increasingly tense circumstances, a pronounced inclination to prosecute those who refused to acknowledge the municipality's ownership of the Commonage had set in, except for those occupants who recognised its proprietorship. A case in point is that of William Henry who had inadvertently encroached on the Commonage at The Smelting Place.<sup>286</sup> Henry had to state in writing that he was occupying municipal land which had to be vacated after the harvest, and his dwelling removed (with which conditions he was more than willing to comply). After representations by attorney Israel Gordon, Council decided to withdraw the case against Henry.

On the Commonage of Springbok there were also early attempts at segregation predating the introduction of the formal apartheid policy of the National Party in 1948. Those White families residing within the section reserved for non-whites, were compelled to relocate to places to be pointed out by the Caretaker on the Commonage. In pursuance of this policy, the Coloured occupants had in turn to be removed from Ganshoek, an area of mixed Black-Coloured residence north of the Springbok Location. To give effect to this, it was decided that the Caretaker would take a lorry and remove all huts and possessions of the affected group to the designated area. With regard to Coloureds living on land which ownership rights were under dispute, it was decided that for the time being action should not be taken against them.<sup>287</sup> But indications are that regulations were enforced strictly and that generally non-whites in town and on the Commonage were increasingly being subjected to harsher treatment.

#### **Occupational rent (Woonfooie) on the Commonage (Dorpsmeent) (1942)**

After the acquisition of the Commonage from the O'okiep Copper Co. in 1942, the Town Council of Springbok was then faced with the question whether it was within their rights to levy occupational rent on each household, of say 1/- per month, over and above the usual grazing fees.<sup>288</sup> There is evidence that the very next year after the Municipality had acquired the Commonage, the levy on

<sup>285</sup> 3/SBK Ref. 1/1/1/7 Council Minutes General Meeting 15 September 1953. "Meid", coloured maid-servant (derogatory). Municipal workers from a section of the community were referred to in Council Minutes as "Kleurling-kantoorjong" (office-boy), "straatjong" (employed on Springbok streets), or "volk".

<sup>286</sup> 3/SBK Ref. 1/1/1/5 Minutes of Ordinary Meeting of Council held at 7.30 p.m. on 2 September 1947.

Note : William Henry (case 281/47), Coloured male, age 50 years, S A born, mineworker of Kaboegas, faced two charges under the Provincial Administration Notice No. 18 of 1944 (Municipal Regulations). On 2 September 1947 Henry was cautioned and discharged by the Magistrate of Springbok.

<sup>287</sup> 3/SBK Ref. 1/1/1/4 Council Minutes 1942 – 1945. Commonage Occupants, Ganshoek, Springbok, 24 September 1944.

<sup>288</sup> PAS 5/352 Ref. L72/c/27 Town Clerk, Springbok to Provincial Secretary, Cape Town, 14 September 1942. Woonfooie op Dorpsmeent.

grazing was challenged. In a letter dated 18 November 1943, the Legal Aid for the Poor demanded that certain grazing fees paid by Coloureds to the municipality be paid back.<sup>289</sup>

Nonetheless, the town of Springbok was now in the unique position that the municipality owned about 4 000 morgen of commonage. All over the Commonage, according to the Town Clerk, there were hundreds of temporary or more or less permanent Coloured families trying to find employment in town.<sup>290</sup> As described by him, these “squatters” lived in shelters made of sacking and other building materials; they continuously moved from one place to another on the Commonage, using bushes as firewood or shelter and (unfortunately) destroying the veld. Many of them owned a handful of small stock and a few cattle trampling the veld; and scores of dogs, a source of much nuisance to the townsfolk.

Given these circumstances, the Municipality thus intended levying in addition to grazing fees, a small monthly rental or *woonfooi* on each dwelling. Afterwards, the proposal to charge a *woonfooi* seems to have been dropped in favour of leasing dwelling plots on the Commonage.<sup>291</sup> Notice (in terms of Section 172 of the Cape Municipal Ordinance No. 10/1912, as amended) was duly published in the *Cape Times* of 23 June 1944 (and *Die Suiderstem* of the same date) to give effect to the new (more feasible) initiative. Dwelling plots measuring 60 square feet each were to be let at a monthly rental of 2/- per plot to the undermentioned persons in the localities of the Commonage indicated opposite their names. In all, 30 names of prospective lessees were listed covering the areas of Ganshoek, Bowater, Wynhoek, Vaalwater, Rushoek, Aggenoes, Matjieskloof, Die Tol and Kaboegap:

William Bon, Ganshoek; Edward Boois, Bowater; Klaas Cloete, Wynhoek; Hendrik Cloete, Vaalwater; Gert Cloete, Wynhoek; Danie Cloete, Ganshoek; Adam Cloete, Ganshoek; Johannes Dussel, Rushoek; John Gennings, Vaalwater; Elizabeth Gennings, Vaalwater; John Gilbert, Aggenoes; E A Herridge, Matjieskloof; Martha Karools, Bowater; D J King, Die Tol; Eduard Links, Kaboegap; Abraham Maarman, Rushoek; D J Maarman, Bowater; Willem Maarman, Matjieskloof; Jacoba Mostert, Die Tol; Anny Marshall, Die Tol; Mevrouw C J M Marshall, Die Tol; Frank Marshall, Die Tol; J J J Meyer, Die Tol; George Simson, Die Tol; J C Smit, Die Tol; C E J Wolsterholm (sic), Die Tol; H de Waal, Aggenoes; Magrietha Witbooi, Rushoek; Anna Witbooi, Rushoek; Annie van Zyl, Vaalwater.

(G J van der Merwe, Town Clerk, Municipal Office, Springbok, 19 June 1944)

Reaction to the above Notice was swift. The *Kleurling Regtes Komitee* wrote to the Town Clerk of Springbok on 6 July 1944, protesting:

In reference to the advertisement in “Die Suiderstem” of 23 June 1944, the undersigned wish to object strongly to letting dwelling plots on the Commonage surrounding Springbok town

<sup>289</sup> 3/SBK Ref. 1/1/1/4 Minutes of Ordinary Meeting, Springbok Town Council, 23 November 1943.

<sup>290</sup> PAS 5/352 Ref. L72/c/27 Town Clerk, Springbok to Provincial Secretary, Cape Town, 10 November 1942. Woonfooi op Dorpsmeent.

<sup>291</sup> PAS 5/352 Ref. L72/c/27 Lease of Dwelling Plots on Commonage, Springbok.

because we still claim ownership of the land. We cannot allow a situation where our own people have to apply to lease the land.<sup>292</sup>

The signatories for The Coloured Rights Committee were: A Cockrell; F Karsten; T Cloete; J Cloete; J van Tura, and Secretary S P Skriker, c/o Box 45, Springbok.

Brushing aside these objections, the Municipality of Springbok went ahead and wrote to the Provincial Secretary on 19 October 1944 about its planned lease of dwelling plots on the Commonage, explaining as set out below the background to its decision.<sup>293</sup>

People living on the Commonage were mainly ordinary people of colour, doing one or other odd job either in town or on some prospecting site or mine in the vicinity. There were several extremely poor White families as well, living on the Commonage under the same conditions.

These commonage dwellers consisting of a few hundred families, were on account of poverty and a nomadic lifestyle, not able to consider purchasing a building plot however cheap. The existing houses were small single-roomed huts or informal dwellings constructed of sacking and corrugated iron sheets; in a few cases, a rough structure of stone and clay, resembling the ordinary shack.

To regularise the position, Council had decided to allow them to occupy the Commonage. Many of the occupants had already claimed prescriptive rights, and to avoid complicating matters further, it resolved to take control over the occupation of the Commonage and the number of animals kept.

The only way out of this unusual situation would be to allow Council to give people permission to reside on designated unsurveyed places on the Commonage.

The Provincial Secretary responded in a draft hand-written note:

What the Council proposes to do is reasonably satisfactory in so far as preventing prescriptive claims arising is concerned. It does not however solve the public health and housing aspects. In fact, viewed from that angle the proposal is most unsatisfactory.

In view of the extreme poverty of the persons concerned, I doubt whether the Council could solve the problem by means of a housing scheme as they will in all probability be unable to pay the rentals. Those people also appear to be nomadic. The matter appears to be one where the Department of Social Welfare working in conjunction with the National Housing Commission and Public Health, should come to the assistance of the Municipality.

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<sup>292</sup> PAS 5/352 Ref. L72/c/27 The Kleurling Regtes Komitee, Springbok, to the Town Clerk of Springbok, Springbok Municipality, 6 July 1944.

<sup>293</sup> PAS 5/352 Ref. L72/c/27 Municipality Springbok to Provincial Secretary, Cape Town, 19 October 1944. Lease of Dwelling Plots on the Commonage of Springbok, 1944. (Loosely translated from Afrikaans)

Suggest Council to contact these Departments with a view to arranging some method of not only preventing prescriptive claims arising, but also ensuring the proper housing etc. of these 'commonage-dwellers'.<sup>294</sup>

The suggestion from the Provincial Secretary was not acted upon. The following year (1945) the Superintendent of Communal Reserves in Namaqualand thus felt constrained to write to the Secretary for Social Welfare, Pretoria. Commenting on the situation as outlined above, he explained the conditions under which people lived on the Commonage of Springbok, at the same time pointing out their strong sense of ownership of the land.<sup>295</sup>

The Superintendent went on to describe the houses, most of which were single-roomed dwellings with earthen floors. A few had wooden floors, the construction being of raw or baked bricks with more than one room. The lack of sanitary facilities was striking:

*Many of the Coloureds have resided on and worked the land prior to it becoming town commonage. A small group of them have occupied and lived on the land for longer than 30 years and could thus claim prescriptive rights. Others again lead a wandering life or are new arrivals who moved in only recently. The huts and structures of these newcomers stand on one spot for weeks or months only, or during certain months of the year. The vast majority of the occupants have not approached the municipality for permission to reside on the Commonage and most of them appear to be unwilling to do so.*

*The majority of the Coloureds – especially Namaquas – appear to be proud [of their heritage] and display a strong sense of independence; **moreover, they seem to believe strongly that the land belongs to them and cannot or will not understand where Council got the right from to tell them where or how they should stay or why they had to pay rental.** They also appear to believe very easily that Whites wish to oppress them and readily lend their ears to agitators.*

*At this stage Council wants to let go of an indecisive policy, and apparently aims at compelling the "squatters" to recognise the authority of the Municipality by forcing all Commonage dwellers to apply and pay rentals, etc.*<sup>296</sup>

*The whole question is complex and evidently comes down to this: who is the owner of the Commonage? The Municipality who acquired the land or the Namaquas who have always regarded it as their own? Here one has probably more to do with a race issue than one of rentals or housing.*

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<sup>294</sup> PAS 5/352 Ref. L72/c/27 Provincial Secretary's Office, Cape Town. Handwritten Note, 23 October 1944. Lease of Dwelling Plots on the Commonage.

<sup>295</sup> PAS 5/352 Ref. L72/c/27 Superintendent of Communal Reserves, Springbok to Secretary for Social Welfare, Pretoria, 18 June 1945. Lease of Dwelling Plots on Commonage, Springbok. (Loosely translated from Afrikaans. Emphasis added).

<sup>296</sup> Several hundred persons are involved, in excess of 250 families.

In his letter to the Secretary for Social Welfare, the Superintendent of Communal Reserves had indeed gone to the heart of the matter and correctly sensed that the issue went deeper than one of rentals or housing. In fact, that there was an element of pride and self-assurance involved, based on their understanding of the past and the events surrounding historical and traditional ownership of the land, which made them question the basis of the Council's ownership. The matter would not simply go away, and soon landed up in the Magistrate Court of Springbok.

### **Attempts to settle prescriptive claims on the Commonage**

Descendants of the seven Cloete brothers were asserting certain rights of ownership on the Commonage based on prescription in that they had lived on the Commonage continuously and uninterrupted for a period of 30 years and longer. Their claim on land was also referred to as a "birth right" or "Cloete right". Certain of the claimants had initially agreed to Council's offer to relinquish to them a piece of land, while others plainly refused to co-operate, occupying and ploughing the land without the necessary permission. It was therefore decided to make a test case of those not complying with municipal regulations by laying charges of trespassing against them. In light of this, the Cloete claimants planned to mount a court challenge to the municipality's ownership of the Commonage.

By September 1945, in reaction to the threatened court action of certain members of the Cloete family and others against the Municipality, Council expressed its readiness to reach a settlement with them in respect of their claims. In this connection, the Acting Town Clerk of Springbok wrote (without prejudice of rights) on 22 September 1945 to Mr D J Scholtz who represented the claimants: <sup>297</sup>

Referring to the pending court action claiming certain rights on the Commonage, Council wished to inform Scholtz that it was prepared to reach a settlement with his clients on certain conditions, without acknowledgement of the rights of the claimants but purely as a safeguard to avoid the legal costs involved. Springbok town council was therefore prepared to give up on set terms approximately 100 morgen <sup>298</sup> of the land known as Taaiboschoek to Scholtz's clients. The said land could at any convenient time be pointed out.

Within little more than one month, attorney Scholtz was ready to reply to the Municipality in regard to its offer. <sup>299</sup> He wished to confirm that the following clients had agreed to accept the proposal of Council on the conditions set out by his clients. These persons were Elizabeth Cloete, Jan Cloete, Willem Cloete, Joseph Osborne, John Newman, Carolus Davis, Willem Abrahams and Hendrik Losper.

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<sup>297</sup> PAS 5/352 Ref. L72/c/27 Lease of Dwelling Plots on Commonage (22 Sept. 1945). Acting Town Clerk, Springbok to Mr D J Scholtz. Springbok, 22 September 1945.

<sup>298</sup> 100 morgen was offered, which land probably formed part of the proposed Coloured reserve measuring 500 morgen in all.

<sup>299</sup> PAS 5/352 Ref. L72/c/27 Settlement of Prescriptive Claim on Commonage. D J Scholtz to Springbok Municipality, 1 November 1945. (Annexure 11)

As far as could be established by Scholtz, his clients were the only ones who had any reasonable claim on prescriptive rights on certain localities on the Commonage at Taaiboschoek, Witwater, and Kaboegap. He was of the view that the rest of the occupants of these areas were mainly newcomers and migrants who did not claim any prescriptive rights. Some of them did, in point of fact, talk of a "Birth Right" and a "Cloete Right" as the basis of their occupancy, but those claims were, in Scholtz's opinion, plain fabrications and there was no question that the Municipality would have any difficulty removing them to a particular area. As promised, Scholtz would co-operate in bringing about any removals, while

The said eight Coloureds undertake to give up all rights or claims they might have had on the Commonage, and if they wished to continue living on the Commonage, to do so at such places and subject to those conditions set by the Municipality.

Following up on the offer of land by the Municipality as set out above, a party which included members of Council (Chairman mr G J van Zyl, and councillors J Jowell, S Jowell, and J D du Plessis), and also the Town Clerk accompanied by attorney Scholtz, then paid a visit to the Commonage on 6 November 1945 at 6 p.m. They inspected that portion of the Commonage which the town council was prepared to give up in full and final settlement of the claims of the eight persons involved.<sup>300</sup>

In this regard, it was decided that an agreement could be reached with the eight claimants for prescriptive land rights under certain preconditions and understandings as set forth below (in essence a restatement of conditions presented earlier in a letter to attorney D J Scholtz):

Council does not acknowledge any claim from Commonage dwellers, but merely aims to safeguard itself against the costs of a lawsuit. Claimants are to bear costs of survey and transfer and relinquish in writing all personal and legal rights they or their successors (and assigns) allege to hold in respect of the municipal Commonage. Settlement is subject to the proviso that Council succeeds in removing the rest of the occupants to the area set aside [a proposed Coloured Reserve to the northwest of Springbok town]. The approval of His Excellency the Administrator must be obtained.

In summary then, the status of negotiations in regard to the land deal was as follows:

At this time, attorney D J (Daantjie) Scholtz who was handling the case for the Cloetes, attempted to strike a deal with the Springbok municipality which also felt that the Cloetes perhaps had, despite the deeds of sale indicating otherwise, claims based on prescription. The Municipality was willing to give up portions of the land cultivated by the Cloetes on condition that they stop all further agitation. Although some of the eight Cloete claimants agreed to do this, others flatly refused to sign any document. This was as far as the matter went.

After the visit to the Commonage by councillors and attorney Daantjie Scholtz on 6 November 1945, the boundaries of the said land on offer to the claimants, were described to include the area around

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<sup>300</sup> PAS 5/382 Ref. L72/c/27 Besoek aan Meent 6 November 1945 (Extract from Minutes of Special Meeting of Town Council held on 6 November 1945).

Taaibosch Hoek, Newman's Well, Jan Barend se Koppies and Gladde Kop. This land was to fall within the larger Proposed Coloured Reserve (annexure 11) north-west of Springbok town, in extent some 5 00 morgen.

### **The vexed question of the Commonage remains unsolved**

While on the late summer afternoon of 6 November 1945 the party from the municipality was doing an in loco inspection of the proposed portion of the Commonage to be given up to the eight claimants, Council had already a short time before struck the first blows against other recalcitrant Commonage dwellers.

Thomas Cloete, Coloured, male, SA born labourer, 60 years, of Taaiboschoek, was charged with unlawfully ploughing and sowing on the Commonage (Notice No. 18 of 1944). The case was remanded to 5 November 1945 when Cloete was fined 5/- or 7 days imprisonment with hard labour. The second accused was Albert Cockrell (case No. 436/45), Coloured, Male, SA born, labourer, 50 years, of Springbok, who had contravened Notice No. 18/1944 by settling on municipal land without the necessary permission. On 1 November 1945 in the Magistrate's Court at Springbok, he was fined £3 or 3 weeks imprisonment with hard labour.<sup>301</sup>

The details of the proposed agreement (referred to above) held out to the Cloete claimants by the municipality of Springbok, were again set out in a letter dated 26 November 1945<sup>302</sup> from D J (Daantjie) Scholtz to one Carolus Davis of Vaalwater, Springbok, regarding the transfer of a piece of land on Portion 1 of Springbok Commonage to himself and seven others. The letter confirmed in the main and ratified what had earlier been resolved in Council in regard to the proposed settlement with the eight persons.

The rather peremptory tone of the letter is perhaps symptomatic of the tense situation and fractious relationship between the Springbok municipality on the one hand, and the claimants and community in general on the other:

“Jy moet Dinsdagmiddag om drie uur na my kantoor kom om die nodige dokumente te teken. Ek gee aan die ander sewe ook kennis.” (See that you are at my office at three in order to sign the necessary documents. The other seven persons will be notified accordingly).

The willingness of the Springbok Municipality to reach some sort of settlement should be seen in context. The Cloetes were engaged in efforts to press for transfer of a portion of the commonage to themselves. Besides the costs, a court challenge would have re-opened the whole thorny question of the sale of Melkboschkuil farm between the years 1850 – 1853.

<sup>301</sup> 1/SBK 1/3/25 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

<sup>302</sup> Letter dated 26 November 1945 from D J Scholtz, attorney, to Carolus Davis, Vaalwater, Springbok.  
Note : own translation (Source of letter: Jan 'Primus' Cloete)

Meanwhile, the Acting Town Clerk of Springbok, J H Muller, in line with Council's decision to reach a settlement with the claimants, had earlier written to the Provincial Secretary, Cape, in regard to the Proposed Agreement with the Commonage Dwellers. He pointed out that <sup>303</sup>

The Springbok Commonage, on which rights of occupation were then in dispute, was in extent 3 832.0841 morgen and earlier formed part of the farm Melkboschkuil. This land was originally on 21 January 1850 granted to the brothers Cloete. Thereafter ownership changed hands several times until it was eventually registered in the name of the O'okiep Copper Company. This company in turn sold out to the Municipality of Springbok, the latter taking transfer on 21 February 1942. Mineral rights were retained by the Company, and the land was not to be subdivided without its prior consent. This consent could however be readily obtained. (The trouble was) that prior to the Municipality acquiring the land, the owners [mining companies] allowed the descendants of the original Cloete brothers to live on and work the land freely.

The upshot of this situation led to Council experiencing much difficulty in managing and controlling the Commonage in view of the fact that some of the occupants claimed ownership and prescriptive rights. In the course of 1944 several court challenges arose from these claims and the following year a number of these descendants of the Cloetes were taken to court. The case was however postponed in order to give the accused [claimants on the Commonage] an opportunity to approach the Supreme Court for a declaration of rights.

Before the case reached the High Court, however, negotiations [as described above] were entered into with a view to settling the claims.

Council now wished to obtain permission to give up a portion of the land, as per sketch, in [full and final] settlement to the claimants.

From a very young age these claimants were however under the impression that they hold some 'birthright' to the land. Council now realised that legal costs would possibly exceed the value of the land as shown per sketch, and in view of this wished to bring the matter to finality.

(Post script: The land is mainly rocky hills and ridges)

By March 1946, however, the Town Clerk noted with regret that in regard to the proposed agreement with the occupants of the Commonage, he was (in reference to the letter of 19 December 1945 above) still not in a position to furnish the Provincial Office with a full account.

Negotiations with the Coloureds progressed very slowly (the stick-and-carrot approach proving counter-productive), with the result that the agreement between the Municipality and the claimants had by then not been signed; meanwhile a number of them had once again resorted to the local magistrate's court.

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<sup>303</sup> PAS 5/352 Ref. L72/c/27 J H Muller, Acting Town Clerk to Provincial Secretary, Cape Town, 19 November 1945. Proposed Agreement with Commonage Dwellers. (Translated from Afrikaans)

Council was however doing everything in its power to bring the matter to finality, by which time the required notices would be published and a further letter with the information requested forwarded.

<sup>304</sup>

### **The issue of the Commonage lands in a court of law**

At the beginning of 1946 the matter of prescriptive claims on the Commonage was still dragging on and unresolved. On 4 March 1946 case number 132/46 was called : Elizabeth Cloete [ouma Ellie], a Coloured female of Kaboegas, South African born housewife, age 60 years, had contravened Notice No. 18 of 1944 by unlawfully occupying the Commonage. The case was remanded and the accused had to appear again on 11 March 1946, along with the following persons (the majority of whom were land claimants) charged with similar offences: <sup>305</sup>

Willem Cloete (57 years), Piet Cloete (41), Jan Cloete (54), Takkie Cloete (43), and Johannes Ruiter (24) – all labourers of Kaboegas; and Willem Cloete (58), labourer of Vaalwater.

After one more postponement to 11 March, the accused on 26 March 1946 faced justice in the criminal court of Springbok, where the following sentences were handed out: <sup>306</sup>

Elizabeth Cloete (£3 or 3 weeks imprisonment with hard labour); Willem Cloete (£3 or 3 weeks, hard labour); Piet Cloete (£3 or 3 weeks, hard labour); Jan Cloete (£3 or 3 weeks, hard labour); Takkie Cloete (£3 or 3 weeks, hard labour); Johannes Ruiter (cautioned and discharged); while Willem Cloete suffered the same fate as the other co-accused : a fine of £3 sterling or 3 weeks imprisonment with hard labour.

There was no end in sight to the string of court cases. In the winter of April 1946, it was again reported that a number of Coloureds who were unlawfully residing on the Commonage, had appeared in court and were given fines. Hereupon Council sprang into action and it was decided to serve notice on the persons concerned to leave the Commonage within days and if they failed to do so, to take them to court once again. This summary action signalled a complete change of heart and tactics on the part of council.

But, with the onset of winter rains in mid May, certain occupants of the Commonage were again clearing and preparing the land for ploughing. In response to these actions, the town council resolved to write to attorney D J Scholtz to inform him that, if the proposed agreement with the Coloured claimants on the Commonage did not reach finality in the course of the next fourteen days, Council would not consider itself as bound by it.

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<sup>304</sup> PAS 5/352 Ref. L72/c/27 Proposed Agreement with Occupants of the Commonage 1946. Town Clerk, Municipality of Springbok, to Provincial Secretary, Cape Town, 14 March 1946.

<sup>305</sup> 1/SBK 1/3/25 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

<sup>306</sup> 1/SBK 1/3/25 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

Meanwhile four of the eight claimants had changed their mind and flatly refused to come to any agreement with council and sign the document. Signalling some degree of willingness to accommodate the “errant” claimants, Council on 17 July 1946 decided that since it aimed to settle the dispute involving all possible land claimants, it could for that reason not come to an agreement with only four of the occupants involved.<sup>307</sup>

In the interim, a different set of accused (except for the repeat offenders Elizabeth Cloete, Takkie Cloete and Willem Cloete) was hauled before the court on 29 July 1946 and charged with unlawful occupation of municipal land. The accused were in the main all land claimants. The cases against the undermentioned persons were remanded: Karolus Davis (50), resident at Vaalwater; Jan Osborne (35), Kaboegas; John Newman (38), Vaalwater; and Willem Abrahams (65), Vaalwater.

The case against George Davis (34), of Vaalwater, brother of Karolus Davis (above) was withdrawn, and Takkie Cloete (60) of Kaboegas was found not guilty and discharged.

The accused, Elizabeth Cloete [ouma Ellie] (Case No. 350/46), Coloured female, S A born, housewife, 60 years, place of residence Kaboegas, was put on trial. Verdict was delivered and sentence imposed by the court: 20/- or 14 days imprisonment with hard labour.<sup>308</sup>

In keeping with the new strategy, on 20 August 1946 (8 days before the above accused would be tried) an Agreement with Commonage Dwellers was unanimously decided on by the Municipal Council. The pending criminal cases against Karolus Davis, Willem Abrahams, John Newman and Joseph Osborne were to be withdrawn (the four persons willing to sign the agreement with Council) pending an agreement with the said four land claimants.<sup>309</sup>

An agreement with at least four of the above-named claimants was now in sight. Councillor D J Scholtz (the same attorney who had in the past acted for the claimants) proposed that Council come to a settlement with the remaining four claimants by relinquishing to them the piece of land (approximately 500 morgen, the proposed Coloured Reserve?)<sup>310</sup> which originally was to have been given up to the eight persons, on condition that transfer was only given after the elapse of five years, and furthermore subject to the proviso that all future potential claims be accommodated on the said piece of land (the envisioned Coloured Reserve). In effect, that all future potential claimants share the same piece of land with the aforementioned four claimants in settlement of their claims. For the

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<sup>307</sup> 3/SBK Ref. 1/1/1/5 Council Minutes 1946 – 1948 Ploughing Agreement on the Commonage 1946 (Die Meent Ploegooreenkoms 1946).

<sup>308</sup> 1/SBK 1/3/25 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

<sup>309</sup> 3/SBK Ref. 1/1/1/5 Council Minutes 1946 – 1948 Agreement on Commonage 1946 & Court Case (Die Meent 1946 Ooreenkoms & Hofsaak).

<sup>310</sup> Annexure 11.

record, the remaining four claimants and prospective beneficiaries were Karools Davis, John Newman, William Osborne and William Abrams (sic).<sup>311</sup>

At this, Councillor Van Zyl objected vehemently, stating that he was not in agreement with Councillor Scholtz's proposal in that it did not bring finality to the matter or guarantee that further claims might not arise.

As things turned out, agreement was not reached with any of the eight claimants until decades later in 1967 when one, John Newman, managed after a protracted struggle and Supreme Court application, to be awarded several plots of ground in the Bergsig Township of Springbok.<sup>312</sup>

Be that as it may, 28 August 1946 dawned and Karolus Davis, Jan Osborne, John Newman and Willem Abrahams found themselves again in the Magistrate Court of Springbok where, in the new spirit of rapprochement, the cases against all of them were withdrawn. This outcome appears to conclude the campaign against them in 1946 – although the Council at the time struck elsewhere on the Commonage against the “mixed race” occupants of Ganshoek.

This apparently tacit deal not to prosecute did not signal the end of the matter, for two years later, on 30 July 1948, the Municipal Council of Springbok once again flexed its muscles. The following persons (including at least 6 land claimants) appeared in court, this time under Provincial Administration Notice No. 18 of 1944 on charges of residing unlawfully on the Commonage.<sup>313</sup>

The accused, all resident at Kaboegab, were fined amounts ranging from 10 shillings to £3 or 14 days imprisonment with hard labour: Johannes Ruiter (30); Alfred Witlow (45), a labourer; Jan Cloete (50), labourer, and Lena Joseph (housewife, 45 years). Ellie Cloete [ouma Ellie], 60-year-old housewife of Kaboegas, received a fine of £5 or 14 days imprisonment with hard labour.

The following cases were remanded: Willem Cloete (43), labourer of Kaboegap; Karolus Davis, labourer, 53 years, residing at Vaalwater; Joseph Osborne (35), labourer; and John Newman (60), residing at Vaalwater.

On 4 August 1948, Karolus Davis was given a fine of £2 or 14 days imprisonment with hard labour, suspended for 14 days on condition that the accused leave the place within 14 days or alternatively, obtain permission from the Municipal Council. Fortunately for him, Joseph Osborne was simply cautioned and discharged.<sup>314</sup>

On the day of their appearance on 3 September 1948, Willem Cloete was given a fine of £2 or 3 weeks imprisonment with hard labour, while John Newman had to again appear on the next day (4 September) when he was cautioned and discharged.

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<sup>311</sup> 3/SBK Ref. 1/1/1/5 Notule van Munisipale Vergadering gehou op 23 November 1946.

<sup>312</sup> See Chapter 6 under John ‘Tatie’ Newman.

<sup>313</sup> 1/SBK 1/3/27 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

<sup>314</sup> 1/SBK 1/3/27 Criminal Record Book & Fines, Magistrate Springbok, Namaqualand.

Given the ongoing conflict and turbulent developments on the Commonage, one tends to side with the view expressed in 1952 by Van Heerde et al that during the 1940's the municipality served notice on the descendants of the Cloetes to vacate the lands cultivated by them. Further, that despite the deeds of sale being clear, the oldest of their members maintained that they had no knowledge of the [purported] transactions:

Over the years they have by mutual arrangement determined by whom and how the fields be worked. They (further) contend that at any given time members of the family were on one or other location on the land, and even those who had moved off further always considered themselves to have retained their rights.<sup>315</sup>

At the time there tended to be a general crackdown on any dissident voices questioning the ownership of the Commonage and indeed of the farm Melkboschkuil, such as that of the descendants of the Cloetes who fought to reassert the ownership rights of the original grantees. Although from very early on in the 1920s the Springbok Village Management Board exercised control over the whole of the Commonage, and since its acquisition in 1942 asserted ownership rights through the town council, it fell to the eight descendants of the Cloetes to challenge this notion of ownership of the Commonage.



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#### CHAPTER 6 THE DESCENDANTS OF THE CLOETES ON SPRINGBOKFONTEIN COMMONAGE

*What historians need are not more documents but stronger boots (R.H. Tawney)*

There is quite understandably a natural tendency amongst writers seeking the larger view of the past to rely on the readily available official sources –government publications, commission reports, legislative enactments, local government documents, etc. – on the assumption that such evidence accurately reveals what has happened. Not only can this lead to a simplistic schematic picture, but an inaccurate one.

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<sup>315</sup> P Van Heerde, *Springbok*, 1952, 12. The Cloetes were scattered far and wide, such as a Mrs D E Dixon of South West Africa, who about 1909 enquired about the Cloete claim on Melkboschkuil. (Source: SK-G 4/2/1). Of the Cloetes who lived on the Commonage, during the Great Depression a number of them moved to Rehoboth (in South West Africa).

It is the nature of historical records to present a partial (meaning both biased and incomplete) view of the past, and it is the duty of historians to be aware of both the limitations and potentialities of the records in question. Inevitably, however, much is unrecoverable,<sup>316</sup>

This project is of course a case study of less documented people, the descendants of Lang Kowie Cloete, in a sparsely populated and remote region of the former Cape Colony. "Isolation and under-population combined to make the archival records relating to the northern Cape frontier zone sparser and less detailed than those of smaller, more densely settled districts".<sup>317</sup>

To recover their voices and remedy somewhat this lack of documentation -- and add a realistic and common touch -- I will draw in this chapter upon letters, statements and fragments of conversations with some of the protagonists in the Springbokfontein saga.

### **Ouma Ellie of Kouboegas**

Elizabeth Cloete of Kouboegas (Kaboegas), a place on the Commonage northwest of Springbok town, was prominent among those who spoke out in defence of the rights of Coloured occupants of the Springbok Commonage. In the community, she was widely known simply as *Ouma Ellie*.<sup>318</sup> Ouma Ellie in particular fought for the rights of the Cloetes of both Melkboschkuil and Brakfontein. Her gardens were located where the S A van Wyk High School is today, the mat houses of her and husband *oupa* Johannes 'Jaap' Cloete stood in the valley (*laagte*) at Kouboegas.<sup>319</sup>

In the gallery of folk heroes of the copper mining district, Elizabeth Cloete surely stands out, as she does in the memory of her descendants today. She was by all indications a feisty lady of strong convictions, a leader in her own right, who as we have been told, led many a march (*optog*) on the Resident Magistrate and Civil Commissioner at Springbok over the issue of relief rations.<sup>320</sup> When the copper mines closed after the First World War, the plight of the people resident on the Commonage and the surrounding towns became a burning local issue, especially during the difficult years of the Great Depression of the 1920's and 1930's.

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<sup>316</sup> N Penn, *The Forgotten Frontier*, 2005, Introduction, 3.

<sup>317</sup> *Idem*, 3.

<sup>318</sup> Elizabeth Cloete, born Gilbert, married to Johannes 'Jaap' Cloete, a descendant of one of the seven Cloete brothers. Ouma Ellie Cloete and her family lived at Kouboegas (also spelled Kaboegas), located between Okiep and Springbok. (Informant : Ouma Hakkie Cloete, 101 years, Okiep, September 1994)

<sup>319</sup> Source: Johannes George 'Jonsie' Cloete of Nababeep, 2008.

<sup>320</sup> It is said that emotions among the women marchers ran so high that stones were placed in heaps in readiness to pelt the Magistrate.

Ouma Ellie is said not to have had much regard for the capacities of the Cloete men to pursue the issue of Melkboschkuil with the necessary vigour and drive. According to *ouma* Ellie, too many strange surnames were at that stage involved in the claim for the land of Melkboschkuil.<sup>321</sup>

In what must be considered one more attempt to solve the riddle of the sale of Melkboschkuil that happened almost a century earlier, Mrs Elizabeth Cloete (*ouma* Ellie) in 1947 engaged the services of R W Bowen of Chambers, 148 St George's Street, Cape Town.<sup>322</sup> In a letter dated 10 December 1947, she was informed of the facts as follows, the attorney once again traversing the same ground as other formal inquiries:

The investigation made in the Deeds Offices Cape Town and which refers to the grant of land from the Governor General to the seven Cloetes, discloses that on the first (sic) day of January 1850, 21 410 morgen of land, named Melkboschkuil was granted to them in perpetual quitrent of FOUR POUNDS to be paid to the Civil Commissioner every twelve months, the roads and outspans remaining Government property.

Then follow details of the seven transactions of sale of the land recorded since the Cloete brothers acquired possession of the property up to the time of their disposing of the farm, leaving no residue.

*Ouma* Ellie's enquiry per R W Bowen followed on an earlier case in which she was summonsed to appear in court on 17 July 1947 on a charge of disputing Council's right of ownership of the Commonage. She was sentenced to a fine of £10 or 28 days hard labour, of which £5 or 14 days was suspended, on condition that she moved off the Commonage before or on 31 August 1947.<sup>323</sup> Given her reputation, her defiance of the town council was completely in character. Her court appearance and sentence had the effect that a note of caution was now sounded. In order to avoid rash actions in such cases, the Mayor instructed Mr F G Kotze, Caretaker of the Commonage, to discuss beforehand with local attorney Mr Israel Gordon all similar cases relating to the Commonage, and gave instructions that, awaiting the return of the Town Clerk who had been away, no criminal charges should be laid immediately against those persons who had received notices on 19 July 1947 to vacate the Commonage.<sup>324</sup>

Samuel Ruiters, a teacher of Bergsig (Springbok), and grandson of *Ouma* Ellie, wrote a play based on the Melkboschkuil story featuring the role played by his *ouma* and the attorney, D J "Daantjie" Scholtz, in the ongoing land struggle on the Commonage. We are told that he had the audience in tears presenting this poignant account.

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<sup>321</sup> Personal communication, J F van Wyk, Steinkopf, 1993.

<sup>322</sup> See annexure 9, p. 81.

<sup>323</sup> 3/SBK Ref. 1/1/1/5 Minutes of Meeting, Springbok Town Council, 29 July 1947.

<sup>324</sup> 3/SBK Ref. 1/1/1/5 Minutes of Meeting, Springbok Town Council, 29 July 1947.

**Wilfred Cloete of Blomhoek** <sup>325</sup>

Wilfred (Willy) Cloete, a great-grandson and direct descendant of Dirk Cloete, one of the seven brothers of Melkboschkuil, did not quite fit Ouma Ellie's assumptions about the deficiencies of the Cloete males. During the 1940's, Dirk Cloete's descendants still had some form of occupational rights to about one thousand square yards of land around their house at Blomhoek near Carolusberg. Wilfred Cloete, as we shall see, was not averse to writing letters to cabinet ministers such as Le Roux, Dönges and others during the 1950's.

It is therefore completely in character that on 14 June 1956 Wilfred Cloete appeared in Springbok Magistrate's Court in connection with the alleged unlawful occupation of the land at Blomhoek and as a result was forced to leave. The OCC (Okiep Copper Company), the owners of the land at Blomhoek-Carolusberg and the remainder of the farm Melkboschkuil, then gave Wilfred Cloete alternative land to live on at Plaatjie just outside of the town of Nababeep, which spot was pointed out by a Mr Pearce, at the time general manager of the OCC, and magistrate Fuller of Springbok. <sup>326</sup> This move was forced on Cloete, notwithstanding the fact that Dirk Cloete (the original co-owner and great-grandfather of Wilfred) is said by his great great-grandson (Jan 'Primus' Cloete) to have been living in Springbokfontein and tending his ploughed lands on the commonage. It seems that Phillips & King (and its successors) must have recognised some sort of occupational rights of the Cloetes so as to avoid any possible repercussions of a formal investigation.

Dirk, according to Jan 'Primus', was the last of the seven Cloete brothers to have had control over the land at Melkboschkuil until his death in 1903. His wife Grietjie died in 1904. From then on the Cape Copper Company took control of their land and the Cloetes fell under them and paid monthly rentals of 1/- to stop their small livestock from being impounded ("keep the Boers from our necks"). <sup>327</sup>

In the 1960s Dirk Cloete's great-grandson Wilfred (or 'Wolfried') took up the fight. Running into an official brick wall on several occasions must have been disheartening for him, this coming more than a century and a half after the sale of Melkboschkuil. <sup>328</sup>

The Melkboschkuil issue features in a number of draft letters of Wilfred (aka Willy) Cloete, formerly of Blomhoek or Boonste Koperberg, which area now forms part of the Springbok Nature Reserve. Copies of the letters were made available by his son, the late John Hendry (Jan 'Primus') Cloete. <sup>329</sup>

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<sup>325</sup> Annexure 12 & 12a.

<sup>326</sup> Jan 'Primus' Cloete, Belhar, Cape Town, 18 September 1993.

<sup>327</sup> Jan 'Primus' Cloete, personal communication, 18 September 1993.

<sup>328</sup> Line of descent : Dirk Thomas Cloete, co-owner of Melkboschkuil; Dirk Petrus Cloete; Gert Cloete; Wilfred Cloete; John Hendry (Jan 'Primus') Cloete.

<sup>329</sup> These transcripts are unchanged and the regional variant of Afrikaans left in its original form. Spelling or syntax, therefore, is left as is.

The difficulty of reading the text of the letters of Wilfred Cloete has been highlighted in a memorandum by a recipient, the Regional Representative of the Department of Coloured Affairs, Cape Town:

... pp. 43 – 54 deals with a letter from one Wilfred Cloete of Springbok. Cannot make head or tail of the story; articles (of correspondence) have now been dealt with and filed with a further letter from this man in NV-C (“onplaasbare navrae”) 22 June 1965.<sup>330</sup>

One such letter dated 29 January 1964 was addressed to Mr Van Schalkwyk of the Regional Office, Department of Coloured Affairs, Springbok, giving a brief history of how Wilfred Cloete’s family was driven away from Melkboschkuil in 1956. Describing the basis for their continued presence on the land of Melkboschkuil up to 1956, Cloete relates how he and his family were uprooted from their ancestral land and removed to Plaatjie, a small settlement at Nababeep (the incident referred to above):

*Mnr J Dixon<sup>331</sup> es en seun van Mnr Bien Dixon grootnababeep wat die Kaap se Company veldkoernet ge seet het toe die Company die roel of bestuer ge kry hat na Derk Cloete se dood en zy vrou see Dood wand 1903 es oupa derk dood en die ouma es 1904 dood en toe hat die Company terwyl die Company die mynne op die grond hat ok die bestuer ge kry.*

(Mr J Dixon is a son of Mr Bien Dixon of Groot Nababeep, who was appointed field cornet by the Cape Copper Company when the latter had taken control (of the land) after the death of Dirk Cloete and his wife; as oupa Dirk had passed away in 1903 and the ouma died in 1904, the Company because they owned the mines on the land, also gained control [of the land])<sup>332</sup>

<sup>330</sup> KUS 5/2/1/F331 Ref. 1/86 Vol. I. Wilfred Cloete to the Regional Representative, Department of Coloured Affairs, Cape Town.

<sup>331</sup> John James known as “Swart Jim” Dixon, son of Benjamin Manifold “Bien” Dixon. Dixon senior obtained a 99-year lease on Groot Nababeep (portion of Lelyke Pad farm, alias Nababeep) to supply the Cape Copper Company with oats for its draught animals. Lieutenant “Swart Jim” Dixon was a member of the Namaqualand Border Scouts during the Anglo-Boer War (1899 – 1902). (See Ledivia van Vuuren & Martie du Toit, *Die Dixons van Namakwaland. Van Wicklow, Ierland tot Roodebergskloof, Garies. Die nageslag van stamvader Benjamin Dixon (1799 – 1866) en Lodivia (sic) Maria Manifold (1808 – 1900)* (Houghton: Genealogical Society of South Africa, Sept. 2012, 35.)

<sup>332</sup> Bien (Benjamin Manifold) Dixon was the field cornet at the time when the Cape Copper Co. took over the “bestuur”. Dixon leased (“onderverhuur”) land from the OCC (Okiep Copper Company). In 1903 Dirk Petrus Cloete still had control over the Commonage (?) of Melkboschkuil, the only one of the seven brothers to do so at this time. After his death, none of Dirk’s children took over and exercised further control over the land. After obtaining work from the Cape Copper (Mining) Company, the new employees would approach Dirk Petrus Cloete who would allocate them land and grazing as tenants on Melkboschkuil Commonage.

(Source: Jan ‘Primus’ Cloete, 20 October 1993)

*en 1910 hat my pa gerd Cloete op Koperbergblomhoek af ge Pensen duer die Company lewensreg ge kry so hat ons daar ge bly tot 1927 Januarie 27ste es my vader ok af ge sterf en my ma es en 1954 ok op Coperberg blomhoek af gesterf en 1956 hat mnr foellier die Compeny se veld koernet my duer die landdroos hoof lat weg jag om 10 uur 18 June 1956 hat ek verhues na babeep Plaatjie, Namakwaland.*

(In 1910 my father Gerd Cloete having retired on pension from the Company, lived at Koperberg-Blomhoek where the Company gave him usufruct ... and so we lived there until the year 1927. On 27 January my father then passed away followed by my mother in 1954 at Koperberg-Blomhoek. The Company's field cornet, Mr Foellier, had the magistrate court drive me away (from Koperberg-Blomhoek) on the 18<sup>th</sup> of June 1956 at 10 o'clock. After that I moved to Plaatjie at Nababeep, Namaqualand)

For good measure, Wolfred Cloete then gives a list of historical place names with their modern equivalents in brackets, for example:

*“Kookfuntien eers genoem nou Stienkopf”* (first called Kookfontein, now Steinkopf) *“Wetdorp eerst genoem nou Concoreda”* (Witdorp, now Concordia)

*“Melkbos Kuel eers genoem nou Springbok”* (Melkboschkuil, now Springbok)

*“Roopbaai eers genoem nou Port Nolit”* (Robbebaai, now Port Nolloth)

Cloete ends off his letter in the usual formal way: Wolfred Cloete N.V.K. [Namakwaland Vereniging van Kleurlinge?]

In another letter dated 23 October 1966, Wilfred Cloete approached the same official (Van Schalkwyk, Regional Representative of the Department of Coloured Affairs at Springbok) in regard to raising a loan. But in order to access a loan from the Coloured Development Corporation, Cloete had to have a plot or stand (as collateral). To this end, he approached Mr D O Pearce, general manager of the Okiep Copper Company, to ask for “ha perseel ... om die Mnr D O Pearce die bestuureg hat wat Derk Cloete nog laas voor sy dood ge hat het. “ It is significant that he based his appeal for a plot of land on the fact that his forebear, Dirk Cloete, still had “die bestuursreg” or right of control over the land of Melkboschkuil up to his death in 1903, which right or power had been passed on to Mr D O Pearce, general manager of the Okiep Copper Company. <sup>333</sup>

In the event, The Okiep Copper Company did not see its way clear to grant Cloete either premises or land to put up a restaurant and waiting room / bus shelter.

*Nou is die Matskappy nie bereid is om my toe te laat om ‘n Restaurant op te reg op ookiep nie wand ek heet ge vra om ha lewe ver my te mak en ok meet die van Kleurlinggemeenskap sam*

<sup>333</sup> Mnr Wolfred Cloete, N.V.K. [Nasionale Vereniging van Kleurlinge], Plaatjie, Nababeep aan Departement van Kleurlingsake, Monte Carlo-gebou, Heerengracht, Kaapstad, 23 Oktober 1966.

(Source :Copies of (draft) Letters in possession of J H (Jan ‘Primus’) Cloete, at the time (1993) secretary of the NBV, Namakwaland Burgervereniging)

*werk dan wel ek nog een wag hues ver de Kleurling wat moet die bues soos op die soon moet kom wag dors soms honger onder ha Dak kan wees. Nou vra ek persoonlyk hulp en om ok ver my [‘n] lewe te mak.*

The lack of amenities and an opportunity to make a living had been a sore point with Wilfred Cloete, exacerbated by the Company’s refusal to allow him to put up a restaurant at Okiep; besides, Coloured passengers waiting on the bus had without proper shelter to brave sun and wind, at times going hungry and thirsty.<sup>334</sup>

According to Wilfred Cloete, the General Manager Pearce in fact assured him during discussions on 13 March 1964 that he would see that he (Cloete) get a piece of ground since the company had acquired the land rights of Lang Kowie Cloete at the time of Phillips and King and the start of copper mining in Springbokfontein. Wilfred Cloete’s request for a piece of land simply relied on the traditional land rights over Melkboschkuil first held by Lang Kowie Cloete, the progenitor of the seven Cloetes who were granted formal rights in 1850:

*verder hat ek en Mnr D O Pearce op die 13 Maart 1964 samespreking waar in Mnr pearce my mee ge deel hat en ge see lat ek moed gaan stel bly Mnr Pearce sal sien lat ek grond kry. Om die rede die Company hat die be stuer oor die grondregte van Springbok waar op Lang Kowie Cloete was eerste die Bestuer reg ge hat 1850 en die tyt van Spillips en King die myne op Springbokfontien be gend hat waar op ons landkaart van die Republiek No. 3 Springbok Namakwaland an duie.<sup>335</sup>*

Furthermore, Wilfred Cloete had through his attorneys D J Scholtz & De Wit, P O Box 35, Springbok, written earlier to the Okiep Copper Company on 3 October 1966, but to no avail:

*Skrywe was R2 – 10 [en] es die getue lat ek Mnr Wolfred Cloete N.V.K. an die Company ge lat skrywe hat en die andword lat die maatskappy nie bereid is om my toe te laat om ‘n Restaurant op te rig op o okiep nie en dan see die Blankies ons moet samwerk ek vra is dat samewerk.*

(The letter cost R2 – 10 – 0 which serves as proof that I, Mr Wilfred Cloete, N.V.K.<sup>336</sup> [Namakwaland Vereniging van Kleurlinge, Namaqualand Coloured Association] had a letter written to the company which was not prepared to let me start a restaurant in O’okiep. And then Whites expect us to join hands and work together --- I ask you, is this what is called co-operation?)

The negative response from the Company in regard to the request for land, had the applicant doubt the willingness of whites to co-operate generally, and the bona fides of the Okiep Copper Company in particular, as the latter gave away their (the undersigned’s) birthright to others. An appeal for assistance is therefore directed to the Department of Coloured Affairs, which department was established in terms of Act 46 of 1951:

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<sup>334</sup> Idem.

<sup>335</sup> Letter Wilfred Cloete to Dept. Coloured Affairs, dated 23 October 1966.

<sup>336</sup> Probably the same as the Nasionale Kleurling-unie, Springbok, 1946.

*[Om]rede hat die Company ons geborttereg an anders weg gegee daarom vra ons nou an die liggaam wat deur die Regering ingevolge Wet No. 46 van 1951 [daargestel] is. [Dept of Coloured Affairs]*

The letter is signed by Wilfred Cloete on behalf of himself and Jan Farro of Narap; Jakobus Linde, Gorogoup; Herrie Phillips, Vonteinjie; Wellem Mulfred, Swarthoek.

Of particular interest is a brief exposition by Wilfred Cloete of the history of the farm Melkboschkuil as seen against the background of that of South Africa:<sup>337</sup>

*My vooreg adries was Koperberg blomhoek van af 1911 tot 1956 daar waar hulle nou die plek nam gegee hat laas Karoliesberg in Mnr Simon van der Stel 1685 hom nam gegee Klijn Koperberg en 1850 hat Spillips en King meet die Cloetes sam drynk en sam wyding ... Na 1910 hat die Boere en die unie wet van transvaal vrystaat natal en Kaapland ge kry om te regeer en nou kom weer die kwessie van Hottentot en Kleurling die slawekwessie die Kafferkwessie en al die Boere en Engelmane Amerieka weet lat namakwaland an ons be hoort nou wel ek neet see ongeletterde Kleurling man dit weet en die wit Base wel nie weet nie.*

*(L)at ons in Suit-Afrika en vredelewe [sodat] ons goddelike meester ons kan seen meet Reen ek hoop die Blankman mag sien wat hy doen en reg doen soos God wil hê vrede met al die nassies.*

(My previous address from 1911 to 1956 was Koperberg Blomhoek, which they have recently renamed Carolusberg, and Mr Simon van der Stel called Klijn Koperberg. In 1850 Phillips & King watered and grazed their livestock together with the Cloetes.... After 1910 the Boers by the Act of Union got the right to govern Transvaal, Free State, Natal and the Cape Province, with the result that the following (racial) questions have re-emerged: Hottentot and Coloured, the Slave question, the Kaffir question as well as Boers and Englishmen. (The United States of) America<sup>338</sup> knows that Namaqualand belongs to us. Now I just wish to say, the illiterate Coloured man knows this, but the white Bosses do not want to know)

Wilfred Cloete concludes with the following appeal: Let us live in peace in South Africa, so that our divine master can bless us with rain. I (sincerely) hope the White Man is aware of what he is doing, and does the right thing (to bring) peace amongst all nations according to God's will.

The burning question of how Namaqualand could have fallen under white control is once again addressed to the Department of Coloured Affairs, from which body Mr Wilfred Cloete is anxious to extract an answer:<sup>339</sup>

*(E)n veerbant meet die ou nams, be staan daar nog baei meer ou nams.*

<sup>337</sup> Mnr Wolfred (sic) Cloete, N.V.K., Plaatjie, Nababeep, Namakwaland, 23 October 1966.

<sup>338</sup> In 1937 The Okiep Copper Company (OCC), successors to Phillips & King and the Cape Copper (Mining) Co., took over the copper mines of Namaqualand. The majority shareholding in the OCC was held by USA interests.

<sup>339</sup> Mr Wilfred Cloete, N.V.K., Plaatjie, Nababeep to the Office of the Regional Representative, Dept. Coloured Affairs, Private Bag, Springbok, dated 3 January 1967.

*(E)n hiers my vra : Namakwaland ... hy is van oillevandrieveer se baie af be kend (as) Namakwaland tot Port Noleit en hy was Ropbaai daarom kan ek nie sien nie lat Springbok streek onder blanke be stuur (val). Sien Kaart No. 3 Springbok Namakwaland en gee my andword asemblief dan kan ons weer verder gaan meet ons sake.*

*Ek bly die uw diensswellig*

*W Cloete Stamhoof*

(As regards the old Namas, there are still many of these old Namas (in Namaqualand). And here is my question (to you): from the bay of the Olifants River [Lamberts Bay] to Port Nolloth (formerly known as Robbe Bay) the land is known as Namaqualand. Therefore I cannot see that the Springbok region should fall under white control. See Map no. 3 of Springbok, Namaqualand and give me an answer, please; then we can continue discussing our affairs)<sup>340</sup>

I remain your obedient servant

W Cloete ... Head of the Clan (Stamhoof)

After giving the historical boundaries of Namaqualand (as he saw it), Wilfred Cloete poses the critical question : how come the Springbok region is under white administration when there are so many original Namaquas still around ? When legal arguments to substantiate his claims to the land failed him, he resorted to moral arguments to bolster his case, as seen from the following letter dated 23 September 1955 to the Department of Internal Affairs, Division Coloured Affairs, Hertzog Building, Cape Town:

Mr Wilfred Cloete by way of introduction, mentions that he was instrumental in organising on 7 July 1951 the N.V.K. (Namakwaland Vereniging van Kleurlinge / Namaqualand Association for Coloureds) and its section for public affairs (Landstem) on the Namaqualand Council, to plead for justice for the people as well as for the vote.

*... ek es op die 15de Jullie 1955 van Mnr Fullger veldkoernet en van die amereka groot baas wegge jag en ek es soos de regeering wet es ek hier ge boore en groot geword soos die amerika basee en amerika groot geword hat ... en volgens wet van die Landstem hoort ek hier ...*

(On the 15<sup>th</sup> of July 1955 Mr Fullger the field cornet and the big boss from America drove me off the land [at Koperberg-Blomhoek, as reported above]. As the Government is well aware, I was born and

<sup>340</sup> "Aggression can be shown in differing ways. One elderly man in Port Nolloth has achieved considerable status by refusing to acknowledge the jurisdiction of the South African government. He has a carefully documented case which he bases on the contention that a large part of the Namaqualand area (he can cite the beacons demarcating it) was given to the Coloured people during the reign of Queen Victoria, and that this has never been revoked. The South African government has no power over him, he reasons, and he put this into practice some years ago when he built a shop without submitting plans to the Town Council, buying the land or applying for a trading licence".

grew up here, just as the bosses from America were born and raised there.<sup>341</sup> According to the laws of this country, I belong here)

*(E)n die Boer mnr L van Zijl wat een die Company werk op Nababeep wes ... die kom seet mij donkies en nog twee mane see donkies en die Kraal dar moet die arm diere sonder koos staan en ons moet meet goede oog en anskou [hoe die diere] meshandel [word].*

(And lo and behold, this Boer, Mr L van Zyl, who works for the Company at Nababeep West, comes around and impounds my donkeys as well as those of two others. There the poor animals have to stand without food and we can only watch them being ill-treated)

*(M)ij nam es Mnr Wolfred Cloete en Wellum Mulfred en Jan van Wyk aldrie es landstem mane van Namakwaland es daar om ver soek die boer ons ver kwaat en ek vra die Dipartement van Kleurling sake (afdeling Kleurlingsake) Hertzog-gebou Commercialstraat 87 Kaapstad, wand dad es die tyt wat die Boer moet een die kerk ge wees hat wat Hy rond ry om die Kleurling [te] moeliesteer wand hy sny zij Bok en Skaap Lamers op Sondag en al zij Plaas werk doen hy op Sondag en dan es hij ha Baas en hy wel he baas genoom wees en ek kannie wand hy hat Mnr K Maas se vrou afgeneem en so en man kan ons nie respek nie wand die ge bode see :*

6. Jy mag nie doodslaan nie

7. Jy mag nie egbreek nie

8. Jy mag nie steel nie

9. Jy mag geen valse getuenes teen jou naste spreek nie

*So ver ek wet kan ek nie meet die sog samgaan nie (amen)*

(My name is Mr Wilfred Cloete and Willem Milford and Jan van Wyk, all three of us are inhabitants of Namaqualand. That's why this boer is deliberately provoking us, and I therefore appeal to the Department of Coloured Affairs, Hertzog Building, 87 Commercial Street, Cape Town. This is the time when instead of going to church, the Boer drives around harassing the Coloureds. He goes as far as marking his goat and sheep lambs on a Sunday and also carries on farming activities on a Sunday. And then he acts like a *Baas* and wants to be called *baas* and I cannot because he has gone off with Mr K Maas's wife. Such a man we cannot respect because the commandments say:

6. Thou shall not commit murder

7. Thou shall not commit adultery

8. Thou shall not steal

9. Thou shall not accuse anyone falsely

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<sup>341</sup> American bosses: reference to the OCC (Okiep Copper Company Ltd, a USA controlled and operated mining company.

As far as I know, I cannot associate myself with pigs (amen)

Having been forcefully removed from his ancestral land at Blomhoek (Melkbosckuil), Wilfred Cloete now found himself on mining company land at Plaatjie, part of Lelyke Pad farm (outside Nababeep town), where he was once again subjected to harassment at the hands of a mine official.

### **Carolus Davis of Vaalwater**

Carolus Davis, Turnkey or Gaoler at Springbokfontein, had been a constable since 1<sup>st</sup> April 1890. Described as “bearing an excellent character” and “a valuable servant ... always (giving) satisfaction”, he was subsequently on 5 July 1892 nominated by the Resident Magistrate’s Office for appointment as Gaoler on a salary of £75 p.a. on the Attorney General’s Department.<sup>342</sup>

Some years later we again make acquaintance with Carolus Davis in the Minutes of Meeting of the Village Management Board of Springbok dated 13 November 1924. A Letter dated 4 November from Sister Theresa (in religion) attached to the Roman Catholic mission station in Matjeskloof outside Springbok, applied on behalf of C Davies (sic) for plough lands. After discussion, it was decided to let the matter stand over until such time that the question of the Commonage was resolved (at that stage negotiations between the Village Management Board and the Cape Copper Company to acquire the Commonage were still in progress).<sup>343</sup>

But more than two decades later in 1948 Carolus Davis, no doubt succumbing to extreme pressure from the municipality, fell in with the town council’s prescriptions (his son later seems to have been unaware of his father’s action in giving up whatever rights he may have had on the Commonage). In a letter of 13 September 1948, Davis informed Council that he held no rights on the Commonage, and thus applied for permission to reside at Vaalwater.<sup>344</sup>

Councillor Van Zyl reported to Council on the above matter and proposed that in light of this acknowledgement in writing, Carolus Davis be permitted to remain at Vaalwater in accordance with

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<sup>342</sup> CO 6642 Resident Magistrate’s Office, Namaqualand to Secretary to Law Department, Cape Town 5 August 1892 re Appointment of C Davis as Turnkey.

Note: Carolus Davis’s father (likewise a gaoler) was originally from Natal.

<sup>343</sup> 3/SBK Village Management Board Minutes 1922- 1929 Springbok Commonage 1924. Application C Davies, 13 November 1924.

<sup>344</sup> 3/SBK Ref. 1/1/1/6 Council Minutes 1948 – 1951, 13 September 1948. Carools (sic) Davis relinquishes rights at Vaalwater, 1948.

its regulations and decisions for as long as it pleased Council.<sup>345</sup> This proposal was adopted and Cllr Van Zyl was thereupon thanked by the mayor for attending to the matter.

Shortly after the end of the Second World War, Carolus William Davis (son of gaoler Karools or Carolus Davis) is on record as having written to the Surveyor -General whereby he had lodged a claim based on prescription to a certain piece of land on the Commonage. In reaction to this correspondence, Springbok Town Council informed him that it categorically refuted the claim.<sup>346</sup> So, years later around 1976, C W Davis, intent on reviving this claim to what he regarded as his family's land, ordered from the Surveyor-General a map reflecting the location of Vaalwater and surrounding properties pre-1945 and afterwards.<sup>347</sup> Earlier in 1972, Davis had already applied to the Secretary for Agricultural Credit and Land Tenure in regard to "the transfer of the land known as Vaalwater". He was informed that the land concerned formed part of the Remainder of Melkboschkuil Farm No. 132, Namaqualand Division, and was registered in favour of the Municipality of Springbok in terms of Deed of Transfer No. 1640 dated 21 February 1942.<sup>348</sup>

However, on the basis of the family's assumed ownership, Davis's elderly mother (87) then had a last will and testament drawn up, leaving her property named Vaalwater and Taaiboshoek to her only surviving son, Carolus William Davis. In this document, Mrs Catherina Davis at the same time demanded that all persons occupying the said land, whether at own risk or with permission from Springbok municipality, be removed. All rentals accruing from occupants over the years, were to be paid over to her son. Her last will and testament was signed at Okiep on 17 March 1976 and witnessed by C O'Neill and H J Leo.<sup>349</sup>

It is helpful to look at the version of events surrounding the claims on Springbok Commonage at Vaalwater as presented by Carolus W Davis:<sup>350</sup>

In the year 1945 a case was heard at Springbok court which involved a piece of land named Vaalwater, situated about 2 to 3 miles west of Springbok.<sup>351</sup> On application by my late father, Carolus Davis, the matter was brought to court. While the matter was being heard, certain other persons lodged a claim on the same piece of land. The applicants, by name, were Elizabeth Cloete, Jan Cloete, Willem Cloete, Joseph Osborne, William Abrahams, John Newman and

<sup>345</sup> This was confirmed independently by Jan 'Primus' Cloete: C Davis signed and relinquished his rights on the Commonage; in return, Davis was allowed to remain on part of Vaalwater. (Personal communication, 1993)

<sup>346</sup> 3/SBK Ref. 1/1/1/4 Minutes of Meeting, Springbok Town Council, 6 February 1945.

<sup>347</sup> Letter C W Davis of P O Box 70, Okiep to Surveyor General, Cape Town, n.d. (c. 1976).

<sup>348</sup> ACLT 292 Aansoek om oordrag van Grond bekend as Vaalwater naby Springbok (1972). Sekretaris van Landboukrediet en Grondbesit aan Mnr C W Davis, Posbus 70, Okiep, Kaap Provinsie, 26 September 1972.

<sup>349</sup> (Handwritten) Copy of Last Will and Testament of Catherina Davis dated 17 March 1976.

<sup>350</sup> C W Davis, Okiep, to the Secretary, Minister for Lands, Pretoria, undated, circa 1976. (Draft letter translated from Afrikaans)

<sup>351</sup> Annexure 13.

Hendrik Losper. All the aforementioned persons were temporary occupants of the land, with permission granted by my late father who was regarded as the owner of the land.<sup>352</sup>

The said land was bought by my late father from the owner at the time, Dirk Cloete, at the purchase price of 40 Boer goats and two oxen. The deal was, however, not reduced to writing, the witness being Mr Stephanus van Niekerk,<sup>353</sup> an attorney at the time practising in Springbok.

In 1911, ownership of the land was verbally transferred to my father by my late grandfather. Grandfather passed away in 1916. All the above-mentioned (seven) persons have since died, and none of their children have since their death occupied the land.

The Davis family have ever since grandfather's death occupied the land as we regarded it as our own; and after my father's death continued to do so, my mother, my brother and I. My mother is still alive and can confirm this statement.

Springbok municipality in 1945 devised some sort of settlement whereby the land would be granted to eight claimants provided that they sign certain documents. The majority (of the intended beneficiaries) refused to sign, holding out for more land. As a result of this rift between the claimants, the documents were never signed. The Davis family now wishes to know what has happened to the land, as it is still lying vacant except for a cemetery for Coloureds.

We therefore appeal to you to reconsider the matter and come to our assistance by allocating us the said land or a portion of thereof, on which we will be able to make a living. As mentioned, even if it is only a piece of the land, considering that it was purchased. We are prepared to carry the costs of survey and transfer,

Further information as background to their claim is given by Carolus W Davis in a letter written in or about 1976 to the Minister for Agriculture and Land Tenure, Pretoria:<sup>354</sup>

A far as I am aware of, the land under claim [Vaalwater and Taaiboschoek] was state land which the owner at the time, Dirk Cloete, also then owner of the present-day town of Springbok, sold to my grandfather who was officially known as the gaoler of Springbok. My grandfather kept livestock, but he was not allowed to have the animals in the town. On application to the owner Dirk Cloete, a piece of land was granted to him. In 1890, my late father was born on this land. Here he was raised, and he later joined the police force. Until his death in 1960, he has always resided on Vaalwater.

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<sup>352</sup> As we have seen in the previous chapter, these eight "temporary" residents on the land were recognised by Springbok Municipality as having prescriptive rights. They were then on the point of being awarded land relinquished by the Municipality.

<sup>353</sup> Servaas van Niekerk (1851 – 1926), first solicitor practising at Springbokfontein.

<sup>354</sup> C W Davis, Okiep, to the Minister for Agriculture and Land Tenure (Grondbesit), Pretoria, n.d. (Draft letter in Afrikaans).

From Vaalwater, I attended school and completed the standard 6 certificate; thereafter I worked in the Springbok post office until 1933 when I went to Cradock to train as a teacher. I returned to Vaalwater where my parents have always lived. From this time onwards, I have always regarded Vaalwater as our property. Even today my brother and I are regarded as the owners, and people approach us for permission to reside at Vaalwater. This was the case until a few years ago when the municipality stepped in and charged for building plots.

Carolus William Davis throws further light on the circumstances surrounding the acquisition by his grandfather (Carolus) of the place called Vaalwater from Dirk Cloete, former co-owner of Melkboschkuil.

In reply to a letter from the attorneys Messrs Van Wyk & Swanepoel dated 29 June 1976, Davis brought the following to their attention: <sup>355</sup>

The subject land was in about the year 1888 acquired by my late grandfather. In 1889 my father was born on this same piece of land. They were in undisturbed occupation of the land since there was no municipality. The land borders on Springbok, but is marked off by beacons and includes Vaalwater and Taaiboshoek; the lands (lying fallow) is testimony to the labour of generations. Those who refused to sign were occupants of Kouboegas, a piece of land situated between Springbok and Okiep, and when not granted this land, they refused to co-operate. My late father was the sole resident of Vaalwater, over which he held ownership. For this reason, it was not necessary for him to sign. When the municipality took over the Commonage, my late brother was thus resident on the land which he never left. He was forced to pay rent as he was loathe to move off the land. After the death of my father, he as well regarded the land as our property. My mother is still alive and feels aggrieved because we have never been regarded as tenants. She can call on numerous witnesses who will testify that the land belonged to generations of the Davis family. According to my mother, the land was never sold by them to anyone, and she now wishes to know why beacons were erected to separate the said land from that of Springbok. After spending all these years in the teaching profession, I am on the point of retiring and would love to settle on the land. I would like to know whether I should apply, and if so, to whom.

Despite such heartfelt appeals, the Davis family was unsuccessful in their bid to lay claim to Vaalwater and Taaiboshoek. It was left to John 'Tatie' Newman of "The Copper Smelting Place" to launch a successful land claim based on prescription.

### **John 'Tatie' Newman of Kouboegas**

Of the eight claimants on Springbok Commonage, John 'Tatie' Newman <sup>356</sup> appears to be the only occupant who eventually managed to get his land rights recognised when in 1966 he was

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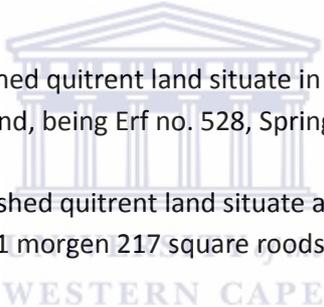
<sup>355</sup> C W Davis, Okiep to Messrs Van Wyk & Swanepoel Re: - Springbok Munisipaliteit en Myself, 1976. (Draft Letter in Afrikaans)

posthumously awarded several plots in Bergsig Township. After an epic battle with the officials of Springbok Municipality during the early 1950s to hold on to his land and crops, Newman had landed up in court and was sentenced to a jail term for assault. The charges arose from his resistance to the destruction of his grain crops and family homestead by council workers and officials. The sentence was served in Vanrhynsdorp, and this dark episode in his life had an adverse effect on his health.<sup>357</sup>

At the time, D J (Daantjie) Scholtz acted for John Newman, and it is reliably learnt that when Newman lay dying, Scholtz wanted him to cede and sign away his claims on the Commonage in lieu of payment for legal services rendered (including administering the expected deceased estate). Newman refused to sign.<sup>358</sup>

This fact is borne out by the records of the matter known as *John Newman (Plaintiff) versus Municipality of Springbok (Defendant)*, 24 December 1963:<sup>359</sup>

John Newman (claimant, a pensioner residing at Copper Smelting, Springbok) brought an application against Springbok Municipality for a declaration of ownership rights based on prescription in respect of --

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- (1) Certain piece of abolished quitrent land situate in the Municipality of Springbok, Division of Namaqualand, being Erf no. 528, Springbok, measuring 37 morgen 330.27 square roods.
  - (2) Certain piece of abolished quitrent land situate as above, being Erf no. 241, Springbok; measuring 1 morgen 217 square roods 67.78 square feet.<sup>360</sup>

The subject land (Erf 528 & 241) is known as "Copper Smelting". At all material times before 10 November 1954 the registered owner had been in succession the Cape Copper Mining Company Limited (Deed of Transfer No. 297/1889); the South African Copper Company Limited (T5247 / 1931) and O'okiep Copper Company Limited (T9350 / 1937). The land was then registered in the name of the Defendant, Springbok Municipality, under Deed of Transfer No. 18534 of 1954.

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<sup>356</sup> John "Tatie" Newman (junior) married Sophia Homes. Note: John Newman (senior) was a police constable at Springbokfontein in 1892. Newman was appointed police constable in place of Carolus Davis who was transferred as gaoler (turnkey) to the Attorney General's Office (11 July 1892).

<sup>357</sup> Cf M Oppel, *I loved that place Tdjouboegas*, 2004.

<sup>358</sup> Jan 'Primus' Cloete, personal communication, 1993.

<sup>359</sup> CSC 2/1/1/2433 Ref. 2670 A.30 CPD Illiquids 1963. *John Newman (Plaintiff) versus Municipality of Springbok (Defendant)* 24 December 1963. In forma pauperis case no. 2670/1963.

<sup>360</sup> PAS 5/352 Ref. L72/c/27 Purchase of land from Okiep Copper Co. Ltd (OCC). Acquired by Springbok Municipality for £135 (Erven No's 241 & 528).

By that time, the claimant and his predecessors had occupied and exercised full ownership rights on the property, *nec vi, nec clam, nec precario*<sup>361</sup>, continuously for a period of more than 30 years.<sup>362</sup>

Sadly, before he could see the Supreme Court make any awards in his favour, John Newman died on 5 December 1964, and his surviving spouse, Sophie Newman (nee Homes), to whom he was married in community of property, was appointed the executrix dative.<sup>363</sup> Newman died intestate, leaving nine children, of whom four sons benefitted under the settlement agreement with Springbok Municipality.

A Memorandum of Agreement of Settlement was, after negotiations conducted during 1966, concluded by and entered into between the Municipality of Springbok and Sophie Newman in her capacity as Executrix Dative in the estate. In terms of this Memorandum, the parties agreed that the deceased estate relinquish its prescriptive claims on the property known as Erf no. 528, Springbok, and Erf no. 241, Springbok. The Municipality was however required to grant usufruct over the land in dispute to Sophie Newman and her 4 children, including the latter's families. This usufruct was to continue until the death of Sophie Newman, the Municipality to bear costs of registration.

The Estate was, in addition, obliged to provide the Municipality with a sworn declaration from a neutral person confirming the exercise and acquisition of prescriptive rights over the subject land by the late John Newman, as well as a written statement relinquishing its rights on the land after the Municipality on its part had met the obligations under this agreement.

Furthermore, in terms of this Agreement, the four children of the late John Newman were each to receive from the Municipality one erf in the township of Bergsig, the costs of transfer to be borne by the transferor. The sum of R400 (four hundred rand) had to be paid into the estate of the late John Newman for costs incurred and / or as compensation.

This agreement was subject to the approval of the Supreme Court of South Africa, Provincial Division of the Cape of Good Hope, and was signed at Springbok on the 19<sup>th</sup> day of October 1966 by Mayor J Jowell and the Executrix Dative, S Newman.<sup>364</sup>

In conclusion, a Sworn Declaration to the effect that the contents of the Agreement of Settlement was fully understood to the satisfaction of the parties, was signed by Sophie Newman and her sons

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<sup>361</sup> *Nec vie, nec clam, nec precario*: "neither by violence, nor covertly (clandestinely), nor by sufferance revocable at will." (L) (V G Hiemstra & H L Gonin, *Trilingual Legal Dictionary*, Kenwyn: Juta en Kie, Bpk, Third edition, 1992).

<sup>362</sup> CSC 2/1/1/2433 Ref. 2670 A.30 CPD Illiquids 1963. John Newman (Plaintiff) versus Municipality of Springbok (Defendant), 24 December 1963.

<sup>363</sup> Note: George Homes, a blacksmith employed by Phillips & King at Springbokfontein, 1859.

<sup>364</sup> CSC 2/1/1/2433 Ref. 2670 A.30 CPD Illiquids 1963. John Newman (Plaintiff) vs Municipality of Springbok (Defendant).

Thomas Newman, John Newman, Sam Newman and Freddie Newman. This outcome (relinquishing all rights on the land in dispute in exchange for erven in the township of Bergsig), appears to have closed the chapter on the quest by John 'Tatie' Newman to assert his land rights on the Commonage of Springbok. He was the only one of the eight original claimants to have succeeded.

### **Willem Cloete in the Nature Reserve (Portion 8)**

At one stage, the Cloete claimants (including Freddy Karsten) had their sights on Portion 8 of the Remainder of Melkboschkuil farm, but legal costs to claim the land would have amounted to a figure way beyond their means.<sup>365</sup> This attempt to claim Portion 8 appears to signal one of the last moves by the Cloetes to hold onto whatever rights they may have had on the Springbok Commonage.

Portion 8 would be developed by Springbok municipality as a nature reserve, so it was necessary that all unauthorised persons and their belongings be moved from this land.

To give just one example. At the time, one Willem Cloete was occupying land on the Nature Reserve Farm near Carolusberg. He was accordingly on 31 March 1967 advised by C L Lanham, Secretary of O'okiep Copper Company Ltd, that:<sup>366</sup>

This letter therefore serves as notice to you to move yourself, your family, your house, your livestock and all your other belongings off the Nature Reserve and off this Company's property by the 30<sup>th</sup> April, 1967. If you do not move by that date you will be prosecuted for trespassing and you will be forcibly removed according to law. You should therefore obey this instruction without delay to save yourself unnecessary trouble and expense.

A Summons in Criminal Charge (No. 198 / 67) was duly issued against Willem Cloete on 11 May 1967 by the Magistrate's Court Springbok, District of Namaqualand.

The accused was charged with the offence, in that upon (or about) the 30<sup>th</sup> day of April 1967 at the Nature Reserve, Carolusberg, in the district of Namaqualand, the said accused did wrongfully and unlawfully and without the permission of the J N B du Plessis (Nature Reserve officer), the lawful occupant of the above-named land, trespass on such land.

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<sup>365</sup> Source: Jan 'Primus' Cloete, Sept. 1993. Note: Freddie (Ferdinand) Karsten's *ouma* was a Cloete.

<sup>366</sup> C L Lanham, Secretary O'okiep Copper Company Ltd, dated 31 March 1967 to Mr Willem Cloete, Nature Reserve Farm, near Carolusberg.

The outcome of this case is not known, but in a similar one (The State versus George Cloete; Case 169 / 1969), the accused was found guilty and sentenced to a fine of R10 or 20 days imprisonment suspended for 12 months. There were several other cases of a similar nature that landed up in the magistrate's court at Springbok.

From the 1940s to the 1960s resistance to the demands of the Municipality and prosecutions would become the order of the day, ranging from the actions of feisty *ouma* Ellie to passionate but erratic Wilfred Cloete. All the resisters had just one goal in mind: restoration of what they believed were their rights in land unjustly taken away. In the process, some would risk life and limb, such as John Newman, who died not long after being imprisoned at Vanrhynsdorp for assault and resisting arrest. But at some point in later years, the matter of the farm Melkboschkuil would be taken up at a different level and place: the Office of the Commission for Restitution of Land Rights in Cape Town.



## CHAPTER 7

### ORIGINS OF THE CLOETES

*The graves of our forefathers are our title deeds*  
(South African land claimants, 1993)

In South African scholarship during the 1980's, social historians sought to uncover the hidden stories of ordinary people and give voice to the experiences of marginal groups. Social histories of the

marginalised and oppressed communities would in this way emerge ‘from below’ as a counter-narrative to power and domination.<sup>367</sup>

The following instance may be interpreted as an example where a voice ‘from below’ speaks of the difficulty of being heard. During a somewhat heated land claims meeting in December 1993, Paul ‘Lulu’ Cloete, an elderly Cloete descendant and then chairman of the Namakwaland Burgervereniging (NBV), exclaimed: “I believe my parents, even though they may lie. We’ve only got oral tradition to rely on, whereas White people have recorded their own history, not ours.”<sup>368</sup> In the Melkboschkuil matter, as will be seen below, oral tradition would have to be enlisted to shed some light on the circumstances surrounding the sale of the farm.

### Early history of the Cloetes of Melkboschkuil

One of the earliest references to the Cloete families of Melkboschkuil alias Koperberg beyond the colonial limits, originates with British military officer captain James Edward Alexander. Travelling through the country of the Little Namaquas in 1836, he found a small settlement of “white” farmers in occupation of the land at and around Koperberg. Here “three fat women, (were) grinding corn at the mat huts of a Bastard, Lang Cobus Cloete ...”<sup>369</sup>, the progenitor of the Cloetes of Melkboschkuil.

Although the hunter and explorer Willem van Reenen<sup>370</sup> on a much earlier journey north found about the year 1792 the “half-breed” Klaas van der Westhuizen at Koperberg near the present town of Springbok, Lang Kowie Cloete and his family were without doubt one of the earliest permanent inhabitants of Springbokfontein, together with a certain Jan van der Heever (son of Piet van der Heever of Ellenboogsfontein) who had married a daughter named Grietjie (Margaretha) Cloete.<sup>371</sup>

By the year 1840, the Cloetes were definitely settled on Melkboschkuil at Springbokfontein, a portion of the farm Melkboschkuil, with two permanent springs or *fonteine*. On 25 February of the

<sup>367</sup> Ciraj Rassool, ‘Power, Knowledge and the Politics of Public Pasts’ in *African Studies* (Special Edition), Vol. 69 No. 1, April 2010, 81-2.

<sup>368</sup> Meeting of the Namakwaland Burgervereniging (NBV) secretariat and Surplus People Project, Athlone, 22 December 1993.

<sup>369</sup> J E Alexander, *An Expedition of Discovery into the Interior of Africa through the hitherto undescribed Countries of the Great Namaquas, Boschmans and Hill Damaras*, (London, 1838) (2 vols), (Cape Town : C Struik, Facsimile Reprint, 1967), vol. 1, 139. Note: This Lang Cobus Cloete was also known by his indigenous name ‘Ghous’ (in the Nama language), meaning ‘Jacobus’, or ‘Kowie’/‘Koos’ in its abbreviated form.

<sup>370</sup> E E Mossop (ed.), *The Journal of Jacob Hendrik Wikar (1779) and the Journals of Jacobus Coetse Jansz (1760) and Willem van Reenen (1791)*, (Cape Town: VRS, 1935).

The Journal of Willem van Reenen commenced 17 Sept. 1792. At Kleine Koopereberg, now Springbok, he found the half-breed Klaas van der Westhuijsen.

<sup>371</sup> *Van Heerde Aanwins* A 2152. Typed article on local history, probably based on oral sources, 7.

same year the traveller J Backhouse of the London Missionary Society (on an inspection of mission stations) reached the homestead of farmer Cloete and he recalled the visit to Springbokfontein in some detail, as was described in chapter 1.

The name “Springbokfontein” is, according to Dreyer,<sup>372</sup> translated from the Nama language indicating springbuck drinking at the fountain. C R Burger in his “Ondersoek na die oorsprong en betekenis van Plek- en Plaasname”, bears this out: Springbokfontein was earlier known as “Guchas”, a ‘Springbokreiche Ort’.<sup>373</sup> The name “Springbokfontein’ was certainly already in use on Backhouse’s visit there in 1840.

There were two fountains at Springbokfontein, one located in the valley or *leegte*, the other about two miles to the west in the white quartz hills.<sup>374</sup> The fountain in the western white quartz hills was named “Dariee Tkongaas” and the other “Aroe Tkongaas”, respectively the Springbuck ewe and the Springbuck ram in Nama.<sup>375</sup> The fountain in the quartz hills giving clear pure water was named Springbokfontein, later shortened to Springbok, the name of the present town.

In a few short years after annexation of the territory, the continued settlement of the Cloetes at Springbokfontein would be threatened and severely affected by an unforeseen event in this remote region of harsh beauty – the start of copper mining and its aftermath.

### Origin of the Cloete Clan(s)

The question may be asked, Who are the Cloetes of Melkboschkuil and how did they come to settle at such an early stage on the frontier beyond the Colonial limit of the Buffels River?

The Clanwilliam Opgaafrol of 1819 makes one of the earliest references to “Lange Kobus (Bastaard)” [Cloete] who was in occupation of the loan place ‘de DoornZoebattersfontein’, the location given as “in de klipschuur wests van de Camiesberg de kanariefontein nz van de Camiesberg aan de Kookfontein”. At the time this loan place fell within the old Cape Colonial boundary, just south of the Buffels River. Lange Kobus’ assets were listed as only 1 wagon and eight trek oxen.<sup>376</sup>

<sup>372</sup> A Dreyer, *Kerksoewenier van Namakwaland (1850 – 1930). Geskiedkundige oorsig van die tagtigjarige bestaan van die plaaslike N G Gemeente*, (Stellenbosch: Pro Ecclesia-Drukkery, 1930), 5.

<sup>373</sup> C R Burger, “Ondersoek na die oorsprong en betekenis van Plek- en Plaasname in die Landdrosdistrik Namakwaland (Deel I), PhD thesis, Stellenbosch University, 1985, 20. ‘Springbokreiche Ort’ (G), place abounding in springbuck.

<sup>374</sup> ‘Springbok en die Kopermyne’, (n.d., anon, 8 pp, typed notes). In *Van Heerde Aanwinst* A 2152.

<sup>375</sup> Idem. .

<sup>376</sup> 1819 Clanwilliam Opgaafrolle Ref. J 25.

Seven years later we find Lange Cobus (sic) at Arkoep, eastwards of Zoebattersfontein in the Kamiesberge, and 24 hours' journey on horseback from the drostdy at Clanwilliam.<sup>377</sup> In those times, stock farmers moved to different "lay-places" or "leggingsplaatsen" according to the season, to the coastal region during winter and eastwards inland during the summer months.

The colonial frontier also advanced into the environmental regions of Namaqualand and the Orange River. The Kamiesberg of Namaqualand provided the centre for another cycle of transhumance. The higher ground of this region was better watered and pastured, but pastoralists had to be able to exploit the seasonal grazing of the coast and Bushmanland which, if it received rain in the summer, was a sea of grass.<sup>378</sup>

Following on representations made to the Colonial authorities in 1842, the next year quitrent farms were granted mainly to Dutch farmers in the Field Cornetcies of Kamiesberg and Onder-Camiesberg. For example, in the Kamiesberg the perpetual quitrent place Arkoep was given out, after which Zoebattersfontein in the Onder-Camiesberg was granted in 1844.<sup>379</sup>

Here in the colonial part of Namaqualand south of the Buffels River boundary, a class of Basters emerged, holding loan farms -- as did the white farmers -- under the authority of the colonial government. As W P Carstens asserts, the Basters left the Cape Colony as an inferior type of white, but entered Namaqualand on a level with Dutch frontiersmen. "Miscegenation was accepted in Namaqualand in the mid-eighteenth century and in those days the children of such marriages had the same status as whites in Namaqualand. These folk of mixed descent became known as the 'Basters' and one particular family, the Cloetes, occupied the farm Springbokfontein which is important in Namaqualand and Jowell history."<sup>380</sup> Cornelissen in *Namaqualand Copper* (1965), states with certainty that the mother of the Cloete sons (Lang Kobus' sons) was a "European woman", although we shall see later whether the genealogy of the Cloetes of Springbokfontein does bear this out.

The original Springbok Fonteyn was the water place where the Coloured Jacobus Cloete lived with his European wife Cathrina van Jaarsveld.<sup>381</sup> We are also told that Jacobus Cloete (Lang Kowie), known as 'Ghous', worked for Queen Victoria as a "land surveyor", and in recognition of his services, he is said to have received a grant of the farm Melkboschkuil.<sup>382</sup>

As Paul 'Lulu' Cloete (a direct descendant of Jan Cloete of Melkboschkuil) put it:

In 1836 (Sir James) Alexander found Ghous Cloete at Springbokfontein. Lang Kowie was the land surveyor who surveyed Namaqualand on behalf of the English, starting at Clanwilliam. He then

<sup>377</sup> 1826 Clanwilliam Opgaafrol Ref. J 32.

<sup>378</sup> N Penn, *The Forgotten Frontier*, 2005, Introduction, 22.

<sup>379</sup> P W Kotze, *Namakwaland, 'n sosiologiese studie van 'n geïsoleerde Gemeenskap*, (Kaapstad: Nasionale Pers, 1943), 111.

<sup>380</sup> P Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand*, 1994, 18.

<sup>381</sup> A Cornelissen, *Namaqualand Copper*, (Privately printed: 1965), 107.

<sup>382</sup> Jan 'Primus' Cloete, personal communication, 23 February 1993.

took as wife a *Hotnosmeid* from Namaqualand who bore him seven sons and one daughter. The farm Melkboschkuil was left to the seven sons.<sup>383</sup>

From fragments of oral history passed on to the descendants, a sketchy and sometimes contradictory picture of the past emerges:

Jacobus (Lang Kowie), the progenitor of the Melkboschkuil Cloetes, was a land surveyor who travelled by sail ship to Hondeklip Bay and from thence to Komaggas where he was based. From here he proceeded to survey the land. In recognition of his services to Queen Victoria, Cloete's seven sons were granted the farm Melkboschkuil (measuring 21 410 morgen) in 1850. The couple had seven sons and one daughter, Grietjie, and the land of Melkboschkuil was left as an inheritance to the children.<sup>384</sup>

Today one of the few (if any) reminders of the Cloetes in the town of Springbok is a tiny memorial in the form of an obelisk at the local tourism centre:

*"Ter nagedagtenis aan Jacobus "Lang Kowie" Cloete, die oorspronklike eienaar van die plaas Melkboschkuil waarop die dorp Springbok vandag geleë is". (In memory of Jacobus "Lang Kowie" Cloete, the original owner of the farm Melkboschkuil site of the present town of Springbok.)*

Nicholaas Cloete, son of Lang Kowie, is the first signatory on the original deed of sale of the copper mining site (koppie) at Springbokfontein, dated 26 March 1850. We are told that Nicholaas focussed on the area around Springbokfontein, while Dirk settled in the area of Melkboschkuil adjacent to Brakfontein farm.

According to at least two sources, Jan 'Baster' Cloete of Brakfontein (Okiep) was the eldest son of Kowie Cloete.<sup>385</sup> But this could not have been so, as Jan 'Baster' described himself as 'Jan's Zoon', not Jacobus's zoon (that is, Lang Kowie, father of the seven Cloete bothers). A plausible explanation is that Jan 'Baster' Cloete was the son of Jan (f5), Lang Kowie's brother, as seen from the genealogy drawn up by J A Heese and RTJ Lombard (eds). (See below)

Be that as it may, Jan 'Baster' (who would then have been a very old man) is reported to have punctually collected per donkey cart from Captain Kitto, general manager of the Cape Copper Co.,

<sup>383</sup> Paul 'Lulu' Cloete, NBV (Namakwaland Burgervereniging) chairman, Athlone, 4 May 1993. (Annexure 12)

<sup>384</sup> Jan 'Primus' Cloete, personal communication, 23 February 1993.

<sup>385</sup> Hendrik Cloete at Steinkopf, on 5 February 1993. Sampie Cloete, Hendrik's father, is a direct descendant of Jan 'Baster'. Timotheus Union (b. Okiep 31 May 1958), is also a direct descendant of Jan 'Baster' Cloete of Brakfontein. He said that Jan 'Baster' was a member of the Xharta clan of Cloetes, who are known to have an affliction of the joints: they walk with an awkward movement like a horse (*loop kap-kap*), and grip a glass with two hands. (T U Cloete, personal communication, 15 January 1995)

the monthly rental on the mines at Brakfontein (Okiep).<sup>386</sup> Jan ‘Baster’ Cloete lies buried in the cemetery at Okiep near the St Augustine’s Anglican Church.<sup>387</sup>

There are also references in a typed article to a certain Jan Cloete of Melkboschkuil (most probably Lang Kowie’s brother), who was married to Anna Model,<sup>388</sup> and who lived at the Klein Koperberge. During winter this couple grazed their stock at such loan places as Modderfontein and Jakkalswater. They too settled at Melkboschkuil.<sup>389</sup>

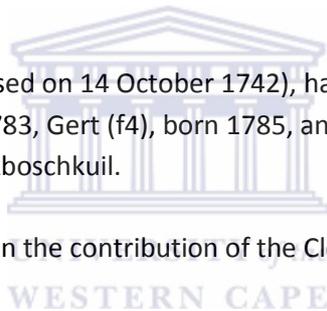
The genealogy and notes on the Cloetes drawn up by J A Heese and R T J Lombard, is the most reliable source to place the origins of the Cloetes of Melkboschkuil in its proper historical context.<sup>390</sup>

According to Heese and Lombard,

During the 1940s a number of the so-called Cloete Basters were members of the Dutch Reformed Church, Namaqualand Congregation. They are descended from Gerrit Cloete who after the death of his first wife Huibrecht Slabbert, moved to Namaqualand with daughter Catharina Elizabeth<sup>391</sup> and son Jasper.<sup>392</sup>

Old Gerrit Cloete’s son Jasper (baptised on 14 October 1742), had three sons by different non-white women, namely Willem (f3), born 1783, Gert (f4), born 1785, and Jacobus (f4)<sup>393</sup> who became known as Lang Kowie Cloete of Melkboschkuil.

Heese and Lombard go on to mention the contribution of the Cloetes to the Church:



<sup>386</sup> Mrs Cloete, mother of Timotheus Union Cloete, Okiep, 1995: “Oupa Jan het loop gepay”, i.e. Oupa Jan went to collect his pay.

<sup>387</sup> Timotheus Union Cloete, personal communication, 15 January 1995.

<sup>388</sup> About the year 1775, a certain Model worked as (travelling) teacher on the farms in Namaqualand. (T N Hanekom, *Die Gemeente Namakwaland: ‘n Eeufees –Gedenkboek 1850—1950*, (Woodstock: N.G. Kerkpers, 1950).

<sup>389</sup> Van Heerde Aanwins A 2152. Typed article on local history; appears to be based on oral sources, 7.

<sup>390</sup> J A Heese & R T J Lombard (eds), *S A Genealogies (A-C)*, Pretoria: Human Sciences Research Council, 1986.

<sup>391</sup> Catharina Elizabeth and Klaas Barends, described as “Berent, a pure Hottentot”, had several children.

(J A Heese & R T J Lombard (eds), *S A Genealogies (A-C)*, 1986, 596. (Translated from Afrikaans)

<sup>392</sup> Idem.

<sup>393</sup> Idem, 596.

The so-called Cloete basters played an important role in missionary activities in Namaqualand, Bushmanland and South West Africa. As interpreters and mission school teachers they were of special assistance to the Rhenish Church missionaries. Several of the Cloetes were members of the Dutch Reformed Church and some even retained membership of the Namaqualand and Kamieskroon congregations up till the 1940s.<sup>394</sup>

Jacobus (f4) (Lang Kowie Cloete), “owner of Springbokfontein”, now Springbok, married Kaaitje, a baptised Baster woman, and the couple had the following children (g1 – 7).<sup>395</sup> According to the family tree, Jan (f5) and Piet (f6) were the brothers of Lang Kowie:

- g1 Gert
- g2 Jan
- g3 Nicolaas
- g4 Kobus
- g5 Sara
- g6 Margaretha
- g7 Catharina
- f5 Jan
- f6 Piet<sup>396</sup>

Sometime after the sale of Melkboschkuil to Phillips & King in 1853, we find two of the Cloete brothers, Gert (g1, Cloete genealogy above) and Dirk (not mentioned by Heese and Lombard), residing at Pella mission station in Bushmanland, where they had subsequently moved (see chapter 3). Here together with other resident Baster families and the Rhenish Mission Society, they became part of a long drawn-out battle with the Colonial authorities, for a Ticket of Occupation for Pella. At the same time, as noted, the issue of Melkboschkuil would re-emerge.

It is unclear what exactly happened to the rest of the brothers, although we can assume with some degree of certainty that Nicolaas, Piet, Jan, Jakob and Jacobus joined the ranks of the transport riders of copper between Springbokfontein/Okiep and the two coastal ports of export or moved to the Rhenish mission stations of Concordia and Steinkopf. There is a reference to two of the Cloete brothers in their old age still living in Steinkopf, but their names are unfortunately not given.

#### **Dirk Cloete of Melkboschkuil**<sup>397</sup>

<sup>394</sup> Idem, 596.

<sup>395</sup> Kaaitje (short for Catharina), a baptised Baster (“gedoopte Baster” or according to church baptismal entries, abbreviated to “G.B.”), probably passed as “European”, making Cornelissen’s reference to Catharina van Jaarsveld not that far off.

<sup>396</sup> J A Heese & R T J Lombard (eds), *S A Genealogies*, 1986, 597.

<sup>397</sup> Descendants of Dirk Cloete of Melkboschkuil. (Annexure 14)

John Hendry Cloete, better known as Jan 'Primus', turned out to be a good source of information, especially on his forebear Dirk Thomas Cloete of Melkboschkuil. But at times, he was trying hard to pick from memory half forgotten fragments of what he had heard (or read).

The estate papers of Dirk Thomas Cloete have fortunately been located in the Western Cape Archives under Estate No. 123/145, 9 September 1903. His Death Notice<sup>398</sup>, dated and signed at Springbok by the deceased's son, lists the following personal details:

Birthplace of deceased: Namaqualand  
 Father: Cobus Cloete [Jacobus "Lang Kowie" Cloete]  
 Mother: Cathrina Cloete [Kaaitje]  
 Age of deceased: 78 years  
 Calling or occupation: farmer  
 Marital status: married  
 Surviving spouse: Catharina Cloete (born Cloete)  
 Date of death: 27 August 1903  
 Place of death: own house, Willowdale, [P O Springbokfontein], Namaqualand  
 Names of children of deceased (all majors): Elizabeth, Johannes, Dirk Petrus<sup>399</sup>, Nicolas, Daniel, Gert, Stephanus and Margaret.  
 Deceased left: moveable property  
 Deceased left a Will  
 Dated at Springbok 2 September 1903  
 Signed: Johannes Cloete, son, present at death

The Resident Magistrate at Springbokfontein duly transmitted the original documents in the deceased estate to the Master of the Supreme Court in Cape Town.

The Joint Last Will and Testament of Dirk Thomas Cloete & Catharina Cloete (born Cloete)<sup>400</sup> stipulated that

We nominate and appoint the survivor of us together with our children already procreated by us in marriage or which may hereafter be procreated by us to be the sole and universal heirs of the first dying of us of all our possessions whether moveable and immovable and wheresoever situate, nothing excepted, in equal shares.

Dated at Springbok, Namaqualand 1<sup>st</sup> February 1887.  
 Witnessed by: S van Niekerk & J L de Oliveira

<sup>398</sup> MOOC 1903 Vol. 6/9/482 Ref. 2836.

<sup>399</sup> In 1926 Dirk Petrus Cloete of Concordia (and Okiep) made inquiries about the ownership status of the farm Melkboschkuil. (See chapter 4)

<sup>400</sup> MOOC 7/1/722 (Wills) Ref. 2491.

Johannes Cloete (son of the deceased who took charge of affairs), certified as true and correct the Inventory in the Estate of the late Dirk Thomas Cloete and surviving spouse Catharina Cloete (born Cloete). The couple's inventory listed their stock as 50 goats & sheep at 10/- per head (£25 -0-0), 3 Cows (£12-0-0), and 3 Oxen at £5 (£15-0-0). Two Ploughs were valued at £4, while cash in hand amounted to £15-0-0. The estate was valued at a total of £71-0-0.

According to the account of Jan 'Primus', Dirk (Thomas) Cloete was the last of the Cloetes to have had control over the land at Melkboschkuil up to his death in 1903. His wife Grietjie passed away the very next year.<sup>401</sup> From that date onwards the copper mining company took charge and the Cloetes had to heed the authority of the company and pay rentals in order to hold on to whatever land they could access.

Jan 'Primus' further disclosed that during the 1930's, the grave of Nicolaas Cloete (of Melkboschkuil) was found on what is now the site of Shoprite Supermarket in Voortrekker Street in Springbok town. Nicolaas' remains were exhumed and reburied in the existing graveyard for Coloureds, which site was subsequently levelled to make way for the Divisional Council camp and buildings. This information needs to be verified from the municipal burial records.

### **Filling the gaps with oral history**

Individual memory is usually an indispensable source of evidence at the historian's disposal when faced with the occasional silences of the written sources. But it is also true that oral testimony can rarely stand by itself as a source of evidence about the past; it has to serve as an extension of other more formal, written sources of evidence.

This was exactly the problem encountered when I attempted to reconstruct the early history of the Cloetes of Melkboschkuil from fragments of oral testimony: no direct written accounts by the protagonists themselves have come to light. Here Jan 'Primus' has, as it were, emerged to become the custodian of the Cloete story, although at times one sensed a note of desperation in his efforts to recall the past.

Members of the Cloete clans are numerous throughout Namaqualand and elsewhere and to differentiate among them, the clans were given names corresponding to the female or male progenitor, or even an event, occupation and physical trait. For instance, a main lineage such as the Tseyma(ka) and Xono Cloetes, or lesser ones like Links/Lynx, Hael, Diamond, Klipbok, Xuru, and so on.

We may now turn to a brief reference of the Cloete Baster Pioneers of Namaqualand for the sake of a fuller picture. According to W P Carstens in his pioneering study of the Steinkopf Coloured Reserve,

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<sup>401</sup> Grietjie must have been of aboriginal stock because the informant simply referred to her in the 3<sup>rd</sup> person as "die ouma", the English equivalent of "she"; whereas the 'oupa' is (intimately) addressed as oupa Dirk.

these Cloete Baster Pioneers have four main lineages who acknowledge a founding ancestress as well as a founding ancestor: <sup>402</sup>

The origin of the Cloete lineage goes back to the eighteenth century when, we are told, three Cloetes, Jan, Pieter and Hendrik, arrived in Cape Town from Holland. Shortly afterwards Hendrik left Cape Town and trekked north to Little Namaqualand. There he married four Namaqua women and had a number of Namaqua concubines, who, like his wives bore him children. In order to distinguish them on the basis of their maternal parentage, the children of each Namaqua mother took their mother's name as well as their father's surname Cloete. Today the Cloetes have four main lineages and a number of lesser ones, which may be distinguished from one another by the name of the founding maternal ancestor. Thus, each Cloete has three names -- a Christian name, the surname Cloete, and the name of the Namaqua ancestress, e.g. Jan Cloete /aba.

Although the Cloete lineages recognise a common ancestor, each lineage is quite separate from, and independent of, the others. Three of these lineages, the //are [//arta], /aba, and the Tseyma Cloetes, came to Steinkopf shortly after the Engelbrechts and are also recognised as Baster Pioneers of the community. The four Cloete lineages who came later are regarded as kommers...

The Cloetes of Melkboschkuil are termed the 'White' or 'Links/Lynx' Cloetes, as explained by Charles Edward Cloete, late of Steinkopf. <sup>403</sup> In what way they are related to the Cloete Baster Pioneers of Steinkopf or Komaggas (if at all) is unclear at this stage. The surname Cloete is however well represented in Namaqualand as seen from the following. Of the 1 200 or so members of the Namaqualand Border Scouts (an irregular colonial force during the Anglo-Boer War), about 225 (representing some 18, 5 % of the total complement) were Cloetes fighting on the side of the British forces, <sup>404</sup> a stalwart effort on their part.

### Finding the Graves

There is nothing to mark the graves of the early Cloetes of Melkboschkuil or Brakfontein, hardly anything solid to honour their memory – this in contrast to the headstones of settlers in the first graveyards at Springbokfontein and Okiep. Today, on the west side of the town of Springbok, is found the Old Graveyard with graves of the area's early mining pioneers and Anglo-Boer War casualties. Some inscriptions selected from a random sample of the headstones read: <sup>405</sup>

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<sup>402</sup> Discussion based on W P Carstens, *The Social Structure of a Cape Coloured Reserve* (Cape Town: Oxford University Press, 1966), 111.

<sup>403</sup> Charles E Cloete, Development Officer, Steinkopf, February 1993.

<sup>404</sup> Nominal Roll of Namaqualand Border Scouts. The index was compiled from WO 127 at the National Archives, Kew (UK). (information on website)

<sup>405</sup> Van Heerde Aanwins (Accession) A 2152: Notes.

Charles George Keber, native of Washington City, USA. Died at Springbokfontein 15 May 1866 (aged 36 years & 6 months) Erected by his sorrowing widow, Mary Keber.

John Regens, died at Springbok on 4 June 1868 – aged 56 years 10 months.”He was one of the oldest settlers of the Namaqualand Mining Company.”

The graves of two Bowe infants: Flora (d. 1861, 5 months) and Ernest (d. 1868, 10 weeks).<sup>406</sup>

In stark contrast to the sparse information regarding the exhumation and reburial of Nicolaas Cloete in the Location Cemetery in the early 1930s (as recounted by Jan ‘Primus’ above), the case of Lang Kowie Cloete is well documented. As noted above, the mortal remains of Nicolaas Cloete were exhumed from the current site of Shoprite Supermarket in the main road and buried in the Old Coloured Cemetery, which was subsequently levelled to make way for the Divisional Council. Jan ‘Primus’ Cloete’s testimony about removals and reburials is generally in line with what transpired at the first meeting of the newly-elected members of Springbok Town Council held on Monday 26 June 1933 at 3 p.m. After having obtained permission to speak, the Reverend W L Steenkamp first congratulated the chairman upon his election and then proceeded to suggest that “the old graves in the Coloured Cemetery be levelled, the few new graves to be fenced in and the cemetery then be made further out of the village. It was resolved the matter be left to the council for later attention.”

<sup>407</sup>

Several months later during October 1934, the Reverend Steenkamp again approached the Council via a councillor who reported that the clergyman considered it desirable that the existing cemetery for Coloureds be closed and another site allotted them. It was thereupon resolved to leave the matter in the hands of Messrs Rossouw, Jowell, Roux and Reverend Steenkamp to arrange with Mr Kitto of the S A Copper Mining Co., the owner of the land.<sup>408</sup> At the meeting, Mr Kitto was quite agreeable to the envisaged move and Council wrote him to confirm the verbal application. The matter was left in abeyance for a number of years, but by August 1946 the Sanitation Committee was in a position to report that a suitable burial site (for paupers) had been located on the Commonage near Moordenaarsnek in the direction of Goudswasies.<sup>409</sup> It was agreed that this would become the site of the new graveyard, and left at that. (Dr Izak van Niekerk’s suggestion that one good quality coffin be made to transport all Coloured paupers to the graveyard, was voted down by the town council.) When this idea of a re-usable “dummy doodkis” was again brought up by a local Christian women’s organisation (A.C.V.V), Council was most upset and furious over not being consulted “in this important matter”, and later decided that, in the interests of essential decency, these paupers be buried in (hessian) sacks.<sup>410</sup>

<sup>406</sup> Children of Dr Henry Bowe, MRCS (London), then district surgeon of Namaqualand.

<sup>407</sup> 3/SBK Ref. 1/1/1/1 Minutes of Meeting, 26 June 1933.

<sup>408</sup> 3/SBK Ref. 1/1/1/1 Minutes of Meeting, 28 October 1934.

<sup>409</sup> 3/SBK Ref. 1/1/1/5 Meeting of Town Council, 27 August 1946. “Goudswasies”, probably the place called Houtswartjes, 8 km north-west of Springbok, where the Agreement on First Right of Refusal (13 April 1852) was signed and witnessed by the representatives of Phillips & King, and the five Cloete brothers.

<sup>410</sup> 3/SBK 1/1/1/3 Ordinary Meeting of Town Council, 28 April 1939.

On 28 March 1955 the Town Council of Springbok dealt under “Preservation – Historical Objects” with a letter from the local branch of the Women’s Agricultural Association (V.L.V.), requesting that “the grave of one Kowie Cloete, original Coloured owner of the farm on which Springbok town was built, be preserved or reinterred if the town expands in the direction of the site of the grave”. Councillor Piet van Heerde’s proposal that since Cloete had been the first owner, his remains be reburied on Monumentkoppie in the centre of the town, drew no seconder. It was thereupon decided that when the time arrived, Cloete be given due recognition with a prominent place in the Coloured Graveyard.<sup>411</sup>

During October 1955, the Town Clerk of Springbok (municipal motto: “Vorentoe vanwaar ons kom”) applied to the Provincial Office to exhume and rebury the remains of (Lang) Kowie Cloete in the graveyard for Coloureds at Springbok.<sup>412</sup> The original grave of Kowie Cloete was located on Erf No. 606, off the main road near a well-known supermarket chainstore, in the newly proclaimed Springbok Township Extension No. 2, and had for this reason to be exhumed and interred elsewhere.

According to the Town Clerk at the time, the dates of Lang Kowie’s death and burial were then unknown, but from available evidence Cloete was about the year 1852 the owner of the farm Melkboschkuil and by then already an elderly person. The Register of Deaths in the local office of the Registrar was kept only from 1895. It was thus generally accepted that he died during the second half of the 19<sup>th</sup> century.

By 22 December 1955 the Town Clerk was in a position to report that the death and burial must have been about the year 1856, although no definite details were available. The forms, as requested, were submitted in duplicate,<sup>413</sup> and the Department of Health had no objection against the exhumation and reburial of the remains of Kowie Cloete (Coloured), provided that the usual precautions were taken and procedures followed.<sup>414</sup> The questionnaire covering the exhumation and re-interment of Lang Kowie was duly signed by the Town Clerk of Springbok and stamped 22 December 1955. One notable omission was the answer to question 8, asking for written permission of all the next-of-kin or executor of the deceased:<sup>415</sup>

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<sup>411</sup> 3/SBK Ref. 1/1/1/7 Minutes of Meeting, 28 March 1955.

<sup>412</sup> PAA Q 2 Ref. EO/8/4 Exhumation Kowie Cloete 1955 (known person). The Town Clerk, Springbok Municipality to Provincial Secretary, Cape Town, 18 October 1955.

<sup>413</sup> Exhumation Kowie Cloete (known person): PAA Q 2 (Ref. EO/8/4).  
Springbok Town Clerk to Provincial Secretary, Cape Town, 22 December 1955.

<sup>414</sup> PAA Q 2 (Ref. EO/8/4) Exhumation Kowie Cloete (known person). Department National Health, Cape Town to Provincial Secretary, Cape Town, 14 February 1956.

<sup>415</sup> PAA Q 2 (Ref. EO/8/4). Exhumation Kowie Cloete (known person). Application to be completed in duplicate. Particulars to be furnished in regard to applications for exhumation and reburial of mortal remains.

1. Name, age, gender and race of deceased: Kowie Cloete, unknown, Coloured male.
2. The death certificate, failing which a sworn statement showing the date and cause of death: unobtainable, not known.
3. Place where remains are interred: Erf no. 606, Springbok, Township Extension No. 2.
4. Place where remains are to be reinterred: Coloured graveyard, Springbok.
5. Reasons why it is desired to exhume and remove the remains: Owner wishes to proceed with erection of proposed dwelling.
6. Proposed method of enclosing and mode of conveyance of remains : enclosed in a wooden coffin <sup>416</sup> and conveyed per motor vehicle.
7. Precautions which will be taken to prevent any danger to health or cause of offense arising: under supervision of medical officer.
8. The written permission of all the next-of-kin or executor of the deceased (to be attached in duplicate): ....

What remained to be done, was publication of the proposed exhumation and re-interment in the newspapers -- once per week for four consecutive weeks. Copies of the advertisement along with any objections had to be forwarded to the Provincial Administration. <sup>417</sup>

After completion of these administrative formalities, the Town Clerk on proposal of the mayor, approached the Reverend Blom of the Dutch Reformed Mission Church in Springbok to enquire whether he might consider conducting a ceremony and invite his congregation to the exhumation and reburial. <sup>418</sup> Blom was however of the view that it would be unnecessary to have any ceremony for the remains of Kowie Cloete. The Rev. Mr Blom had also discussed the matter with his church council whose members ostensibly shared his sentiments and showed no interest at all. He added however, that the effort of the Town Council to the extent of burying the mortal remains of Kowie Cloete in a prominent place in the graveyard for Coloureds, <sup>419</sup> should be appreciated and commended.

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<sup>416</sup> Personal communication, Mrs Maria Engelbrecht, Matjeskloof, 1993. The Municipality of Springbok wanted to rebury Lang Kowie's remains in a 2-ply wooden tea-box, generally used at the time for wholesale consignments of a popular brand of tea ("Five Roses" or "Joko"). In the end, the concerns of some sympathetic women prevailed.

<sup>417</sup> PAA Q 2 Ref. EO /8/4 Provincial Secretary to Town Clerk, Springbok Municipality. Application Exhumation Kowie Cloete.

<sup>418</sup> 3/SBK 1/1/1/8 Ordinary Municipal Meeting, 1 March 1956.

<sup>419</sup> 3/SBK Ref. 1/1/1/8 Meeting of Municipal Finance Committee, 13 March 1956. From the grisly details, the following (sketchy) picture emerges. At the end of 1934, the Old Coloured Cemetery (in Voortrekker Road, current site of a supermarket) was closed and a new one opened. (Source : 1/SBK 1/1/1/1 Minutes of Municipality : Springbok Coloured Cemetery) On part of the new post-1934 graveyard, the Divisional Council

Hereafter Council decided that the members present would hold an inspection in loco on 14 March (1956) at 4 o'clock to point out the place of reburial, and to proceed with the matter, which by all accounts appears to have been carried out to the letter.



## CHAPTER 8

### ANALYSIS OF THE MELKBOSCHKUIL DEEDS

*Dis ons land maar ook nie ons land nie*  
(This is our land, yet it is not so)

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(Regional Services) buildings were afterwards erected and the burial site flattened. (Oral communication, Jan 'Primus' Cloete, 1993)

(Title of poster to support community land claims, reflecting a sense of insecurity of tenure and ambivalence towards the land felt in the Coloured Communal Reserves of Namaqualand)  
(Surplus People Project)

Throughout this chronicle of loss of land, the purchase and transfer procedures in respect of Melkboschkuil and Brakfontein farms have been marred by allegations from land claimants of wrong-doing on the part of Phillips and King, their attorney John Barker, and Deeds Office officials. Added to this are claims of dubious strategies and techniques employed to acquire the land from the Cloetes. In order to unravel the entire process to find out whether irregularities in fact occurred, the deeds of transfer and the documents attached thereto would need to be examined.

### **Early reservations expressed in regard to the transfer of shares in Melkboschkuil**

That the deeds of transfer in respect of the sale of both Melkboschkuil and Brak Fontein farms (Springbokfontein and Okiep are sometimes used interchangeably for Melkboschkuil and Brakfontein respectively) require scrutiny, is borne out by a single reservation expressed by none other than the first Civil Commissioner and resident magistrate of Namaqualand, Josias Rivers. This element of doubt on the part of the Civil Commissioner could lead one to call into question the original sale and subsequent transactions relating to Melkboschkuil and Brakfontein. As early as 1857 (four years after the final sale of shares by the Cloete brothers of Melkboschkuil), the magistrate questioned one particular transfer of shares relating to each farm. Phillips & King had themselves tripped up in their own intricate internal transfer of shares in the two farms.

19 June 1857

To The Registrar of Deeds

In the last return received of Transfers effected of property situated in this division, I observe the transfers of certain shares in the farms "Groot Braak" and "Melkboschkuil" made by J. [John] King in favour of James King. On reference to my quitrent book as prepared by the Civil Commissioner, on the formation of this division, it would seem, that unless there have been some transfers effected, in the shares, and not recorded in my Book, the previous division of the property would hardly admit of the present division.

I have transcribed from the quitrent book, the folio 908 as it now stands, and endorse it, in order that it may be examined in your office, and corrected if necessary.

signed Jos Rivers CC <sup>420</sup>

This observation by the civil commissioner should have alerted the officials at the Deeds Office to possible irregularities as regards transfers of shares in the two farms. Nonetheless, the acquisition of both Melkboschkuil and Brakfontein would over the following years be accepted as legal and valid by government officials and mining owners and their personnel alike, except by the Cloetes who have ever since doubted the validity of the sale transactions.

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<sup>420</sup> 1/SBK 5/1/1 Letter Book 1855-1860. Melkboschkuil & Groot Braak farms. Transfer Returns from Civil Commissioner J Rivers to The Registrar of Deeds, Cape Town, dated 19 June 1857.

The Registrar of Deeds in Cape Town on 7 July 1857 acknowledged receipt of the afore-mentioned letter from Civil Commissioner Josias Rivers, concerning the Quitrent Return for May from the latter's office.<sup>421</sup>

“As regards the extract from your Quitrent Book, I [The registrar of Deeds] cannot – on reference to our records – find that any such transfer as therein described took place on the 21<sup>st</sup> January 1850.” (own emphasis supplied)

As ample illustration that the official stance was accepted as the correct version, further comment on the extract from the Civil Commissioner's book showing that a transfer took place on the 21<sup>st</sup> of January 1850 (the date of grant of both Melkboschkuil and Brakfontein), is simply withheld by both Civil Commissioner and Registrar of Deeds. Such a transfer on 21 January 1850 would have been highly irregular as the date of grant and transfer would have been on the same day. The source of this entry and the transferor and transferee are unfortunately not mentioned; but this piece of unusual information does uncannily tie up with and lends credence to the versions of irregular sales of land put forward by Reverends Brecher and Kling, as well as Gustav Mollat in chapter 4 of this thesis.

Responding further to the request that the returns may be compared with his register and returned, the Registrar of Deeds concluded: “In comparing the transcriptions transmitted by you, I find that they all agree.”

In light of the above developments as regards Melkboschkuil and Brakfontein, it comes as no great shock that, almost 50 years later, Resident Magistrate Munscheid found it necessary to paste in a typed memorandum on the back cover of the Quitrent Register of Namaqualand (1902 – 1933) to draw attention to the fact that in the Register

erroneous entries have been made as regards proprietors and the shares they hold. If an owner holds say  $\frac{1}{4}$  undivided share of 4 000 morgen, the entry made would show 1 000 morgen, instead of ‘4 000 mg  $\frac{1}{4}$  share’. In many instances no names of proprietors appeared on the folio. In such cases the names of some of the owners have been inserted as found in the Old Register. The Register was not re-framed as the 1856 – 1875 Transfers Returns cannot be found. A search in these would have to be made, as the old registers are also wrong. The whole work is so tremendous that it cannot be done here.<sup>422</sup>

Munscheid must have thrown up his hands in despair at the state of the book which should have been an accurate record of all land holdings in the district of Namaqualand.

The Quitrent Registers were at this point in time probably “adapted” as best they could be, in so doing saving the region of Namaqualand from the insecurity of tenure that would have resulted

<sup>421</sup> DOC 2/1/1/2 Letters Despatched (Jan. 1857 – December 1867). Registrar of Deeds Office, Cape Town to the Civil Commissioner, Namaqualand 7 July 1857.

<sup>422</sup> 1/SBK 6/1/4 Quitrent Register 1902 – 1933. Memorandum by RM & CC Munscheid, Springbokfontein, 29 January 1906.

from the errors. No doubt, to the relief of farm owners and resident magistrate alike, the quitrent system was abolished by Act 54 of 1934, thereby lessening the administrative nightmare of keeping track of quitrent payments and dubious entries. From then onwards, the mining companies and farm owners across the district became the undisputed owners of “all that they surveyed”, and the residents of Springbokfontein could lead their lives secure on their erven. Except, of course, for the Cloetes who continued to dispute the ownership of the copper company.

### Property Transfers

The original Deed of Grant of the farm Melkboschkuil was signed by the Governor General himself and followed the official format. Special conditions, applicable to all grants upon similar tenure, included the annual quitrent payable in arrears to the civil commissioner, servitudes relating to roads and thoroughfares running over the land, and the public right of outspan. The only requirement was that the grantees have “the Boundaries properly traced out, and the Land brought into such a state of cultivation as it is capable of; ...”

On reading the primary and secondary sources relating to the sale of Melkboschkuil, one finds a large measure of convergence and agreement on the essential facts by practically all writers, deeds researchers and commentators. In fairness to subsequent commentators and analysts, their information was based on the land registers of Namaqualand which (as explained above) had to be adapted and amended by the Civil Commissioners and Registrars of Deeds, so as to restore some semblance of tenurial order.

In summary, the facts gleaned from the documentation available in regard to the acquisition and sale of Melkboschkuil, are as follows:

#### 1.

By the original Deed of Grant dated 21 January 1850, the perpetual quitrent place or farm Melkboschkuil alias Koperberg, in the Field Cornetcy of Namaqualand, Division of Clanwilliam, was granted in equal portions or undivided shares to seven Cloete brothers, namely Nicolaas, Jan, Gert, Jacobus, Piet, Jacob and Dirk.<sup>423</sup>

In extent 21 410 morgen, the land was granted in perpetual quitrent of Four Pounds to be paid annually (in arrears) to the Civil Commissioner at Clanwilliam. The roads and outspans remained Government property, open to the public.

By this document, mineral rights to base metals such as copper were not expressly granted to the Cloetes, nor expressly retained by the Colonial government. As already noted in chapter 2, Government reserved to itself the rights to precious stones, gold or silver. Deposits of iron, lead, copper, tin, coals, slate, or limestone, were to belong to the proprietor.<sup>424</sup> Melkboschkuil and

<sup>423</sup> Clanwilliam Quitrents Vol. 8 No. 28, Deeds Office, Cape Town.

<sup>424</sup> MNW 691 Ref. mm 3514/23 Registrar of Deeds to Dept of Mines & Industries, 13 July 1923.

Brakfontein were 2 of the first 11 farms between the Buffels and Orange Rivers granted under similar conditions after annexation of the territory in 1847, thus opening the way for mineral exploitation.

2.

The mining company, trading under the name of Phillips & King, began operations by acquiring a tract of mineralised land (the kopyy) at Springbokfontein from the seven Cloete brothers. It is described as a

“ ... certain place or places containing copper and other metalliferous ores situated on the Farm called Melkbosch Kuil, alias Kopper Berg, alias Spring Bok Fonteyn, District of Clanwilliam, Field Cornetcy of Namaqualand, lately surveyed by Mr Wentzel, ...”<sup>425</sup>

According to the records, on 16 March 1850 the purchase price of £50 was paid over to the Cloetes for the mineralised portion, in extent 10 morgen 351 sq. roods 75 sq. feet. The Agreement of Sale for the portion purchased was formally completed on 28 October 1850 at Melkboschkuil – this document was witnessed by company officials, H D Jencken and John Wild. This Agreement of Sale is filed in the Deeds Office, Cape Town, together with Deed of Transfer No. 197, dated 26 December 1850.<sup>426</sup>

The sale of the mining site or kopyy was in the following proportions:<sup>427</sup>

3/6 to Silvanus Phillips, John King and Charles Phillips (trading as Phillips & King)

2/6 to Peter Clarke Daniels

1/6 to James King

Peter Clarke Daniels subsequently (after only 5 months) transferred his shares in the following proportions:<sup>428</sup>

½ of 1/6 share to Phillips & King on 23 May 1852; and

½ of 1/6 share to Phillips & King on 25 May 1852

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<sup>425</sup> The Agreement of Sale (A), dated 28 October 1850. (Annexure 15).

<sup>426</sup> The portion sold is now Erf 385, Springbok. See Folio 385 Springbok Erven. Also Transfers Vol. 4, 12 – 27 February 1852. (Deeds Office, Cape Town)

<sup>427</sup> J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975, fn 10, 49.

<sup>428</sup> This intricate footwork transferring shares, would be the future *modus operandi* of Phillips & King. The purpose for this remains obscure.

By this document of sale of the copper kopy (28 October 1850), the company of Phillips & King significantly also obtained the mineral rights over the whole of the farm Melkboschkuil, as well as sufficient land considered necessary for the erection of any buildings and works connected with future mining operations; the right to graze large and small stock and horses; the right to the use of water; and the right of free access to any mine or mines and the right to construct roads over the farm.<sup>429</sup>

The purchase price of £50 was paid on 16 March 1850, barely two months after the original grant of the farm to the Cloete brothers, and the agreement of sale was drawn up several months later on 28 October. This is illustrative of the eagerness with which Phillips and King snatched the opportunity and lends credibility to John Blades Currey's version of how the deal was concluded in the dead of night by one John Wild. (See chapter 4) A sketch map was drawn up for this mineralised kopy sold by the Cloetes.

Besides selling off the mineral rights over the entire farm under the Agreement of Sale (28 October 1850), the Cloetes also prejudiced their rights by binding themselves and their heirs to the terms of the agreement:

And lastly, that they, the undersigned do hereby bind themselves, their heirs, executors, administrators and assigns, to the due fulfilment of this Agreement, as well as their property, both personal and real.<sup>430</sup>

What now follows is a summary of transactions of sale and purchase of the remainder of the farm Melkboschkuil, recorded after the Cloete brothers initially disposed of the mining site mentioned above.

By including the mineral rights over the whole (21 410 morgen) farm in the Agreement of Sale of 28 October 1850, the Cloetes would considerably weaken any bargaining position they held in regard to future disposal of shares in the farm to prospective purchasers (other than Phillip & King), as well as negatively impacting their farming activities on the rest of the land.

In the event, the remaining extent of land of the quitrent farm was sold as follows:

3.

The first co-owner to dispose of his interest, was Jacobus Cloete who sold his 1/7<sup>th</sup> share of the whole estate (now measuring 21 399 morgen 248 SR 137 SF) to Phillips & King. The purchase price was £100, under Deed of Transfer T242 of 29 October 1851.

4.

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<sup>429</sup> Agreement of Sale (Copper Kopy), 28 October 1850. (Annexure 15)

<sup>430</sup> Agreement of Sale (Copper Kopy), 28 October 1850. The portion sold is now Erf 385, Springbok.

The second joint owner to sell up was Jacob Cloete who, on 4 December 1851, sold his 1/7<sup>th</sup> share to Phillips & King for £100 by Deed of Transfer No. 33, dated 4 December 1851.

5.

After Phillips & King failed to persuade the remaining co-owners to sell, James King, acting on behalf of the company, bound the five remaining co-owners under an Agreement dated 13 April 1852, in the sum of £5 each, not to dispose of their interest without first offering same to the company.<sup>431</sup>

In terms of this Agreement, witnessed by H D Jencken, the five brothers -- Nicolaas, Jan, Gert, Piet and Dirk Cloete -- were each to receive the sum of £5 in return for granting Phillips & King the first right of refusal should anyone else desire to purchase and they be prepared to sell.

This Agreement was signed at Houtswartjes<sup>432</sup> by James King (q.q. Phillips & King) and the five parties referred to above.

6.

By Deed of Transfer No. 152 dated 23 February 1852, Peter Clarke Daniel transferred to Messrs Phillips & King, ½ part of 1/6<sup>th</sup> share in the copper koppy.<sup>433</sup>

7.

By Deed of Transfer No. 203 dated 20 October 1852 Phillips & King transferred a 2/42 (1/6<sup>th</sup> of the 2/7<sup>th</sup> share held under items 3 (Jacobus Cloete) and 4 (Jacob Cloete) above, in favour of John Wild. The purchase price was £33 – 06 – 08.

8.

On the same day (20 October 1852) (See item 7 above) by Deed of Transfer No. 206, John Wild transferred a 2/42 share (1/6<sup>th</sup> of 2/7<sup>th</sup> share held under item 7 above) to James King. The purchase price was £33-6-8 (the same price of purchase, showing no profit).

9.

By the middle of 1853, the pace had accelerated. Under Deeds of Transfer Nos 68, 69 & 70 dated 3 June 1853, Gert Cloete, Dirk Cloete and Piet Cloete each on the same day transferred their 1/7<sup>th</sup> shares to Silvanus Phillips, John King and Charles Phillips, trading as Phillips & King. In each case, the purchase price differed. Gert received the sum of £375-15-0, while Dirk and Piet disposed of their shares for £375 and £395-15-0 respectively.

10.

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<sup>431</sup> Agreement of 13 April 1852 filed with Deed of Transfer No. 242 / 1851. (Annexure 16).

<sup>432</sup> Houtswartjes, probably Goudswasies, some 8 km north-west of Springbok town.

<sup>433</sup> The site of the mine (and nucleus of early settlement) at Springbokfontein, now Erf 385 Springbok. (Transfers Vol. 4, 12 – 27 February 1852)

The remainder (2/7) of the farm Melkboschkuil was at this point in time in the hands of Jan and Nicolaas Cloete who appear to have held out for more money. By Deeds of Transfer Nos 185 and 186 dated 18 October 1853, Nicolaas Cloete and Jan Cloete each transferred their 1/7<sup>th</sup> share to Phillips & King. The purchase price was £500 sterling each, substantially more than the other brothers received.

The very next year (1854), barely 6 months after the whole of the farm Melkboschkuil had finally been acquired from the seven brothers, a series of compulsive share transfers began again. They (Phillips & King) embarked on a bewildering flurry of internal transfers before selling off to the Cape Copper Mining Company on 17 August 1863. With this final disposal of their mining assets, Phillips & King ended this phase of their involvement in the copper mines of Namaqualand.

11.

By Deed of Transfer No. 140 dated 10 April 1854, James King transferred his 2/42<sup>nd</sup> share (held as per item 8 above) to John King. The purchase price was £100.

12.

Three years later, John King sold back the share acquired in 1853 to James King. By Deed of Transfer No. 237 dated 13 May 1857, John King transferred his 2/42<sup>nd</sup> share (held as per item 11 above) to James King. The selling price was £100, at nil profit.

13.

By Deed of Transfer No. 247 dated 17 February 1863, Phillips and King transferred a 5/42 share in 21 399 morgen 248 SR 137 SF of Melkboschkuil (part of the share held by them under items 9 and 10 above) to John Wild. The purchase price was £357-05-10.

14.

On the very same day and at the identical price, Phillips & King by Deed of Transfer No. 253 dated 17 February 1863 transferred a 5/42 share (part of the shares held by them under items 9 and 10 above) to James King. The purchase price was £357-05-10.

At the time when erven in the newly-laid out township of Springbokfontein were transferred to private buyers (chapter 2), the remainder of Melkboschkuil was held by the syndicate as follows: <sup>434</sup>

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<sup>434</sup> The accounts of Transfers of Shares and Property are based mainly on reports by Niall Patrick Cleary (former Registrar of Deeds); Carl Friedrich Pohl, sworn conveyancer; J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975; as well as copies of deeds of transfer at hand.

- (a) (i) Silvanus Phillips (ii) John King and (iii) Charles Phillips, trading as Phillips & King, as to a 5/7<sup>th</sup> share (30/42) by Deeds No. T242 dated 29/10/1851 and T33 dated 4/12/1851; Deeds of Transfer Nos 68, 69 & 70 dated 3/6/1853 and T185 & T186 dated 18/10/1853.
- (b) James King as to a 1/6<sup>th</sup> share (7/42) by Deeds of Transfer Nos T237 dated 13 May 1857 and T253 dated 17/2/1863.
- (c) John Wild as to a 5/42 share by Deed of Transfer T247/ dated 17 February 1863.

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Phillips & King in 1863 finally sold out to the Cape Copper Mining Company Ltd all their mining and landed properties, some thirteen years after acquiring the copper kopyy at Springbokfontein on the farm Melkboschkuil. This event as we know, signalled the start of modern commercial mining in South Africa.

By Deed of Transfer No. 344 dated 17 August 1863, the syndicate transferred the remainder of Melkboschkuil, i.e. all the shares listed in (a), (b), and (c) above) to The Cape Copper Mining Company.

The Directors of Cape Copper Mining Company Ltd having regard to the results obtained – and the *bona fide* character of the undertaking -- agreed with the Proprietors (Phillips & King) for the purchase of the entire properties and rights on the following terms:--<sup>435</sup>

The Landed Estates (Melkboschkuil, Brakfontein, Lelyke Pad etc) were to be acquired by the Cape Copper Mining Co. at the cost price, say £11 286, and the Buildings at the mining towns (of Okiep, Springbokfontein and Spectakel) for £14 000 (£3 832 being deducted from the original cost for depreciation). These sums amounted to £25 286, to be payable on possession being given to the new owners.

The moveable property, consisting of trading stock, mining machinery, materials and tools, animals for transport and slaughter, wagons, boats, and stores of every description, to be taken at the maximum price of £33 000 (the amount at which it was valued in the inventories of December last) subject however to a re-valuation when the Company takes possession, and to any abatement that may be necessary. Of this sum the owners have agreed to take as part payment £15 000 in shares.<sup>436</sup>

The consideration for the mineral rights and advantages which the estates possess, as well as for the large accumulations of inferior ores now at the Mines, is fixed at £15 000, to be taken by

<sup>435</sup> *Prospectus of the Cape of Good Hope Copper Mining Company, Limited* (London: Smith, 1862)

<sup>436</sup> *Prospectus of the Cape of Good Hope Copper Mining Company, Limited* (London: Smith, 1862).

the owners in paid-up shares, deliverable to them at the expiration of 12 months after possession is obtained.<sup>437</sup>

In other words, by this arrangement the shareholders of Phillips & King retained a substantial share in its successor.

The purchase price for the property of Messrs Phillips & King in Namaqualand was therefore some £73 286, made up of £11 286 for the landed estates, £14 000 for the buildings, £33 000 for the moveable property, and for the mineral rights as well as the stockpiles of inferior ores, £15 000.

The investment of Phillips & King in Namaqualand had certainly yielded excellent results. From 1853 until October 1862 the mines produced ore to the value of £515 752, showing a profit of more than £115 000.<sup>438</sup>

The property to be transferred to the new company consisted of the following Estates of Freehold Tenure, subject to the payment of a small annual quitrent to the Colonial Government, the total amount of which did not exceed £50 per annum:

Springbok Fontein (Koper Berg), 42 820 acres; O'okiep (Grootbrak), 6 435 acres; Nababeep (Lelykepad), 35 240 acres; Modder Fontein, 16 660 acres; Danze Kraal, 13 600 acres; Keerom, 32 842 acres; A Moiety<sup>439</sup> of Wildepaarde Hoek, 9 236 acres; A Moiety of Obees, 15 377 acres; Riet Huis (Rodeklip Heuvel) (30 730 acres).

Total: 202 940 acres<sup>440</sup>

Also included in the property were certain freehold building sites in Hondeklip Bay and Robbe Bay (Port Nolloth), "the shipping ports of the province", as also the remaining period of six years of a Crown Lease of Spectakel (on the Buffels River near Komaggas) where the copper mine Wheal Maria (*wheal*, good fortune / prosperity) was worked, and the mineral rights of the Farm Dikgat.<sup>441</sup>

### **The sale of Brakfontein No. 133**

The Farm called "Brakfontein" No. 133 alias "Grootbrak"<sup>442</sup>, situated in the Division of Clan William, Field Cornetcy of Namaqualand, was granted on perpetual quitrent by Sir Harry G W Smith to Jan

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<sup>437</sup> Idem.

<sup>438</sup> *Prospectus of the Cape of Good Hope Copper Mining Company.*

<sup>439</sup> Note: Moiety (law or literary).... half; (loosely) one of two parts into which thing is divided.

<sup>440</sup> Acre, 4 050 square metres.

<sup>441</sup> *Prospectus of the Cape of Good Hope Copper Mining Company, 2.*

<sup>442</sup> Title Deed No. Clw. 8 – Folio 27 dated 21 January 1850 in favour of Jan Cloete (Bastard).

Deed of Transfer T956 dated 11 July 1850 (Clanwilliam Quit Rent Clw 19 – 90). (Annexure 17)  
See also New Town Register folio 362, Deeds Office, Cape Town.

Cloete (Jan Zoon) (Bastard) on 21 January 1850. The property, in extent 3 215 morgen, was bounded in the North by Government Ground; S.S.E & S.E by the farm Melkboschkuil alias Koperberg; and W & S.W. by the farm Lelyke Pad.<sup>443</sup>

Granted on Perpetual Quitrent on payment of £2 sterling annually to the Civil Commissioner at Clan William, Governor Harry Smith awarded the piece of land “(i)n the Name and on behalf of Her Majesty Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.”

At the time during March 1850 when Phillips & King were hard at work attempting to acquire a tract of mineralised land at Springbokfontein to start mining operations, the company managed to obtain from Jan ‘Baster’ Cloete<sup>444</sup> on the adjoining farm Brakfontein a power of attorney to have his land transferred to James King, one of its directors. Only four days earlier, in a separate transaction on 16 March 1850, Phillips & King had paid over to the Cloetes the purchase price of £50 for the mineralised koppie at Springbokfontein.

By virtue of a Power of Attorney granted to attorney John Barker by Jan Cloete (Bastard) (Jan’s Son) dated 20 March 1850 and referred to above, Cloete truly and legally sold to James King certain perpetual quit rent land called ‘Brakfontein’ alias the farm ‘Groot Brak’. The purchase price of the farm amounted to £30 sterling,<sup>445</sup> a paltry sum compared to what was paid for Melkboschkuil or Lelyke Pad. On 11 July 1850 Brakfontein Farm No. 133 was duly transferred from Jan ‘Baster’ Cloete to James King by Deed of Transfer No. 956.

In a strange and astonishing development barely five months after the sale, Jan ‘Baster’ on 22 November 1850 at Melkboschkuil signed a “Power of Attorney to make Transfer”, giving John Barker the authority to “sign and execute all such documents which may be necessary for the cancelling and annulling of certain rights, which I the said Jan Cloete, reserved to myself in granting transfer to the said James King [on] the 10<sup>th</sup> [sic] day of July 1850 of the place called Brakfontein alias Grootbraak.” This was certainly a peculiar turn of events.

Inexplicably, this power of attorney at once cancels and annuls for the sum of £7 -10 – 0 all occupational and use rights retained by Jan ‘Baster’ over the farm. The document was witnessed by John Wild, manager of the Springbokfontein copper mine, and Nicolaas Cloete, at that stage still co-owner of Melkboschkuil.<sup>446</sup>

Astonishing to say the least, that within several months of the grant in January 1850, Jan Baster would throw caution to the winds and sign away for a pittance all rights to Brakfontein farm, this

<sup>443</sup> S G Dgm No. 802 / 1850, surveyed by Government Surveyor J M Wentzel for Jan ‘Baster’ Cloete.

<sup>444</sup> Jan ‘Baster’ Cloete was probably the nephew of Lang Kowie Cloete, i.e. the son of Jan, Kowie’s brother. (See family tree by J A Heese & R T J Lombard (eds) in Chapter 7)

<sup>445</sup> Deed of Transfer T956 dated 11 July 1850 (Clanwilliam Quit Rent Clw 19 – 90).

<sup>446</sup> Power of Attorney to make Transfer dated 22 November 1850. Signed and witnessed at Melkboschkuil, Namaqualand, District of Clanwilliam.

while having the benefit of advice from his family and kinsmen at Melkboschkuil. The servitude reserving use and occupational rights over Brakfontein farm was thus duly cancelled on Deed of Transfer No. 956 of 1850, namely:

*That the said Jan Cloete and his wife Anne shall be at liberty to remain on the said Land and at such spots or parts thereof as the said James King may point out, for the natural period of his life, with leave for him to graze a reasonable quantity of Stock and the use of a like quantity of Ground for ploughing and gardening, and also subject to such other conditions as are mentioned in the said Grant.*<sup>447</sup>

Henceforth James King and his heirs, executors etc. were “for ever free” and discharged from all encumbrances relating to rights reserved by Jan Cloete (Baster).

It is often remarked that English contract law assumes that everyone is able to look after himself or herself so that excuses such as mistake or frustration are rarely accepted. So too is the notion accepted that parties to a contract are under no duties to assist one another (duties of good faith) or at least, under duties not to exploit one another. “Unlike many other legal systems, English law has traditionally taken the view that parties to a proposed contract have no general duty to supply information to each other. Each party must make up his own mind and exercise his own judgement in deciding whether to contract, and it is not the duty of either party to notify the other of facts which may influence that decision”.<sup>448</sup>

Most of the general principles that underpin the modern English law of contract were developed in the 18<sup>th</sup> and 19<sup>th</sup> centuries. The sale of Brakfontein (and Melkboschkuil) would no doubt have been influenced by this traditional or classical theory of contract of law. In particular, the period from about 1770 – 1870 was the heyday of theories of natural law and the philosophy of *laissez-faire* and many of the judges were considerably influenced by current thought.

To the judges of this period, theories of natural law meant that individuals had inalienable rights to own property, and therefore to make their own arrangements to deal with that property, and hence to make contracts for themselves. The philosophy of *laissez-fair*, for its part, was understood to mean that the state, and thus the law, should interfere with people as little as possible.<sup>449</sup>

In general, the law was thus not concerned with the fairness or justice of the outcome. Over time, the many rules designed to protect those who entered into foolish and imprudent bargains were whittled away by the judges. In terms of this reasoning, Jan ‘Baster’ Cloete of Brakfontein should have realised that as a “British subject”, he had (as the other party) equal access to the law and that

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<sup>447</sup> Cf Deed of Transfer T956 dated 11 July 1850. (Annexure 18)

<sup>448</sup> Stephen A Smith, *Atiyah’s Introduction to the Law of Contract*, 6<sup>th</sup> edition, (Oxford: Clarendon Press, 2005), 243.

<sup>449</sup> Stephen A Smith, *Atiyah’s Introduction to the Law of Contract*, 6<sup>th</sup> edition, (Oxford: Clarendon Press, 2005), 9.

James King was not under any duty as the stronger party to inform him (Jan) that he (James) had struck a fantastic bargain.

It would be highly instructive to compare the modus operandi of the persons involved in the sale of both Brakfontein and Melkboschkuil. There is once again (as with the Melkboschkuil case) the assumption on the part of the Brakfontein claimants that their farm was irregularly obtained. Has the attorney John Barker acting on behalf of Phillips & King, in the case of Brakfontein, overreached himself by this exercise and played his hand once too often?

What should be noted is the flurry of internal transfers amounting, as it were, to sleight of hand moves. Was this (the intricate moves, reverse transfers) done to throw off the scent for any future enquirers or investigators? At a glance, the property history of Brakfontein shows definite similarities with that of Melkboschkuil.

The farm Brakfontein alias Groot Brak measuring 3 215 morgen was granted to Jan 'Baster' Cloete on 21 January 1850. Now follows a bewildering series of land transfers.<sup>450</sup>

1. By Deed of Transfer T956 dated 11 July 1850, Jan Cloete (Bastard) transferred the whole of the farm Brakfontein to James King. Property transferred in terms of a Power of Attorney drawn up on 20 March 1850. Purchase price: £30.
2. Power of Attorney dated 22 November 1850 to proceed with cancellation of all occupational and use rights held by Jan 'Baster' Cloete on Brakfontein Farm, for the sum of £7 – 10 – 0.
3. T225 dated 23 February 1852. James King transferred 1/6 share in the perpetual quitrent land called "Brakfontein" alias "Groot Brak" to Peter Clarke Daniel.
4. T226 /1852 dated 23 February. James King transferred 3/6 share to Phillips & King.
5. T325/1852. Peter Clarke Daniel transferred 1/6 share to Phillips & King on 6 March.
6. T1705/1852 dated 20 October. Phillips & King transferred 1/6<sup>th</sup> share to John Wild.
7. T139/1854. James King transferred to John King 1/6<sup>th</sup> share on 10 April 1854.
8. T236/1857. John King to James King 1/6<sup>th</sup> share on 13 May.
9. By Deed of Transfer T145 dated 8 April 1863, Messrs Phillips & King transferred the whole of their properties (including Brakfontein) to Cape Copper Mining Co. Limited.

Given the climate of suspicion among today's land claimants, the manner in which John Barker conducted himself in the sale of both Melkboschkuil and Brakfontein, appears to run counter to the spirit if not the letter of his "oath of office" taken as Notary Public. Throughout the period during which the farms Melkboschkuil, Brakfontein and Lelyke Pad had been acquired, Barker acted as attorney for Phillips & King, drawing up and executing all the principal documents.

### **Authentication and verification of the Cloete signatures**

On another level, an inquiry into the validity and legality of the property deals by which the Cloete brothers transferred their land to Phillips & King, would involve the authentication of their

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<sup>450</sup> Deeds Search conducted by N P Cleary, 1997.

signatures and marks on the relevant documents. On the face of it, all Cloete co-owners signed the relevant powers of attorney and documents of sale as a matter of procedure.

But were all such signatures and marks on the documents (agreements of sale and powers of attorney) genuine or could some at least have been concocted with intent to defraud? We should also ask whether the brothers were induced to sign the documents by misrepresentations, Phillips & King hiding their intentions. Did they (the Cloetes) sign voluntarily and willingly -- fully aware of the implications of the transactions?

In 1813 the Cape Colonial administration sent teachers to the outlying districts. During his travels in 1824, George Thompson found a certain C P Martin in the Kamiesberg. Like other itinerant government teachers in the rural districts of the Cape Colony, Martin moved from farm to farm and was now at the age of seventy-two, "filling the same office to the families of some of the Griquas".<sup>451</sup> He was succeeded by J C Mulder, described as follows in the "Cape of Good Hope Educational Return" of 1844 :

Mr Mulder proceeds from farm to farm to teach the children of the thinly – peopled District of Namaqualand where a fixed school cannot be established. In addition to the allowance from Government, the Teacher receives fees from the Parents of the children taught, or an equivalent in flour, sheep and other provisions. The attendance during the year has diminished. Instruction is given in the Dutch language only.<sup>452</sup>

Local historian and geologist of the Okiep Copper Co., Alwyn Cornelissen, deduces from the deeds of sale of Melkboschkuil that at least three of the seven Cloetes were literate.<sup>453</sup> Van Heerde also moves in the direction of explaining why only three sons of Lang Kowie Cloete benefitted from a basic education so that they were later the only ones able to sign the Melkboschkuil transaction documents:

Lang Kowie also lived on Rietfontein farm – Martins taught some of his children. This teacher kept an attendance register showing that in 1823 some of Lang Kowie's children were pupils there. Later we find these children involved in the sale of Melkboschkuil farm. Lang Kowie at one time occupied Silverfontein, but his children were involved in a quarrel with those of Piet van Zyl, and as a result the Cloetes moved off to the Klein Koperberge.<sup>454</sup>

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<sup>451</sup> G Thompson, *Travels and Adventures in Southern Africa*, Vol. II, (London: Henry Colburn, 1827), 299. A census taken in 1827 locates a Carel Phillipus Martens (sic) on the farm Zilverfontein, Namaqualand, of the Kok family. (Source : Clanwilliam Opgaafrol, Ref. J 33)

<sup>452</sup> P W Kotzé, *Namakwaland, 'n Sosiologiese Studie van 'n Geïsoleerde Gemeenskap*, (Kaapstad: Nasionale Pers, 1943), 15. Quoted from A Dreyer, *Kerksoewenier van Namakwaland (1850 – 1930) Geskiedkundige oorsig van die tagtigjarige bestaan van die plaaslike N G Gemeente*, (Stellenbosch: Pro-Ecclesia Drukkery, 1930), 7.

<sup>453</sup> A Cornelissen, *Namaqualand Copper*, (Nababeep: Privately printed, 1965), 40.

<sup>454</sup> Van Heerde Aanwins A 2152. Typed article, n.d., n.p., anon., 7. (Translated from Afrikaans)

But above all other considerations, it must be conceded that the power of attorney given to John Barker had allowed him considerable leeway and enabled this legal representative of Phillips and King to act as he saw fit (although there is nothing untoward about this). An examination of one particular document has yielded the following results. A Power of Attorney to make Transfer <sup>455</sup> was granted by Gert Cloete of Melkboschkuil to John Barker (Esq) of Cape Town, attorney at law, to make transfer to Phillips & King of Cape Town, of his 1/7<sup>th</sup> share, right and interest in the remainder of a certain perpetual quitrent place called Melkboschkuil. This document was signed by Gert Cloete on 18 April 1852. Here Gert signed with an admirably strong hand and flourish, whereas all other previous paperwork (Agreement of Sale for the Copper Koppie; First Right of Refusal to Purchase: Annexures 15 & 16) relating to the sale of Melkboschkuil, he (Gert) signed with his mark (quite likely the effect of a stroke from which he had subsequently recovered). As we have seen in chapter 3, Gert (along with brother Dirk) maintained with unshakable conviction that they were still co-owners of Melkboschkuil. Gert, on that occasion, reverted once again to appending his cross to the Memorial drawn up at Pella on 23 October 1863. The inescapable conclusion is that Gert's signature on the Power of Attorney must have been forged by someone who had forgotten which of the Cloete brothers were able to sign their names and which were unable to do so. At the same time, this forged signature certainly signalled the true intention of Phillips & King and the lengths to which they were prepared to go to get their hands on a valuable mineral asset.

### **The Agreement of Sale of the Copper Koppie dated 28 October 1850**

Whether the conveyancing attorney, John Barker, and Henry Jencken (a Notary Public), explained (as required by their oath) to the Cloetes in simple terms the contents and implications of the transfer of their property, is a matter for conjecture. Or did they play on the inexperience of the sellers and employed the legal jargon of the documents to their own advantage, given the fact that they had to negotiate with three functionally illiterate owners and four illiterates? Rural farmers in a remote region of the Cape frontier zone were no doubt talked into selling off cheaply the copper koppie (10 morgen plus) and the mineral rights over the entire farm. It is however also true that modern commercial mining was unknown to Cape colonials, let alone extra-colonial frontiersmen such as the Cloete brothers.

By this document dated 28 October 1850, the company of Phillips & King obtained the mineral rights over the whole of the farm, sufficient land for workings attached to any future mine or mines, in addition to grazing and water rights enough for their needs, and the right of free access and of making roads. This in itself would have severely limited or hampered (if not halted) future farming activities on the part of the Cloetes.

The sale of the copper koppie came barely two months after the initial grant of Melkbosch Kuil on 21 January 1850 to Lang Kowie's sons, so the company must have been aware of and perhaps even

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<sup>455</sup> Power of Attorney: contains express authority empowering the agent to carry out a series of acts or transactions registrable in a deeds registry. (Annexure 19)

actively promoting the grant of the three quitrent farms (Melkboschkuil, Brakfontein and Lelyke Pad). This is suggested by the alacrity with which the representative of Phillips & King, one John Wild, seized the opportunity to outwit Albert von Schlicht who had initially made the discovery of copper deposits on the farm, and closed the deal when everybody else had retired for the night.

The perception is certainly strengthened that the purchasers were not above dubious tactics and techniques to acquire the land. For this reason, the Agreement of Sale of 28 October 1850 warrants repetition in full:

This Agreement of Sale of certain place or places containing copper and other metalliferous ores situated on the Farm called Melk bosch Kuil, alias Kopper Berg, alias Spring Bok Fonteyn, District of Clanwilliam, Fieldcornetcy of Namaqualand / lately surveyed by Mr Wentzel, and granted to the undersigned on the twenty first day of January; in the Year of our Lord one thousand eight hundred and fifty, as will appear by the Title Deeds and Diagram thereof.

Witnesseth that in consideration of the Sum of Fifty Pounds Sterling (£50 Stg) paid to them on the 16<sup>th</sup> day of March 1850, they acknowledge to have sold on said day, as they hereby jointly and severally do sell unto Silvanus Phillips, John King, and Charles Phillips, trading under the style or firm of Phillips & King, Cape Town, also to Peter Clarke Daniels, and also to James King, in the following proportions, namely to Silvanus Phillips, John King and Charles Phillips three sixths, to Peter Clarke Daniels two sixths, and to James King one sixth, a certain copper mountain or koppie – situated about a thousand yards westward and measuring about eleven Morgen, as appears from the sketch marked A hereunto annexed.

And further, they the undersigned, do jointly and severally sell all such place or places where copper or any other metalliferous ore or ores is, or are now, or shall hereafter be found or discovered on the before named place granted to the said undersigned, with sufficient ground annexed to each of such place or places as may be considered necessary for the erection of Buildings, or works requisite for the working of the mine.

And further, they the undersigned jointly and severally do sell and dispose of unto the aforesaid Silvanus Phillips, John King and Charles Phillips, also to Peter Clarke Daniels, and also to James King, to the exclusion of all other person or persons the right of grazing their cattle, horses, goats and sheep, upon said Farm as may be necessary for the working of said Mine or Mines, and also the right of the use of water.

And further, they the undersigned, do sell and dispose of to the afore mentioned Silvanus Phillips, John King and Charles Phillips, also to Peter Clarke Daniels, and also to James King the right of free access to any Mine or Mines, also the right of making roads.

And further that they the undersigned, do jointly and severally agree to grant Transfer upon any such place or places being surveyed, to the said Silvanus Phillips, John King and Charles Phillips, also to Peter Clarke Daniels, and also to James King, their heirs, executors, administrators, or assigns, upon the said purchasers paying all expenses of Survey and Transfer.

And lastly, that they, the undersigned do hereby bind themselves, their heirs, executors, administrators and assigns, to the due fulfilment of this Agreement, as well as their property, both personal and real.

As witness our hands at Melkbosch Kuil, this twenty eighth day of October one thousand eight hundred and fifty.

[signed] Nicolaas Cloete; Jan Cloete; Gert Cloete (his mark); Jacobus Cloete (his mark); Piet Cloete; Dirk Cloete (his mark); Jacob Cloete (his mark)

Witnesses: H D Jencken, Notary Public; John Wild.

What is abundantly clear from this document is that the Cloetes of Melkboschkuil entered into a ruinous contract with Phillips & King, the conditions of which were highly prejudicial to their interests. The company now had free reign to impact negatively the rights and interests of the Cloetes in perpetuity, affecting directly and indirectly their access, use, benefit and enjoyment of the property Melkboschkuil. This left them in the unenviable position of not being able to freely cede, hypothecate, bequeath, sell, lease or rent their land without having to first consider the interests and rights of the mining company. In reality, for the measly sum of £50 sterling, they now found themselves under the control and at the mercy of traders from Cape Town and London, with harmful results. Let us next take a closer look at the onerous conditions of sale.

In terms of the agreement, the Cloetes jointly and severally sold “all such place or places where copper or any other metalliferous ore or ores is, or are now, or shall hereafter be found or discovered on the before named place granted to the said undersigned...”, thereby losing all current and future rights to all base metals and minerals (except precious metals and precious stones reserved to the colonial government).

Connected to present and future workings was to be “sufficient ground annexed to each of such place or places as may be considered necessary for the erection of Buildings, or works requisite for the working of the mine.” The loosely worded term “sufficient ground” was not defined, leaving interpretation open to the sole discretion of Phillips & King to determine the extent of land required.

And further, the sellers disposed of, “**to the exclusion of all other person or persons** the right of grazing their [the buyer’s] cattle, horses, goats and sheep, upon said Farm as may be necessary for the working of said Mine or Mines, and also the right of the use of water.” (Emphasis supplied) Again the term “necessary for the working of said Mine or Mines” is not defined and quantified. Grazing and water was secured over the entire farm, to the exclusion of “all other person or persons”, which by extension and on a strict reading, would rule out the Cloetes themselves. Ominously, the rights to grazing and water could be (and were) extended to the staff and the hundreds of workers employed by the mining company as this might be considered “necessary” for the efficient working of current

and future mining operations. Indeed, Phillips & King ran their own butchery and general dealer shops and had their own herds, flocks and draught animals (oxen, mules and horses). This naturally

put excessive strain on the very low carrying capacity of an arid Namaqualand farm, which requires several hectares per unit of stock.

Finally, the conclusion is inescapable that an open-ended deed of sale was concluded, which in a very short space of time proved detrimental to the interests of the Cloetes. In the case of current and future exploitation of minerals, no time period is specified. For example, that the conditions of sale would apply for the life of the mine only, or until payable quantities of ore were exhausted. As has been noted, there was furthermore no limit placed on land required for mining sites nor for the use of grazing and water.

### **The Memorial of Gert and Dirk Cloete, Pella, 1863** <sup>456</sup>

The Memorial of Gert and Dirk Cloete asking for permission to share in the proposed Ticket of Occupation for Pella Mission Station, and addressed to The Honourable the Colonial Secretary on 22 October 1863, stated unambiguously that they still regarded themselves as part-owners of Springbokfontein. They however maintained that they had “been obliged to leave Springbokfontein with our Cattle and Sheep as we eight brothers with our Children and Grand-Children could not exist on the farm any longer, since thousand of Cattle of Copper-Carriers grassing on the farm daily during the Riding-season, and the erection of a village ther has forsd some of us to remove.”

It is perhaps a fair deduction made by the Cloete descendants today that the *bona fide* impression of their forebears (Gert and Dirk and the other Cloete brothers) was that the monies paid over by Phillips & King were a once-off payment for the resultant loss of grazing, water rights and the company’s wagon traffic over their lands still in use, covering the full extent of the farm. This led them into the mistaken belief that they still retained ownership of the farm.

Gert and Dirk Cloete in their Memorial complained that they had been forced to leave Springbokfontein with their livestock since they and their children and grandchildren were unable to continue living on the farm -- “thousands” of draught animals belonging to the copper-carriers grazed daily on the farm during the riding-season and the subsequent establishment of Springbokfontein village forced some of them to move away.

The above contention in regard to huge numbers of draught animals is borne out by a petition (1864) from the inhabitants of Namaqualand for the improvement of roads to the harbours of Port Nolloth and Hondeklip Bay. Statistics collected “with great care” in support of their case, showed that “2 245 wagons laden with copper ore entered Hondeklip in 1862 & 858 returned fully laden with merchandise & these numbers are irrespective of the number of wagons loaded with grain or other produce that visited that Bay or of trader’s (sic) wagons that left it.” <sup>457</sup>

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<sup>456</sup> Annexure 7.

<sup>457</sup> 1/SBK 5/1/3 E A Judge, Civil Commissioner, Namaqualand to Colonial Secretary, Cape Town, 14 May 1864 re “Proposed Road Circle for Namaqualand”.

A modest venture at first, large-scale mining soon took off, as reflected by the sales of ore at Swansea in Wales : 1853, 78 tonnes realising £2,829; 1854, 351 tonnes, £12,719; 1855, 1008 tonnes , £30,668; 1856, 1,739 tonnes, £42,872; 1857, 2,334 tonnes, £70,012; 1858, 2,829 tonnes, £78,330; 1859, 2,958 tonnes, £83,574; 1860, 3,077 tonnes, £81,621; 1861 : “low in consequence of severe drought”, 1,977 tonnes , £47,421; 1862 : “to October”, 2,648 tonnes, £65,706. <sup>458</sup>

When mining began at Springbokfontein in 1852, animal haulage was for the best part of the next 25 years the only available means of transport over rough mountainous terrain and the sandy coastal belt. The first port of shipment was Hondeklip Bay, a 112-kilometre haul to the coast. The roads, on which the very existence of the mines depended, required repair at the end of each riding season—the average duration of which was about four to five months.

The most frequently used vehicle was the light Cape wagon drawn by ten mules, although, especially in good seasons, the heavier ox-wagon was fairly common. The former means of transport was very much more expensive than the latter. The normal load was supposed to be 3 000 lbs., but because of the bad roads, by the time the wagons reached the coast, they seldom contained more than 2 000 lbs. Ore was transported in bags but these tended to chafe through as a result of all the heavy wear and tear. <sup>459</sup>

If it is realised that a good ox-drawn transport wagon required twelve to sixteen draught oxen and the light Cape wagon ten mules, and “2 245 wagons laden with copper ore entered Hondeklip Bay in 1862 & 858 returned fully laden with merchandise”, the number of animals using Melkboschkuil farm (21, 410 morgen) during the riding-season of about five months would be in excess of a staggering 50 000. The Baster and Boer wagon owners of the district were moreover well placed to take full advantage of this booming business, with severe consequences for the physical environment of Melkboschkuil farm. WESTERN CAPE

The ecological impact on a fragile semi-arid environment was -- to say the least -- devastating, resulting in the degradation of the farm, which was soon reduced to a dust-bowl. Severe and recurrent droughts did not help at all, as the veld was not given a chance to recover from the excessive animal and wagon traffic.

The Cloetes eventually sold out as follows (cf chapter 2):

Jacobus Deed of Transfer 242 – 29/10/1851	£100—0--0
Jacob Deed of Transfer 33 – 4/12/1851	£100—0—0
Gert Deed of Transfer 68 --- 3/6/1853	£375 –15—0
Dirk Deed of Transfer 69 -- 3/6/1853	£375—0—0
Piet Deed of Transfer 70 ---3/6/1853	£393—15—0

<sup>458</sup> *Prospectus of the Cape of Good Hope Copper Mining Company*, 1862.

<sup>459</sup> Smalberger, *A History of Copper Mining in Namaqualand*, 1975, 68.

Nicolaas Deed of Transfer 185---18/10/1853 £500—0—0

Jan Deed of Transfer 186—18/10/1853 £500—0—0

**TOTAL £2 344—10—0**

The varying amounts paid to the sellers is explained by Cloete descendants as having been compensation for loss of arable land, grazing, water, access roads over farming area, and for ruined livelihoods. At first, the magnitude of the undertaking and the resultant damages were not grasped by the Cloetes. The difference in amounts is therefore directly related and proportional to a growing awareness of the losses incurred -- from an amount of £100 in 1851 when the site was prepared for mining, to £500 in 1853 when exports of ore rapidly took off. The brothers were, as a result, forced off the land (as maintained by Gert and Dirk Cloete) and had to negotiate and accept compensation for loss and damage. This is how they saw it, according to their descendants.

One is led to ask: What were the true intentions of the two parties who signed the transactions of sale relating to Melkboschkuil? It is common cause that some measure of consensus between the two parties (the Cloetes and Phillips & King) must have been reached and the agreements of sale signed and witnessed. Did one of the parties (Cloete brothers) misunderstand some aspects of the negotiations and the implications thereof? Did they give their consent to the contracts on the basis of an incorrect interpretation -- although no explicit duress appears to have been involved?

It is a generally agreed principle that “(a) person signing a written contract is negligent if he has not acquainted himself with the contents of the document and his ignorance cannot be considered to be a mistake (error), unless he has been misled as to the terms of the contract.”<sup>460</sup> What if the party is illiterate or semi-literate? Is ignorance of the contents of the document then excusable? In general, a person who signs a contractual document is bound by its terms whether he has read the document or not and, under the objective principle, the contract will generally be upheld.

The requirements for valid contracts -- serious intention to conclude a contract, consensus, contractual capacity, lawfulness (concluded in accordance with statute and common law), formalities (contract in writing, notarially executed, contract registered) – all appear to be present in the sale of Melkboschkuil. But if the consent of one of the parties was obtained in an improper manner, we refer to it as defective consent. This state of affairs (defective consent) is caused by misrepresentation, duress or undue influence. In the case of the sale of Melkboschkuil, *prima facie* misrepresentation and undue influence seem to have been at play.

“Misrepresentation” is defined by M A Fouché as “a false representation of facts which is made before conclusion of the contract by one party to the other party with the intention of persuading

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<sup>460</sup> M A Fouché (ed.), *Legal Principles of Contracts and Negotiable Instruments*, (Durban: Butterworths, Fourth Edition, 1999), 62.

the latter to conclude the contract.”<sup>461</sup> Intentional (fraudulent) misrepresentation is thus made with the intention of persuading the other party to conclude the contract.

The next element to be considered is undue influence which “constitutes a degree of influence which renders the subject incapable of forming an independent opinion”.<sup>462</sup> The party exerting the influence uses this influence in an unscrupulous manner that leads to the conclusion of a contract which is to the detriment of the other party.<sup>463</sup>

Both Gert and Dirk Cloete claimed that they were forced to relocate from Melkboschkuil as a direct result of the untenable situation as described above (and the facts definitely point to this) It is plausible that they would have claimed compensation from Phillips & King. They were then given varying amounts ranging from £100 to £500, presumably as a form of redress. It may be further surmised that the Cloete brothers laboured under a misapprehension that the deeds of sale signed by them set out the terms of compensation, while the true intention of Phillips & King was to alienate their land. According to this version then, the powerful company of Phillips & King is adjudged to have brought undue influence to bear upon a weaker and compromised party, and that this enabled them to conclude the contracts.

### Oral tradition and the sale of Melkboschkuil

In the absence of further reliable primary records describing the circumstances surrounding the sale of Melkboschkuil, some measure of reliance must be placed on the oral testimony of Jan ‘Primus’ Cloete and others.

Jan ‘Primus’ had been told by his grandfather, Gert Cloete, that the firm of Phillips & King transporting copper ore from Springbokfontein, had to pay for grazing and water on Melkboschkuil, probably over and above “the right of grazing ... as may be necessary for the working of said Mine or Mines, and also the right of the use of water” (Agreement of Sale, 28 October 1850). The Cloetes initially asked for one hundred pounds as a once-off payment; this was then regarded by the mining company as the purchase price for the farm.<sup>464</sup> Jacobus Cloete was in fact the very first co-owner to dispose of his 1/7<sup>th</sup> share in Melkboschkuil for the amount of £100 on 29 October 1851. A month later, Jacob Cloete followed and was also paid £100 for his 1/7<sup>th</sup> share, lending some credence to Jan Primus’ testimony.

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<sup>461</sup>M A Fouché (ed.), *Legal Principles of Contracts and Negotiable Instruments*, 1999, 63.

<sup>462</sup> *Idem*, 68.

<sup>463</sup> *Idem.*, 69.

<sup>464</sup> Jan “Primus’ Cloete, 23 February 1993.

Jan 'Primus' continued:

Our forebears only knew a system of bartering and Phillips & King had nothing to exchange. Copper ore had to be carried through the lands of the Cloetes to the smelter, so they [our forebears] asked for one amount. Little did they realise that this would be regarded [by the company] as the purchase price.<sup>465</sup>

The Cloetes are adamant that no land was ever sold. Oral accounts say that Piet Cloete and Nicholaas Cloete were in control of the portion of Melkboschkuil known as Springbokfontein<sup>466</sup>, while to the north Dirk was in charge of the Springbok-Okiep area; the eastern Carolusberg-Blomhoek vicinity was handed over by the family to the remaining Cloete brothers.

Jan 'Primus' further explained that the environment was damaged by the mining activities of Phillips & King and green wood (*groen hout*, doringbome, acacia saplings) was cut for use in the smelter and the steam engine. In fact, a water-colour sketch done in the early 1850s shows the land being ploughed right next to the mining works at Springbokfontein.<sup>467</sup> As a result, the company had to pay the brothers more money -- amounts such as £250 and £300. This would, according to the informant, explain the differing amounts paid to the Cloete brothers between 1850 and 1853.<sup>468</sup>

#### Quitrent Act abolished (1934)

The first quitrent payment amounting to Three pounds Fifteen Shillings and Seven Pence was received by the Civil Commissioner's Office at Clanwilliam. A receipt for quitrent over 11 months and 11 days was duly issued during December 1850 to Nicolaas, Jan, Gert, Jacobus, Piet, Dirk and Jacob Cloete of the "Quit rent Place Melkboschkuil alias Koperberg". The annual quitrent was thereafter paid by Phillips & King. For their part, Phillips and King also religiously paid to the Civil Commissioner's Office at Clan William transfer duty on the shares in Melkboschkuil transferred to themselves. For example, a receipt was issued by J. van Ryneveld, Civil Commissioner, on 30 May 1853, for the 1/7<sup>th</sup> share (purportedly) sold by Gert Cloete:

Received from Silvanus Phillips, John King and Charles Phillips, trading under the Style or Firm of Phillips and King, the Sum of Fifteen Pounds Sterling, being Four per Cent Transfer duty on £375 – the purchase Money of Certain One Seventh Share of the Remainder of the Perpetual Quitrent

<sup>465</sup> Jan 'Primus' Cloete on the Sale of Melkboschkuil, Athlone, 22 December 1993.

<sup>466</sup> This oral information accords with (a) the picture captioned "Piet Cloete, owner of Springbokfontein" (Water colour pictures entitled "King's Mines, Springbokfontein", in the South African Library of Parliamentary) (b) the fact that Nicolaas, Piet and Jan were the first signatories to the sale of Springbokfontein koppie. The remaining four brothers appended their marks.

<sup>467</sup> Annexure 20.

<sup>468</sup> Jan 'Primus' Cloete on the Sale of Melkboschkuil, Athlone, 22 December 1993.

Place called “Melkboschkuil”, situated in the Ward Namaqualand in this Division, and measuring as per remaining extent 21 399 Morgen and 248 Square Roods -- sold to them on the 18<sup>th</sup> April 1853, by Gert Cloete.

The Abolition of Quitrent Act (No. 54 of 1934) (as amended) provided for the abolition of certain quitrents and other taxes and certain debts in respect of land. Also, to abolish any quitrent payable in respect of land situate in the province of the Cape of Good Hope, in terms of the proclamation of Sir John Francis Cradock dated 6 August 1813 and subsequent Acts. By this act, the successors of Phillips & King were exempted from further payments and could now take final transfer of the property in their name in 1934.

It is worth noting that as far back as 1864 when the farm Melkboschkuil had already been subdivided for the purpose of laying out a village, the proprietor Phillips & King wanted to redeem the quitrent and approached the Civil Commissioner of Namaqualand on the matter. In the event, neither Phillips & King nor their successors exercised this provision to redeem the quitrent after a period of 15 years from date of grant, and take full ownership of the farm.<sup>469</sup> The Abolition of Quitrent Act (No. 54 of 1934) (as amended) finally made this move unnecessary.

Despite possible irregularities as claimed by the Cloetes in respect of the sale of Melkboschkuil (and Brakfontein), the consensus amongst the conveyancers appears to be reflected by the report of attorney R W Bowen to Mrs Elizabeth Cloete (ouma Ellie) of Kouboegas on 10 December 1947 :

... that all these items have been verified from the records in the Deeds Office, and reflect the acquisition of and entire disposal of the Lands known as Melkboschkuil by the seven Cloetes and this being so there appears to be no residue left in the estate.

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<sup>469</sup> The reason for their reluctance to take up full ownership can only be guessed at. The missionaries though, were avid readers of the government gazette as well as other official communications, and would certainly have alerted their congregants at Melkboschkuil about any change in the status of the farm.

## CHAPTER 9

## DAWN OF A NEW POLITICAL ERA: LAND CLAIM ON MELKBOSCHKUIL

**Application of the Group Areas Act to Springbok (1967)**

By 1963, a further extension toward the east side of Springbok town was being planned by the municipality. This proposed development scheme involving about 200 erven on the site of the existing (Coloured) Location had been preceded by the Wynhoek township project some years before in 1957. This project provided for the resettlement of Coloured residents removed from the Location located east of Springbok town, to their “own residential area” to the north behind the mountain at Wynhoek on Springbok Commonage. Since renamed Bergsig, Wynhoek was by 1957 demarcated as a Coloured Group Area. Major resettlement plans for the township were then already on the drawing board for 500 homes, a civic centre, sportsfields, businesses, schools and churches.

<sup>470</sup>

The plans to resettle the residents of Springbok Location was followed up by a Group Areas proclamation in 1967, in terms of which separate areas for occupation by members of the White and Coloured groups of Springbok town were proclaimed.<sup>471</sup>

The formal proclamation of Bergsig as a Coloured Group Area had a long run-up and was preceded by a series of unfavourable decisions affecting the non-white section of the community. As early as 1934, the town council received a Petition in this vein from several residents asking that “people of colour not be allowed to lease property [erwe] in town”. After discussion of the matter, councillors Basson and Jowell were tasked with approaching the owners through Mr Frank Kitto (of the South African Copper Mining Co. at Okiep) in order to obtain his co-operation not to lease any more erven to people of colour.<sup>472</sup> Council’s attention had subsequently been drawn to the fact that members of this community were at all hours of the night wandering about in town. By 1939, after an interlude of several years, the Town Clerk was directed to write the Secretary of the Municipal Conference informing him that Council was now in favour of separate residential areas for Whites and Coloureds.<sup>473</sup> So, during the Second World War the town council had already as a matter of course accepted in principle the idea that White and Coloured dwellers on the Commonage should be separated.<sup>474</sup>

<sup>470</sup> Springbok Municipality, *Springbok*, (Springbok: Municipality, 1963). Extension No. 3 Bergsig, portion of Erf 531 of the Commonage, situated north of Springbok town. (Annexure 21)

<sup>471</sup> Springbok Group Areas Proclamation No. 76 (a) & (b), dated 14 April 1967. Residents removed from the Springbok Location to Bergsig, lodged a successful land claim with the Regional Land Claims Commission: Western & Northern Cape. (Annexure 22)

<sup>472</sup> 3/SBK Ref. 1/1/1/1 Springbok Town Council Minutes of Meeting, 16 March 1934.

<sup>473</sup> 3/SBK Ref. 1/1/1/3 Springbok Town Council Minutes of Meeting, 24 March 1939.

<sup>474</sup> 3/SBK Ref. 1/1/1/4 Springbok Town Council Minutes of Meeting, 29 August 1944.

The presence of Coloured residents in Springbok town would with some ratepayers remain a general source of irritation. Mr F G Kotze and others wrote under a letter dated 1 April 1944 in regard to the “undesirability of certain Coloured residents in town”, whereupon Council responded that nothing could be done, except in cases where the “volk” made a nuisance of themselves, caused disturbances or the house had been declared a health hazard.<sup>475</sup>

To rectify and regularise the situation in regard to certain residents as sketched above, a curfew was duly introduced. Efforts were made to obtain the relevant regulations from Province to impose a curfew to debar non-whites from Springbok town after 9 p.m. At an ordinary meeting of Council on 17 December 1953 it was unanimously decided to apply a curfew in terms of Section 31 (1) of Act No. 25 of 1945, as amended, in the municipal area of Springbok between the hours of 9 p.m. and 5 a.m. A siren, operated electrically, was mounted on a pole at the post office.<sup>476</sup>

Underlining the precarious nature of their tenure, applications by residents of Springbok Location to add “a little room” to the existing home would routinely be regarded by Council as a major concession. If and when permission was granted to their touching requests and appeals, it would be accompanied by a caveat that their houses were only temporary structures subject to being removed at any time if so instructed. In this way, a house would be erected at own cost but had to be removed without compensation when so directed. Those applications lucky enough to be approved, were subject to the condition that approval could be withdrawn for the not so small matter of an additional room, when Council required that the resident leave the Location. Thus, on a regular basis, it was made abundantly clear that “no compensation shall be paid out in connection with the removal of the applicant’s dwelling”.<sup>477</sup> Residents removed from the Springbok Location and the Commonage under the Group Areas Act, whether squatter or owner of a dwelling, had erected the structure at his or her own risk and at the Town Council’s pleasure.<sup>478</sup> In consequence, they did not qualify for financial compensation at the time of the forced removals years later.

On the Commonage -- regarded as the private estate of the town council -- a simple application to start a garden or keep two donkeys would be subjected to severe scrutiny. As is also to be expected, the conduct of applicants to reside on municipal land was investigated and an unfavourable report would invariably disqualify them from being granted a right to occupy. For instance, the application of a woman for an erf at Wynhoek was rejected on the grounds that she had been justifiably evicted from the Roman Catholic mission at Matjeskloof for living apart from her husband. Permission to live with a family in Wynhoek, or reside on the Commonage, was also withheld if the applicant did not hold a permanent job in town, or his conduct was found not to be of an acceptable standard.

As regards the practice of “coloured sports”, a (Mr) N A Thomas once thought well to apply on behalf of local primary schools for leave to hold an inter-schools sports meeting on the town’s sports

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<sup>475</sup> 3/SBK 1/1/1/4 Springbok Town Council Minutes of Meeting, 20 April 1944.

<sup>476</sup> 3/SBK 1/1/1/7 Ordinary Meeting of Springbok Town Council, 17 December 1953.

<sup>477</sup> 3/SBK 1/1/1/8 Ordinary Meeting of Springbok Town Council, 20 June 1956.

<sup>478</sup> KUS 5/2/1/F331 Ref. 1/86 Vol. I. Group Areas, Springbok 1966. Springbok Municipality, 21 Aug. 1967.

grounds, which application of course drew a negative response – no reasons were minuted.<sup>479</sup> Likewise, “Happy Hearts” Football Club had no joy as regards the use of a suitable piece of ground on the Commonage until the Reverend Mc Kenna of the Anglican Mission gave a solemn undertaking and signed a contract containing the usual conditions.<sup>480</sup> A Miss Cockerill was also lucky enough, after an inspection of the site by a special committee, to be allocated a field for her netball club in Springbok Location. The concession was subject to the following conditions: rental of 1/- to be paid in advance, and “the concession will be temporary only, as soon as removals were required any improvements to be taken away by the club at own expense”.<sup>481</sup>

Almost three decades later, after the forced removals from Springbok Location and the Commonage, the tables would be turned and the victims afforded under the Restitution of Land Rights Act (No. 22 of 1994), a measure of financial redress for tenancy rights lost.

### **Land Claim on Melkboschkuil Farm No. 132**

The transition to democracy in South Africa (1990 – 1994) had raised expectations of restitution of land rights lost through race-based laws and policies, and of the redistribution of land. Although much has been done in this regard over the past few years, there have also been historical claims for the return of land dispossessed before 19 June 1913 that fall outside the ambit of the Restitution of Land Rights Act (No. 22 / 1994, as amended). Since many of these claims are not frivolous or opportunistic, there is a serious question about how they should be handled. Historic claims for restitution of land rights to Melkboschkuil and Brakfontein are cases in point.

This chapter concerns two claims for the return of lost land submitted by the Cloetes of Namaqualand, namely in respect of the farms Melkboschkuil (Springbokfontein) and Brakfontein (Okiep)<sup>482</sup>. People in Namaqualand have long-standing and entirely reasonable historical claims to land taken away or acquired under questionable circumstances.

Shortly before the passing of the Restitution of Land Rights Act in 1994, expectations (and frustrations) had been on the rise in Namaqualand, as reflected by a meeting between the Namakwaland Burgervereniging (NBV) (Namaqualand Civic Association) and Surplus People Project held at the SPP offices in Athlone on 4 May 1993.

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<sup>479</sup> 3/SBK Springbok Town Council. Minutes of Meeting, Ref. 1/1/1/4. August 24, 1953. Note: According to a declaration, signed by the Town Clerk on 29 April 1987, no archives other than Board Minutes were preserved. (Source: 3/SBK Inventory of the Archives of the Secretary, Village Management Board 1922 – 1933, Vol. I, Springbok, Introduction)

<sup>480</sup> 3/SBK Ref. 1/1/1/6 Springbok Town Council. Minutes, 16 August 1949.

<sup>481</sup> 3/SBK Ref. 1/1/1/8 Springbok Town Council. Minutes of Special Meeting, 9 April 1957.

<sup>482</sup> Land claim on Melkboschkuil submitted by John Henry Cloete (Ref. No. C 202). Brakfontein claim lodged by Timothy Union Cloete under reference no. C 90.

Present were the NBV delegates Messrs Paul 'Lulu' Cloete (chairman), Jan 'Primus' Cloete (secretary), Brian Don (Ebenaezer), Thomas Coetzee (Steinkopf), Nicholaas Meyer (Steinkopf), Japie Bekeur (Leliefontein), and Gert Cloete.<sup>483</sup>

Jan 'Primus'<sup>484</sup> felt that something "drastic" had to be done to kick-start the land claims process. He was of the view that only one logical option remained: start with the head (De Klerk) in order to get to the rest of the body. Emboldened by the transitional period when things were in a flux, state president F W de Klerk was given two dates when they wanted to see him.

The representative of Surplus People Project (SPP) explained that "as regards the fax to De Klerk, we must remember that he still holds power as state president. One cannot write a letter demanding an audience with the State President." The state president's office would want to know who and what would they be meeting about.

To which words of caution Paul 'Lulu' Cloete (chairman)<sup>485</sup> responded as follows:

The NBV are the legitimate natives of Namaqualand and descendants of the Namas.<sup>486</sup> F W de Klerk has taken over from the British monarch who had taken the land from our forebears. To add insult to injury, no mineral rights were reserved for the natives.

Then the chairman asked enigmatically, "If the state president dashes my hopes, what chance does the Church (a beacon of moral rectitude) have of repairing my attitude and feelings about the situation? We must see the state president himself, not his subordinates".

The chairman moreover demanded to know:

When Jan van Riebeeck landed on these shores at the Cape in 1652, at which beachfront hotel did he stay, I ask you? It is clear that theft in the name of the law has been committed in regard to land.

The continent of Africa had three nations only at the Tower of Babel – the Kaffir, Bushman and Hottentot<sup>487</sup> – so why do I have to go to court again [after the Namaqualand land court cases of the late 1980's] to claim my land?

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<sup>483</sup> See Annexure 12.

<sup>484</sup> John Hen(d)ry Cloete, widely known as Jan 'Primus'. Originally 'Primuskop' but later shortened to "Primus", the allusion in reference to his bald head. Several mentions to him are made in the text of this and other chapters. (See Introduction & chapters 4, 6, 7, 8). (Also, Annexure 12)

<sup>485</sup> See Paul 'Lulu' Cloete, Annexure 12.

<sup>486</sup> "Many people today are proud of their Khoikhoi ancestry and are increasingly seeing it as an important part of their self-identity. To suppose that such identity needs to demonstrate any kind of 'purity' is to be historically uninformed." (E Boonzaier, C Malherbe, P Berens & Andy Smith, *Cape Herders ... A History of the Khoikhoi of Southern Africa*, (Cape Town : David Philip Publishers, 1997), 141.

<sup>487</sup> See Footnote 35, INTRODUCTION.

So, if we talk with Queen Elizabeth II about our land, I do not want an interpreter around. She [QE II, sometimes referred to by him as “die klimeid”, E., lass; A., kleinmeid] and Verwoerd established the Republic – I was right here. The problem now is that I am allowed to make the porridge, but not to dish it up.

A decision was then taken that the Namakwaland Burgervereniging (NBV) set up a meeting with officials of the Directorate: Regional and Land Services (Streeks-en Gronddienste), which was duly held on 4 May 1993 at H F Verwoerd Building, Plein Street, Cape Town.

At the meeting, a wide- ranging discussion ensued covering the central issue of land claims in Namaqualand. NBV chairman Paul Cloete spelled out the main purpose of the visit as the restoration of the original boundaries (including mineral rights) “because one should not disregard the boundaries as laid down by the fathers”. NBV Secretary Jan ‘Primus’ duly obliged by supplying a historical delineation of the Namaqua country:

The meeting is informed that the NBV executive has on 16 September 1989 been entrusted with the task of returning the land of Namaqualand. Not pockets of land, because historically the traditional land of the Namaqua stretched from the Jew’s crayfish canning factory in Lamberts Bay eastwards to a point opposite the town of Clanwilliam and further to Wupperthal. Thence to the Augrabies Waterfall; and in a westerly direction all along the northern bank of the Orange River up to the Mouth. From here it follows the high water mark south back again to the point first mentioned.

Recent excavations in Namaqualand by archaeologist Lita Webley have dated occupation by the Namas for at least 2 000 years, evidence of a long history of effective settlement by the original inhabitants.

Paul Cloete in turn recalled that the traveller and explorer sir James Alexander had as early as 1836 already found his forebear, “Ghous”<sup>488</sup> Cloete (Lang Kowie), at Springbokfontein.

Following the annexation of the territory between the Buffels and Orange in 1847, the farm Melkboschkuil was granted to the seven sons of Ghous Cloete. Paul ‘Lulu’ Cloete and Jan ‘Primus’ Cloete of the NBV delegation are direct descendants of respectively, Jan and Dirk Cloete, two of the seven co-owners of Melkboschkuil.

Jan ‘Primus’ further informed the meeting that a summons for trespassing on Garracoup was recently served on him. This land (Garracoup), a portion of the farm Nababeep (Lelyke Pad), was owned by the Okiep Copper Company, but according to him formed part of his ancestral land at Melkboschkuil. Jan is most upset at the turn of events, as by an act of divine origin, his “blood is intermingled with that of Nababeep”.

On the part of the delegation from Namaqualand, the discussions on land issues were interspersed with a welter of Biblical references and quotations,<sup>489</sup> and at times complex exegeses of texts, to

<sup>488</sup> Jacobus or Koos is ‘Ghous’ in Nama, pronounced ‘ghost’ with a silent ‘t’.

<sup>489</sup> Paul ‘Lulu’ Cloete, a conservative sage from Steinkopf and at the time chairman of the NBV, quoted a profusion of fiery biblical injunctions related to land to admonish his opponents. For example, a small selected

substantiate (for the benefit of the meeting) their arguments in regard to the dispossession of the land of the forefathers. There was, however, a measure of scepticism on the part of the Namaqualand delegates. Although they made liberal use of biblical sources to illustrate their arguments, (in their considered view) one must bear in mind that the Bible had undergone several reprints, making it extremely difficult for Paul 'Lulu' Cloete to understand the different (distorted?) versions. "I cannot believe any longer. God must rather come down and take away all the liars and crooks as the NBV is constantly being misled by promises and lies". There was a strong possibility that the levels of violence and turmoil then experienced by the rest of the country could spill over into Namaqualand, "because politics is in the final instance, the apostle of the devil".

The attempts at ethnic mobilisation to further their land claims presented certain obstacles, Paul 'Lulu' Cloete realized. In explanation, he argued that...

We are alienated from the Hottentot language because in the first instance, we have been robbed of it. As a result, we speak a language [Afrikaans, and no doubt English as well] whose origins and foundation we do not know, and in the process we sink like stones in water.

The ethnic bond with the original Nama inhabitants of the land is here consciously invoked by Paul 'Lulu' as a basis for their claims.

An added source of difficulty was the destruction of the church records at Steinkopf mission station:

A further setback on 19 November 1868 was the incident when a shot was fired off that set the thatched roof of the parsonage alight. Through what I attribute to negligence on the part of the Rhenish Church missionary at Steinkopf, Ferdinand Brecher, the heritage of our forebears, our history, all the church records and marriage registers, had gone up in flames.<sup>490</sup>

Before the close of the meeting, the Director for Regional and Land Services drew attention to the fact that land claims could only be settled by the Advisory Committee on Land Allocation (ACLA) whose powers would shortly be extended.

Thereupon a prayer was led by oom Paul 'Lulu', calling on heaven to right the wrongs of the past. Immediately afterwards, the group (with eyes still half-closed in earnest supplication) was informed by Jan 'Primus' to the effect that:

This much I have told the Okiep Copper Company. Great-grandfather and oupa them were always prepared to extend their hospitality to a fellow-man; but much to their regret and

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sample reads: Deut. 27 : 17 – "God's curse on anyone who moves a neighbour's boundary mark"; Prov. 22: 28 – "Never move an old boundary-mark that your ancestors established"; Prov. 23: 10 – "Never move an old boundary mark or take over land owned by orphans".

<sup>490</sup> Cf Nederduits Gereformeerde Sendinggemeente Steinkopf, *GEDENKBOEK: Een-En-'N-HALF-EEUFES 1819 – 1969*, (Woodstock: Mester en Kie, 1969), 27: "Verder vertel ... eerw. Brecher, dat dieselfde pastorie ... asook byna al sy besittings..., ... deur 'n ramp getref is. Per ongeluk het 'n skoot (vermoedelik uit 'n ou "Sanna") in die strooidak of rietdak te lande gekom, en 'n brand veroorsaak, wat byna alles verteer het. Dit verklaar ook waarom ons nou meesal moet staat maak net op die oorlewering van mond tot mond, ..."

sorrow, they did not realise that a wolf in sheep's clothing had appeared on the scene in the form of Phillips & King. In the final instance, the summons [for ploughing illegally at Garracoup] is dismissed with the contempt it deserves, and I refuse to be pushed around like *oupa* was, by those white bastards.

The Namaqualand delegation then left the building with mixed feelings, thinking of *oupa* and Phillips & King and all the others, some of them swearing under their breath – but all of them after meeting the government officials -- none the wiser for their efforts. These foreigners were welcomed into the land by their forefathers, to the detriment of the descendants who are today struggling with various socio-economic ills brought about by exploitation.

### **Summonses: Melkboschkuil matter introduced**

Firing the first shots in an effort to regain the land of the Cloetes, Jan 'Primus' Cloete would through early political posturing (and a dose of consummate showmanship) set the wheels in motion. The point of departure was the return of Melkboschkuil to the descendants of its rightful owners.

As Jan explained at the time: "We do not want to find ourselves in the same boat as the Riemvasmaak people who had lost some 20 000 morgen to the South African Defence Force. The descendants of the Cloetes of Melkboschkuil are prepared to go to court, the only question remains whether to go to the Land Claims Court or the High Court."<sup>491</sup>

The events surrounding the (for the claimants purported) sale of Melkboschkuil were thus again brought dramatically to the attention of the public during July 1993 when John Hendry Cloete (Jan 'Primus', referred to above), a direct descendant of Dirk Thomas Cloete of Melkboschkuil, appeared on 5 July 1993 in the Springbok Magistrate's court on a charge of trespass. The front page headline in the issue of *Namaquanuus* (July – August 1993) read: "*Oom Jan ploughs on OCC land, court hears*".

The case was a sequel to an incident on Saturday 24 April of the same year when he was alleged to have cut the fence and ploughed and sowed wheat and planted vegetables on the land of the Okiep Copper company at Garracoup, a portion of the farm Nababeep (also known as Lelyke Pad).<sup>492</sup>

His appearance was part of a deliberate strategy worked out by Jan himself to sensationally (and theatrically) stage and highlight the Melkboschkuil land claim.

Garracoup, to Jan Cloete's mind, was (as waste land utilised by the Cloetes) part of the 21, 410 morgen of the farm Melkboschkuil which had belonged to his great-great-grandfather, Lang Kowie Cloete. He was not very far from the truth in that Lelyke Pad (Nababeep), adjoining Melkboschkuil, was certainly utilised as the traditional land of the Cloetes long before annexation of the region in 1847.

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<sup>491</sup> Standpoint of Melkboschkuil land claimants, beginning 1993.

<sup>492</sup> *Namaqua Nuus*, date of issue July/August 1993.

Jan Cloete would during that time be served with a succession of summonses (three in all) for trespassing on the land of the Okiep Copper Company. In the first one issued on the day of the alleged ploughing incident (Saturday 24 April 1993), he was accused of “illegally destroying and removing fauna and flora”. Barely two weeks later, the second summons served on 10 May charged Cloete with driving his *bakkie* over company property. Soon after, on 14 May, another summons indicted him for “wilfully and without permission” ploughing a tract of company land at Garracoup near the town of Nababeep. The hearing held in the Springbok Magistrate’s Court on 5 July 1993 was postponed to 26 July and Cloete was not asked to plead.<sup>493</sup>

After the brief court appearance on 5 July, Jan ‘Primus’ three weeks later explained the position at what appeared like a mini press conference:

The land that he allegedly trespassed on, was in fact part of the 21 410 morgen of Melkboschkuil that belonged to his great-great-grandfather.

The company might possibly have obtained the mineral rights from the state, but the land rights were his just as it once belonged to his great-great-grandfather. He (Jan, the accused) has never signed any document handing the land to the state.

He further assured the post-appearance meeting held at the Namaqualand Resources Centre (NAMREC) in Springbok,<sup>494</sup> that his bread was completely free of any “BTW” (Belasting Toegevoegde Waarde), meaning government had not been given any chance to slap on its value added tax (VAT). “Indeed, wholesome grain from my ancestral land”, he exclaimed, (though of course illegally sowed and reaped on the mining company’s land).

Jan ‘Primus’ sighed deeply and concluded:

I have driven the matter far enough by doing something drastic. In the process touched on an acutely sensitive spot by ploughing and being summonsed [to appear in court]. The NBV as an umbrella body must take over at this point. This case serves as a starting-point to restore our land. Leliefontein has been confined to a rocky outcrop so pressed are they for space. And of course, the Steinkopf land claim between the Buffels and Orange, 60 miles wide and 350 miles in length, did not get back as much as a cupful of sand. Something drastic must be done. I’ve gone far enough with the process, I cannot afford legal counsel. All that I possess is half a bag of grain (sown) in the ground at Garracoup.<sup>495</sup>

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<sup>493</sup> Jan ‘Primus’ Cloete had his wife Frances appear with him in the dock, explaining to the magistrate (who could barely suppress a smile) that they were married in community of property. “Your worship, she will therefore go to prison with me”.

<sup>494</sup> Jan ‘Primus’ Cloete, Namaqualand Resources Centre (Namrec), Springbok, 26 July 1993.

<sup>495</sup> Idem.

After representations to the Attorney General of the Cape by Jan 'Primus' Cloete himself, he was notified in a letter that the case against him would be provisionally withdrawn pending clarification of his land claim to Melkboschkuil by the Advisory Commission on Land Allocation.

"Mr Cloete must however be warned not to commit further acts of trespassing on the land until such time that the Commission has decided on the ownership thereof."<sup>496</sup>

To which letter of warning Jan Cloete, in an interview with this researcher during August 1993, replied in lyrical tones. That he could not give such an undertaking. By a divine act (*godsdaad*) his blood was inextricably bound up with the land of Melkboschkuil "whose call to plough or harvest will come with the onset of winter rains or ripening grain in the fields." Although the "drastic measures" to plough unlawfully on company land backfired at Jan's expense, it had the intended result of focussing attention on the Melkboschkuil claim for restitution of land rights.<sup>497</sup>

### **Launch of land claims report on Namaqualand**

Namaqualand had experienced intense land struggles in the 1980's. Most of these have centred on efforts to retain communal land in the Coloured Reserves in the face of the government's privatisation policy which divided Leliefontein, Steinkopf and Southern Richtersveld into "economic units" to be leased by a small number of selected applicants. This would of course have left the majority of residents landless, but landmark court battles which followed restored (on a legal technical point) the land to the communities in 1988 and afterwards.

Throughout this period of struggle communities made various land claims outside the existing boundaries of the Coloured Reserves, saying that they had been historically dispossessed and that land was still being stolen from the reserves by encroaching farmers and mining companies. However, the content and basis of their claims had not at the time been investigated further than a few archival and deeds office searches.

A project to attempt to provide a coherent picture of the nature of land claims in Namaqualand thus arose out of requests from various communities to Surplus People Project, a service organisation dedicated to assisting the landless. These communities included: Ebeneser, Rietpoort, Leliefontein, Komaggas, Concordia, Steinkopf, Richtersveld and Pella. To this end SPP appointed a researcher to investigate and report on their land claims, which was published in 1995 under the title "*Land Claims in Namaqualand*", and included a chapter titled "Melkboschkuil alias Springbokfontein alias Springbok".

On 6 February 1995, Derek Hanekom, then minister for Agriculture and Land Affairs, launched the publication "*Land Claims in Namaqualand*" at St George's Cathedral, Cape Town, describing it as a

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<sup>496</sup> Letter dated 22 July 1993 from the Office of the Attorney-General, Cape, to J Cloete, Plaatjie, Nababeep.

<sup>497</sup> Surplus People Project, *Land Claims in Namaqualand*, (Beacon Industry: Formeset Printers, 1995), 104.

tribute “to the people of that arid, most beautiful region”, who have fought “a steadfast and valiant battle for the land they regard as their own.”

When the voices of these people rise from the pages of this book, the richness of their history blossoms like the flowers of Namaqualand. Out of pain and dispossession sprouts the hope and tenacity of communities’ struggle for land rights which lasted through ages of colonialism.

At the same time the minister sounded a note of warning that had we gone beyond the cut-off date of 1913, “one might argue that we would have opened up our society to bitter struggles over land. Sadly enough, we might have resuscitated old ethnic formations, which were the basic units of our society in the past”. This might have turned the process for the restitution of land rights into a nightmare. The book would however remind generations to come of past mistakes and how people were deprived of land.

J F ‘Bubu’ van Wyk, chairman of the SIV (Steinkopf Inwonersvereniging), spoke after the keynote address and expressed the wish that the dispossessed community of Namaqualand emulate the spring hare of Nama mythology and act as a collective /has to right the wrongs of the past.<sup>498</sup>

### Queen reminded of broken promise

After the South African elections for a democratic government in April 1994, an invitation was extended to HRH Queen Elizabeth II to visit the country during which she would address the first democratic parliament of the Republic of South Africa.

The members of the Namakwaland Burger Vereniging (NBV) understandably seized with alacrity the opportunity of the royal visit to highlight their claims for restitution of land. These people from Namaqualand, therefore, did not wave flags to greet Queen Elizabeth II after her arrival in Cape Town on 19 March 1995, but instead waved placards. The only obviously dissenting voices in the crowd, they had travelled 600 km or more to remind her of a promise broken by Elizabeth’s great-great-grandmother, Queen Victoria, and to try to enlist royal help in their struggle for land.<sup>499</sup>

Prior to her arrival, the Namaqualand Burgervereniging had written to the queen requesting a meeting, but when the embassy informed them that this could not be fitted into her schedule, they decided to demonstrate. The letter they sent to the queen pointed out that Queen Victoria had

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<sup>498</sup> According to social anthropologist W P (Peter) Carstens, “Certain individuals in Steinkopf are believed to be capable of directing the extraordinary activities of the /has, a mythical species of spring hare with large red ears and superhuman powers”. The /has may be ‘sent’ for four purposes, first and most commonly, it is sent (as an institution of social control) to warn people who have offended to mend their ways.

(W P Carstens, *The Social Structure of a Cape Coloured Reserve*, (Cape Town: Oxford University Press, 1966), 182 – 183.

<sup>499</sup> “Queen reminded of broken promise”, *Weekly Mail & Guardian*, 24 – 30 March 1995.

promised protection to the original people of Namaqualand in the 19<sup>th</sup> century, and had then betrayed them by giving away their land to “foreign intruders”.<sup>500</sup>

Sounding a realistic note, the land activists then conceded that the British Crown and the British Government no longer had any say over what happened in this country; “but we know ... it would be possible for you to use your great influence to advance our cause”, the letter read.<sup>501</sup>

The situation of the Namaqualanders was complicated by the fact that they had no obvious recourse to the Land Claims Court which, in terms of its founding legislation, is concerned only with claims on land that was taken after the promulgation of the Native Land Act in 1913, whereas their historical claims on land predate this Act.

Even as Her Majesty’s aircraft landed on Sunday 19 March 1995 at Cape Town, there was the haunting conviction amongst the dispossessed community of Namaqualand that past injustices had remained unresolved, even though the claimants may have the strongest historical claim in the world to the land.

Mr J F ‘Bubu’ van Wyk, spokesman for the Namaqualanders, encapsulated their sentiments after a request for an audience with the queen was turned down. The heartfelt wish had always been to meet with the queen to discuss their land claims, but this never came off through lack of funds. Now their prayers had been answered and her majesty was coming to them instead. The community of Steinkopf for one was convinced it would never go well with the Queen and her children as long as the land was not returned to the people. They are further of the view that current problems in the royal household involving her sons and the daughters-in-law, was ample proof of this.<sup>502</sup>

It is here suggested by the Namaqualanders that the difficulties in the royal family can be ascribed to unresolved matters regarding land rights in Namaqualand going back to Queen Victoria. The four generations of British sovereigns are accordingly counted off with great seriousness on the fingers: Victoria, Albert, Edward and Elizabeth – a case of the sins of the forefathers (read great-grandmother) visited upon the fourth generation? A resolution of the impasse can therefore only lie in a personal visit by her majesty to Namaqualand for the sole purpose of laying the matter to rest once and for all.<sup>503</sup>

During the visit of the British monarch, Surplus People Project (SPP) assisted the Namakwaland Burger Vereniging (NBV) with their letter and placard demonstration. Although they failed to get an audience with the Queen, this action gave reasonable publicity to land claims in Namaqualand, including that on the farm Melkboschkuil.

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<sup>500</sup> Idem.

<sup>501</sup> Idem.

<sup>502</sup> “Namakwalanders wil hul grond van koningin hê”, *Rapport*, 19 Maart 1995.

<sup>503</sup> Sentiments expressed at a land claims meeting held in the Raadsaal, Steinkopf, on 4 February 1993.

### The Melkboschkuil Land Claim lodged

A claim for restitution of land rights was submitted to the Regional Land Claims Commission: Western & Northern Cape by John Hendry Cloete (chairman) and Eddy Gabriel du Plessis through VOLAM (Vereniging van die Oudste Lewende Afstammelingen van die Cloetes van Melkboschkuil).

The application was lodged on 5 December 1996 on behalf of all descendants of the seven Cloete brothers of Melkboschkuil No. 132, Namaqualand Registration Division.<sup>504</sup>

In a strongly-worded background statement attached to the claim, the applicants asserted that the right in land was inter alia lost on the following grounds:

“The signatures in the transferring documents [purporting] to be those of the Cloete Brothers are frauds”.

“The family had in their possession the unendorsed title deed which was supposed to have been submitted ... at the time of the sale.”<sup>505</sup>

“The property was secured by perpetual grant which system was abolished in 1934, making this claim fall within the jurisdiction [ambit] of Act 22 of 1994.”

Additional information on the background to the claim was furnished by the claimants:

7.4 The said property was owned in undivided shares by the seven brothers. If the property was to have been sold, all the shareholders had to have signed each fractional sale. This was not the case in this sale.

7.5 Why were clandestine monies paid to the descendants for mineral rights long after the property was sold?

We claim the following:

9.2.1 Full restitution of the farm Melkboschkuil No. 132 (21 410 morgen) to be returned to the estate of the Cloete brothers.

9.2.2 Compensation for loss of use of the property by the descendants.

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<sup>504</sup> Duly completed Land Claim Form submitted to the Regional Land Claims Commission: Western & Northern Cape under reference No. C 202. A claim for restitution on Melkboschkuil was also lodged by W J Cloete (Ref. No. C 151); on Matjeskloof (Springbok Commonage) by M Isaacs (Ref. No. I 150).

<sup>505</sup> About the year 1947, the “Eerste Diagram” (most probably a copy of the Original Grant document) is believed to have been in the possession of Gert Cloete of Steinkopf (also known as Gert Skoolmeester) who had obtained it from ouma Ellie Cloete of Kouboegas. Jowell & Scholtz (attorneys) is said to have paid Gert an undisclosed sum of money (£300?) for the document, whereupon it simply “vanished”. This much Freddy Karsten told Jan ‘Primus’ Cloete before the former’s death. (Jan ‘Primus’ Cloete, personal communication, 18 September 1993)

9.2.4 Profits from mining operations since 1850.

9.2.5 Compensation for destruction of crops and dwellings of the descendants by the Municipality of Springbok.

9.2.6 Restoration of mineral rights to the family estate.

9.2.7 Compensation for *crimen injuria* suffered by the descendants jailed and humiliated while fighting for their rights for land which (were) alienated from them fraudulently.

9.2.8 Compensation for costs incurred for reclaiming the land.

From the outset, it was apparent to the Land Claims Commission that legal questions concerning the validity of the land claims at Melkboschkuil and Brakfontein under Act 22 of 1994 had to be clarified. In view of the importance of the matter to all parties, Rosenthal & Walton Attorneys, Cape Town, was appointed to advise on the validity of the land claims. Depending on the outcome of their report, the law firm would then have arranged with the parties to meet in order to find a way of facilitating the claims further.

After perusing the file, Rosenthal & Walton then provided an opinion which concluded that both land claims (Melkboschkuil and Brakfontein) did not meet the criteria of the Restitution Act. The Commission was therefore not able to investigate the claims further, while wishing the claimants every success in any further efforts in the pursuance of the land claims. The claimants were informed accordingly: -

Land Restitution Claim: Farm Melkboschkuil, District Namaqualand. Claimants: John Henry Cloete and Eddy Gabriel du Plessis obo VOLAM (Vereniging van die Oudste Lewende Afstammeling van die Cloetes van Melkboschkuil)

A claim for restitution under the Restitution of Land Rights Act (no. 22/1994) must, on a proper construction of the Act read together with Act 200 of 1993, contain the following allegations, *inter alia*:

- 1.1 That the Claimants or their forebears were dispossessed of a right in land *on or after 19 June 1913*; and
- 1.2 That such dispossession was effected under or for the purpose of furthering the objects of any racially-based discriminatory law.

From the Land Claim Form lodged by the above Claimants, appears the following:

- 1.1 The Claimants' alleged forebears were divested of their rights in the Property on 18 October 1853, some 60 years prior to 19 June 1913.
- 1.2 Such divestment apparently occurred pursuant to a sale of the Property by the said forebears to Charles Phillips and two others.

- 1.3 The Claimants allege that the above purported sale and divestment of rights in the Property were fraudulent transactions, their forebears being the victims of the alleged fraud.
- 1.4 While I make no comment on the correctness or otherwise of the allegations of fraud, such allegations are irrelevant in that, even assuming the existence of a fraud, it could not in my view constitute dispossession under or for the purpose of furthering the objects of any racially-based discriminatory law.
- 1.5 There are no allegations in the Claimants' Claim Form that could support a contention that the said divestment or dispossession indeed occurred pursuant to such a discriminatory law. Furthermore, the Claimants expressly allege that the divestment occurred prior to 19 June 1913.
- 1.6 The claims lodged by the Claimants accordingly lack the necessary allegations referred to in paragraph 1 above. While the Claimants may have a claim or right of action in respect of the Property, such claim does not resort under the Act.<sup>506</sup>

The claim for restitution of land rights lodged by Timotheus Union Cloete and others on Brakfontein farm was turned down on similar grounds by the Commission on Restitution of Land Rights (Western Cape).

While I make no comment on the correctness or otherwise of the allegations of fraud, such allegations are irrelevant in that, even assuming the existence of fraud, it could not in my view constitute dispossession under or for the purpose of furthering the objects of any racially – based discriminatory law.

The claimants' forebears were further divested of their rights in the property in about 1850, more than 60 years prior to 19 June 1913, the cut-off date for the lodgement of land claims. The claimants of Melkboschkuil and Brakfontein Farms were accordingly informed of the outcomes during February 1998.

### **The Melkboschkuil claim turned down finally**

The subject land claimed covered the full extent of the farm Melkboschkuil No. 132 (21 410 morgen), which includes the towns of Springbok, Carolusberg and the hamlet of Fonteintjie. In addition to the size and vested interests involved, this land claim materially affected a large number of people. The claim on Brakfontein (3 215 morgen) included the town of Okiep and other vested interests.

Towards the end of the 1990s a land reform initiative had however been undertaken at the instigation of the Okiep Copper Co. Ltd. (OCC), which company was the major landowner and about to close down its mines in Namaqualand.

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<sup>506</sup> Rosenthal & Walton, Attorneys, Cape Town, 22 January 1998.

The OCC was by that time also in the process of effecting transfer of the management and land ownership of its mining towns of Okiep, Nababeep, Carolusberg as well as the hamlet of Fonteintjie (with the exception of Springbok) in terms of a donation to the local authority for the area. This donation from the company to current occupants included 2 100 residential erven with improvements thereon, as well as the transfer of public amenities and infrastructure in the towns.

The Northern Cape provincial government at the level of the Premier himself was involved in this huge undertaking.

For two years this project was subject to extensive community consultation and by the year 2 000 final agreement was about to be reached between all the interest groups. The relevant interest groups included amongst others, the Provincial government, local government authorities, the National Union of Mineworkers (NUM), and various community organisations.

In terms of the agreement to be concluded, the local government authority would take over the tracts of land subject to all the existing land rights and obligations.

The Provincial government had also undertaken to make available a further sum of R28 million for housing subsidies, which monies would according to an agreement, be utilised for upgrading infrastructure, service delivery and development programmes.

Goldfields Limited (the then owner of both Okiep Copper Company and large tracts of land) had moreover agreed that agricultural land surrounding the towns and villages not part of the "donations" process, be made available to community groups for purposes of land reform.

To reiterate the position in respect of the land claims on both Melkboschkuil (Springbok) and Brakfontein (Okiep):

In terms of Section 11 (1) of the Act, the Land Claims Commission was not satisfied that both land claims met the requirements of the Act. The claimants were however free to take the Commission's decision on review or to approach the Land Claims Court directly in terms of Section 39B of Act 22 of 1994. In light of the above, such actions would no doubt have been opposed by the Commission in that both land claims would have materially affected a swathe of vested interests.

In the event, on 16 January 1997, Surplus People Project (SPP) was appointed by the Northern Cape Land Reform Steering Committee to carry out the second phase of the District Land Use Planning and Management Project for the Namaqualand District. This project involved an audit of all available land, land needs and land claims in the area.

Together with the Okiep Copper Co., SPP was also working on a project in which the Company planned to dispose of some 42 000 ha of land to the communities then living on that land, as well as to the surrounding rural reserve communities. In terms of this initiative, the communities were also to benefit from land forming part of the farm Melkboschkuil No. 132.

In addition, SPP was then working on a socio-economic survey of all the households at that time living on Okiep Copper Co. (OCC) land. This survey would inform the proposed redistribution project. The Department of Land Affairs (Kimberley), the National Union of Mineworkers (NUM), the various

local authorities in the area, local RDP forums and SPP had been engaged in discussions with the OCC and expectations were raised.

The role-players in this land reform initiative felt however that the claims on the land by the Cloetes of both Melkboschkuil and Brakfontein were in reality preventing this project from going ahead and concerns were expressed that access to and acquisition of land by landless and land-needy communities were as a result affected.

As we have seen, independent legal opinion was at the time in 1998 commissioned by the Regional Land Claims Commission: Western Cape. This legal opinion compiled by Rosenthal & Walton held that the claim fell outside of the ambit of restitution in that it predates the 1913 cut-off date. The then Regional Land Claims Commissioner in turn corresponded with the claimants informing them of this determination, and advising them to avail themselves of the redistribution component of the Department Land Affairs for redress as discussed above, which land reform programme would be aligned with that of the Okiep Copper Company Limited (OCC).

In this regard, the land reform initiative of the Okiep Copper Co. and the Northern Cape Provincial government set out above, turned out to be the vehicle held out to afford relief through redistribution of land to the inhabitants of the company-owned towns, and the disappointed land claimants in particular.



## CHAPTER 10

## THE SALE OF MELKBOSCHKUIL IN CONTEXT

*This place is a coloured people's place because Namaquas are brown people and white people can therefore never be Namaquas. We do not have written proof that the coloured people owned the land but we must be recognised as the original inhabitants of the area.*<sup>507</sup>

**Celebration of the centenaries (1952 & 1963)**

The first shipment of copper-bearing material from Springbokfontein via Hondeklip Bay was made in 1852, which event is now taken as marking the commencement of copper production in Namaqualand. The centenary of this event was for this reason celebrated by the O'okiep Copper Company Limited in 1952.

Following the closure of the mines after the First World War, the two working companies -- the Cape Copper Co. and Namaqua Copper Co. -- merged in 1937 to become the O'okiep Copper Company (OCC). This company then operated the mines which proved to be a major economic factor in the life of Namaqualand, with an annual output of some one million tonnes of ore coming from three principal mines at Nababeep, Okiep, Carolusberg, and several smaller workings. There was hope when the mines were reopened and a glorious future for Namaqualand was predicted. And so it proved, to some extent.

In 1952 the Okiep Copper Company (OCC), like its predecessors -- Phillips & King and the Cape Copper Co. -- was a foreign-based organisation, playing its role in the mineral development of Namaqualand. This time, with its ownership mainly in the hands of American and Canadian interests, a new and important thread was added to the Namaqualand tapestry.<sup>508</sup>

For the centenary celebrations, the staff of the O'okiep Copper Company compiled a booklet describing in almost reverent tones the subordination of the community to the industry:

If you are sensitive to atmosphere you will feel the friendliness and absence of formality and aloofness. You are now in the sphere of the influence (sic) of the O'okiep Copper Company, and you will hear reference to "the Company" in the same manner as the early Dutch referred to their East India Company. History tells you how the Dutch Company affected the history of South Africa, and so has the Copper Company played a vital part in the history of Namaqualand.<sup>509</sup>

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<sup>507</sup> Paul Anthonie, resident and claimant of the village of Matjeskloof on Springbok Commonage, just outside of Springbok, Namaqualand, 1992.

<sup>508</sup> Phyllis Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand: the story of a modern-day pioneer* (Cape Town: Fernwood Press, 1994), 90.

<sup>509</sup> OCC Staff, *Namaqualand Copper 1852 – 1952: 100 Years of Progress* (Compiled by the Staff of the O'okiep Copper Company Ltd) (Cape Town: R. Beerman Publishers (Pty) Ltd, 1952), 5.

As was noted, the first South African mining company was formed in 1846 and the first mine to be opened by Europeans in South Africa was located at Springbokfontein. Other notable firsts for the region include the first South African geological report and the first geological map produced in this country, both of which describe and depict the Namaqualand copper fields.

It was therefore with a great deal of pleasure that Marcus D Banghart, General Manager of the O'okiep Copper Company Limited, wrote the introduction to the brochure entitled "Namaqualand Copper 1852 – 1952 " to accompany the festival programme.

A year before, one of the company's local historians reminded the General Manager that the first copper production from Namaqualand was in 1852, an ideal opportunity indeed to celebrate as mining camps with a production record of 100 years are the exception and not the rule. In fact, the mining towns of Springbok, O'okiep, Concordia and Nababeep are the oldest mining settlements in South Africa with, at the time in 1952, active producing mines. This setting presented an ideal opportunity to celebrate the commemoration of hundred years of copper mining.<sup>510</sup>

It was accordingly decided the staff of the O'okiep Copper Company Limited would organise a Centenary Celebration with the Company assisting in underwriting and meeting expenses.

As reflected by the text of the centenary brochure, the Company was meeting with considerable success in finding new copper ore reserves by employing modern methods of mining exploration.

"We are so optimistic of the continued success of this work that we are not hesitant in suggesting that your great-great grandchildren may be called upon to assist in celebrating the bicentennial anniversary of copper mining in Namaqualand in 2052, so we therefore urge that you keep this brochure as an historical document ! ! "<sup>511</sup> It would be well to note that as events unfolded, this bold prediction of the general manager fell half a century short of the mark as the copper mines of Namaqualand (Okiep Copper District) were closed down in the year 2 000 and afterwards.

From 1<sup>st</sup> September to 13<sup>th</sup> September 1952, the Company and the Festival Committee had "open house" and guides were available to show visitors about the mine and surface operations of the Company. The centenary celebrations were, of course, not designed to outdo and eclipse the Van Riebeeck Festival which was held some five months earlier on 6 April of the same year, and which event was of "national patriotic" scope.

Marcus D Banghart of the OCC and Joe Jowell, in his capacity as Mayor of the first mining town of Springbok, worked together very closely on the event of the Copper Centenary celebrations.

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<sup>510</sup> OCC Staff, *Namaqualand Copper 1852 – 1952*. Foreword by Marcus D Banghart.

<sup>511</sup> Idem.

### **Festival Programme: Centenary Celebrations of the Copper Mines 1952**

At a glance, the programme reflected the focus of the festivities, adding history and local colour to the event. The Centennial Festival Programme (Namaqualand Copper 1852-1952), compiled by the Staff of the O'okiep Copper Company, included the following:<sup>512</sup>

#### **Centennial Festival Programme**

- (a) Publicity (illuminated signs, planting of 100 trees)
  - (b) Exhibitions (Paintings, photographs, special collection of Namaqualand Xerophytes and Mesembryanthemums)
  - (c) Diorama showing mining, milling and smelting of copper ore at Nababeep
  - (d) Visitors (underground visits to the Okiep mine)
  - (e) Programme
    - (i) Monday 1 September: Springbok Centennial Celebration. All types of boere and old time sports. Motor races, target shooting, tug-of-war, etc.
    - (ii) Play "Die Jaar van die vuur-os"
- Tuesday 2 September: singing, dancing and music by Coloureds and Natives. 8 p.m. Nababeep
- Wednesday 3 September: Films of Namaqualand Flowers. Variety programme – old time fashions; folk dances by children.
- Friday 5 September (a) Primary inter –school Sports Day at Okiep  
 (b) Dinner by invitation
- Saturday 6 September (a) Namaqualand vs Boland (rugby)  
 (b) Copper Ball – 8 p.m. Nababeep
- Friday 12 September: Swimming and gymnastic display arr. by D. Craven of Stellenbosch University
- Saturday 13 September (a) Transport through a century – an historic tableau
- (b) Arrival of Van der Stel, depicting the journey to Namaqualand in 1685
  - (c) Folk dances, fireworks and braaivleis. Commencing approx. 3 p.m. at Okiep
  - (d) Historical depiction of the 100-year history of copper mining
- Publicity (100 trees, illuminated signs)

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<sup>512</sup> OCC Staff, *Namaqualand Copper*, 1952, 47.

The two-week-long celebrations, which included variety shows, fireworks displays, Native and Coloured dancing, and a pageant, marked the centenary of copper mining in Namaqualand.

Exhibitions of handicrafts, paintings, photographs and plants were held at Springbok, while mining, geological and chemical exhibitions could be viewed at Nababeep. Visitors were also able to arrange visits to the surface and underground workings of the copper mines.

As planned, the celebrations, which started on September 1 and ran to September 13, were focussed on commemorating the first production of the Springbok Mine – 11 tonnes of ore – which was exported on August 31, 1852. This mine, we know, was bought in 1850 for £50.

Proceedings started off dramatically on Sunday 31 August 1952:

Last night at half-past seven the copper fields of Namaqualand donned its festive attire. At that moment the festive lights in Springbok, Nababeep and O'okiep were switched on at the same time signalling the start of centenary celebrations.<sup>513</sup>

It took the Namaqualanders months of organisation and labour to make this festival possible and a special committee was appointed to take charge of accommodation for visitors expected to arrive from all parts of the country. Mr P J Olivier, Administrator of the Cape, and Mrs Olivier were among the invited guests. Besides visitors, provision had to be made for close on 100 invited guests as well as 38 gymnasts and a group of rugby players.

One is left with the distinct impression that quite a few of the Native Namaqualanders (of colour) must have regarded proceedings from a distance with a mixture of wry amusement, if they were invited to be part of the organising team and pageantry at all.

On Monday 1 September the town of Springbok, capital of Namaqualand, started off the centenary celebrations with an interesting programme. Scenes from its history were presented. One scene was a depiction of the first wagon load of copper ore transported down to Hondeklip Bay, which event ushered in the copper mining era.

The pageant, staged in Springbok, traced the history of the town, and the finding and development of copper which brought wealth to the area. On the sports field outside the town, visitors watched the pageant from their parked cars.<sup>514</sup> Colourful scenes from the pageant in which local residents and schoolchildren took part, drew rounds of applause from the crowd, many of whom had come hundreds of miles to witness the celebrations. During these celebrations, Namaqualand also delved deep into its history with impressive presentations of scenes from the life and struggles of the "first Namaqualanders" (Europeans) in an isolated region of the Cape Colony. Passing reference was also made to the "Ou volke van Namakwaland" (First Nations, the Nama and San), these vignettes

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<sup>513</sup> *Die Burger*, 1 September 1952.

<sup>514</sup> *The Cape Argus* 6 Sept 1952.

probably introduced for good measure in an attempt to fill the glaring omissions and so attempt a unifying vision of the region's early history.

Amongst the colourful scenes was an impressive float which represented "dark unknown", unexplored Namaqualand, her mineral treasures about to be opened up. Another such scene, presented with similar unconscious irony, was the humorous portrayal of Simon van der Stel's visit to the Koperberge in 1685, and years later the sale of Springbokfontein by Lang Kowie Cloete to Messrs Phillips and King. Also forming part of this presentation was the lovely "copper dance" performed by about 30 Namaqualand girls dressed in yellow.<sup>515</sup>

The attention of visitors and guests were naturally drawn to the site beyond the contemporary town of Springbok on the side of the hill to the north, where the abandoned old workings of the Springbok Copper Mine started up by Phillips and King 100 years before, were to be seen. It is a stark reminder of the kopy of some 10 morgen purchased by them for £50 sterling from the Cloetes. This sale, to crown it all, included the minerals which might at a future date be discovered on the farm.

So, by the year 1952 the centenary of the copper industry in Namaqualand was celebrated in style. As part of the festivities, the Centennial Festival Programme included besides the Copper Ball, *braaivleis* and gymnastic displays, and a separate item of singing, dancing and music -- along the lines of the newly applied State policy of *apartheid* -- rendered by Coloureds and Native migrant mineworkers at Nababeep on 2 September 1952.

For the special event, school children were transported from all over Namaqualand courtesy Jowell's Transport Beperk, the company owned by the mayor of Springbok.

(In this connection, the junior classes of St Peter's E.C. [English Mission Church] School in Port Nolloth were preparing an item involving little sailors singing sea shanties and twirling caps emblazoned with their ship's name, HMS *Frolic*. For some reason, the excursion by the expectant pupils to the centenary celebrations at Okiep failed to come off)

### **The Centenary of the town Springbok (1863 – 1963)**

Few towns (and districts) are fortunate enough for a double celebration. This time it was the centenary of the establishment of Springbok town. Not long after the centenary celebrations of copper mining during September 1952, Springbok in 1963 celebrated its 100<sup>th</sup> year of existence as a town. It was indeed a unique situation for a town to have two centenaries within such a short space of time.

On the occasion of the centenary celebrated on 24 August 1963, the Municipality (motto: "*Juvat Impigros Deus*", God helps the industrious) published a brochure titled "*Springbok, Namaqualand 1863 – 1963*".

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<sup>515</sup> *Die Burger*, 2 September 1952. (See annexure 23)

Joseph Jowell as mayor headed the week of festivities. The guest speaker at the official opening was the Minister of Lands, Mr P O Sauer, and in what was then regarded an obligatory item, the Coloured choirs performed.<sup>516</sup>

The message from the Honourable J N Malan, Administrator of the Cape of Good Hope, introduced the centenary brochure. The Administrator welcomed the opportunity afforded him and continued in expansive mood called for by the occasion, the (grandiose) imagery strongly influenced by the original Afrikaans text:

May inspiration flow from this historic celebration to meet the challenge of the future with confidence under the guiding hand of the Almighty.<sup>517</sup>

Not to be outdone, mayor Joe Jowell<sup>518</sup> wrote with a deep sense of pride and accomplishment his message of welcome included in the commemorative brochure:

In the succeeding pages of this brochure you will read of a town which is very modern for its size. It offers the public practically all possible commercial and professional services. It is the seat of the many Government, Provincial and Divisional activities; and the business centre of a large and successful farming community.<sup>519</sup>

A Draft Development Plan of Springbok drawn up by the Witwatersrand University Planning Department for the Springbok Municipality, in fact, acknowledged this: "It is properly called the capital of Namaqualand and provides the centre for all the main governmental, financial, professional, commercial and social services of the district."<sup>520</sup>

In the mayoral message of the commemorative centennial brochure, Jowell goes on to reflect on the 'phenomenal' development of the town, with which he, at that stage, had been actively associated with for 30 years (virtually a third of its existence). There had been two major town development schemes in recent years, one in 1955 and the other in 1960. In 1960 Springbok Lokasie (the Coloured township) was to be moved to Bergsig and a white township (named Simonsig after Governor Simon van der Stel, himself a person of colour) proclaimed in its place.

Planning for the Bergsig development had taken place some years before, in 1957, and there were major plans for the building of 500 homes, a civic centre, sportsfields, businesses, schools

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<sup>516</sup> Phyllis Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand*, 1994, 248.

<sup>517</sup> Springbok Town Council, *Springbok Namaqualand 1863—1963*, (Cape Town: Galvin & Sales Pty Ltd, 1963) (Commemorative Centenary Celebration brochure)

<sup>518</sup> Joe Jowell: lawyer, owner of transport, tyre and engineering companies, as well as garages and vehicle dealerships, etc. Elected in 1936, he would serve as mayor of Springbok for most of the following 27 years.

<sup>519</sup> Springbok Town Council, *Springbok Namaqualand 1863—1963*, (1963).

<sup>520</sup> Phyllis Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand*, 1994, 248.

and churches on the drawing board already. In addition, private home ownership, with the help of state loans, had been introduced that year.<sup>521</sup>

On reflection and in the light of present-day attitudes in South Africa, the 1960 scheme was, in the view of Joe Jowell's biographer, and daughter-in-law, an unfair one. "This was a controversial issue and Joe, according to Christo de Wit, was 'unhappy, extremely unhappy' about the fact that the coloured residents had to be moved from their homes."<sup>522</sup>

With 1963 marking 100 years of existence of Springbok as a town, the implication of "liberal" notions such as unjust treatment of fellow-citizens, was then far from (most) official minds:

Men and women from inside and outside the Republic gather in Springbok in their quest for the fortunes to be made from precious and base minerals; and to see the beauty of the wild flowers and succulents which are to be found in the surrounding areas and which contribute so much to the romantic history and the development of our beloved SPRINGBOK and NAMAQUALAND.

Its inhabitants have always been provided with an element of surprise and anticipation in what it has to offer. This has added to the zest of life for those inhabitants and provided additional interest to visitors.<sup>523</sup>

The mayor, still in lyrical frame of mind, concluded his remarks of welcome by saying:

Springbok has in the last few years expanded beyond all recognition and I confidently predict that it, together with the district of Namaqualand is on the verge of yet greater development and prosperity.

I am proud and honoured to have had thirty years of active and intimate association with this phenomenal growth and extend my humble prayers and good wishes for its continued progress.

<sup>524</sup>

From the start of copper mining in 1852, the population of Namaqualand district had within a century grown from under 2 000 souls to 32 613:

White	4 716 (m)	3 761 (f)	8 477
Indian	2 (m)	---- (f)	2
Cape Malay	2 (m)	---- (f)	2
Other Coloured	10 572 (m)	10 409 (f)	20 981
Natives	2 659 (m)	492 (f)	3 151
	Total:	32 613	(Source: Van Heerde et al, <i>Springbok, 1952</i> , 37)

<sup>521</sup> Phyllis Jowell, assisted by Adrienne Folb, *Joe Jowell of Namaqualand, 1994*, Idem., 249.

<sup>522</sup> Idem., 249.

<sup>523</sup> Springbok Town Council, *Springbok Namaqualand 1863—1963*, (1963).

<sup>524</sup> Springbok Town Council, *Springbok Namaqualand 1863—1963*, 1963. "Message from the Mayor of Springbok".

Although the optimistic expectations of the early Dutch settlers of vast mineral wealth had to some degree not been realised, by 1920 many wealthy South African families owed their prosperity to the £5 000 000 paid out in dividends by the old Cape Copper Company. The hope was expressed that after the reopening of the mines in 1937, the industry would for many years to come contribute to the well-being of South Africa, and especially of Namaqualand.<sup>525</sup>

Both centenaries marking the start of copper mining (1852) and the establishment of Springbok town (1863) were celebrated with speeches and pageants; music, dance and sport; displays and visits to the mines. These events reflected scenes from their history that Namaqualanders could recall and reflect on and not easily forget. And as floats passed through the streets of the copper mining towns and Namaqualanders paraded, the mood was decidedly festive, masking for the moment a darker reality that lay just beneath the surface: one of historical dispossession of land and minerals. The two centenaries can also be read as exclusionary pageants which mythologised white settlement and side-lined indigenous histories.

But, these reservations aside, it should be acknowledged that in the end, the festivities were in large measure due to the enterprise and vision of the pioneering mining company of Phillips & King a century earlier.

### **The influence of Phillips & King**

A profile of the mining company of Phillips & King shows that it started off as merchants, traders and shipping agents; but once established in Namaqualand, they would with growing influence not only shape the future of Namaqualand and its people, but herald the mining and industrial era in South Africa.

As early as 1834, the firm had been carrying on operations from 25 St Georges Street, Cape Town (its headquarters was located in London), and was heavily involved in commercial enterprises as can be seen from the following example. On 10 October 1834 John King sent a Memorial (in preparation for a seal hunting expedition) to Sir Benjamin D'Urban, Governor of the Cape Colony. Venturing beyond the Colonial boundary in the vessel *St Clair* on a hunt for seals, the members of the party intended to be well-armed against any eventuality.<sup>526</sup> This voyage in all probability refers to an early seal hunting expedition along the west coast of the Cape Colony and further to the Namaqualand coast beyond the colonial boundary of the Buffels River.

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<sup>525</sup> *Cape Times Annual for 1938.*

<sup>526</sup> CO 3971 Ref. 48 Memorials received from John King enquiring if the Government has any objection to shipping arms and gunpowder (1834). Memorial of John King (merchant of Cape Town) to H E Sir Benjamin D'Urban, Governor of the Colony of the Cape of Good Hope, 10 October 1834. Cf J E Alexander (1836) and Backhouse's journey (1840) in regard to incidents with Colonial traders hunting seals beyond the boundary on the Namaqualand coast.

Once established in Namaqualand, the company would as a matter of course, endeavour to do everything in its power to secure their commercial stakes in Namaqualand, which included the farms Melkboschkuil, Brakfontein and Lelyke Pad on which copper-bearing deposits were discovered.

This much is also clear, that at a very early stage the position of judicial officials *vis-à-vis* the mine authorities was unhealthy. Referring to this undesirable state of affairs, Josias Rivers (first civil commissioner and resident magistrate of the division of Namaqualand) pointed out in correspondence to the Colonial Government: <sup>527</sup>

The position of the officials at Springbokfontein is at times almost humiliating, as they are dependent on the humour and good will of the superintendent of the mines for the time being for the most ordinary wants; ...

This state of affairs was one step away from attempts to meddle in judicial appointments and the administration of justice in the Namaqualand Division. It was not above Messrs Phillips & King to submit to the Secretary to Government (Hon. Rawson W Rawson) unsolicited proposals, as well as complaints, on how to improve the “present ineffective system” of judicial administration of the Division. <sup>528</sup>

Then there was the intended removal in 1861 of the seat of magistracy from Springbokfontein, which had long been a real possibility and a source of tension and conflict between Civil Commissioner Louis Anthing and the mining company. Phillips & King, forced to resist such a move most strenuously, <sup>529</sup> was not long in hitting back, striking (what they considered) a decisive blow for their much-vaunted importance to the economic welfare of Namaqualand. As events unfolded, no hasty decision was arrived at and Springbokfontein would be destined to remain up till the present the principal town and seat of magistracy of the district of Namaqualand.

Within a short space of time, the company evolved from a modest outfit into the most powerful player within the remote and sparsely populated region of Namaqualand. It is of interest to note that by 1890, the Cape Copper (Mining) Company had from the somewhat humble beginnings of its predecessor (Phillips & King), developed over the years to become (almost) a law unto themselves.

William Charles Scully got his promotion to “of all places in the world –Namaqualand” in 1890. In his *Further Reminiscences of a South African Pioneer* (1913), he tilted against the glaring local abuse of power by the Cape Copper Company, leading to tense relations between himself and mine

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<sup>527</sup> A.97 – 1861 Correspondence between Government and Civil Commissioner, 11.

<sup>528</sup> CO 4104 Ref. 56 (1858) Judicial administration of the Division of Namaqualand to be improved. Phillips & King, 30 November 1858, to Hon. Rawson W Rawson, Secretary to Government, Cape Town.

<sup>529</sup> CO 4122 Ref. 54 Removal of Seat of Magistracy (1861) Henry Steele, Springbok Fountain, Namaqualand, 19 July 1861, to The Hon. R Southey, Acting Colonial Secretary.

management.<sup>530</sup> The picture presented by Scully gives us an insight into the power of mining companies in “closed” towns over their workers and the community in general. Immediately after his arrival, Scully “gave unpardonable offence by declining to occupy the house which had from immemorial times been used as a Residency, without paying a fair rental for it.” He also declined to avail himself of the use of the cart and horses and other privileges which his predecessors had enjoyed. The resident magistrate declined all these, but “this manifestation of independence cost me dear, for the cold shades of disfavour fell on me and on my household, and extended to any one showing us the least friendliness.”<sup>531</sup>

But this is not to suggest that either Phillips & King or its successor, the Cape Copper Co., was not socially responsive or neglected to promote the company’s beneficent image on appropriate occasions through acts of official kindness. For instance, throughout its 70 years of serving the district, the operation of the railway line was almost entirely confined to transport of ore and provisions, but anyone who wanted to travel between Port Nolloth and O’okiep had only to inform the mine transport manager or one of his subordinates on the eve of his departure. The trip cost them nothing by courtesy of the company.<sup>532</sup>

Passengers and their personal effects were carried free of charge,<sup>533</sup> but freight rates on this line were charged for per tonne for general goods and mineral ore. Passenger accommodation consisted for many years of small four-wheel “Specials” providing one compartment only for White passengers. Non-whites (sometimes referred to as Natives) were conveyed in open trucks fitted with temporary benches; at a later stage the trucks were fitted with a fixed cover to give the passengers some protection against the harsh Namaqualand sun.<sup>534</sup>

Dealings with the Company were however not always amicable given the monopoly which the Cape Copper Company possessed in regard to transport, and taking into account that the majority of the inhabitants of Namaqualand were in one way or another dependent upon them.

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<sup>530</sup> Scully W C, *Further Reminiscences of a South African Pioneer*; T Fisher Unwin, London, 1913.

<sup>531</sup> *Idem*, 223

<sup>532</sup> J M Simon, *Bishop for the Hottentots. African memories 1882-1909*, (New York: Benziger Brothers Inc., 1959), 13.

<sup>533</sup> Footnote: “Passengers were transported free of charge by the Company -- not from any philanthropic motives, but because legally they should not have transported them at all. By not charging, and thus not issuing tickets, they were able to indemnify themselves.” (J M Smalberger, *Aspects of the History of Copper Mining in Namaqualand*, 1975, fn 24, 121)

<sup>534</sup> H R Moffat, *Railways & Transport*, 1972, 10. (Annexure 24)

### Phillips & King: Economic Importance

Despite the oft-repeated claims of Phillips & King as to their importance for the economic good of Namaqualand, the historian G Mc Call Theal is rather lukewarm in his assessment of the impact of the opening of the copper mines. Theal, commenting upon the effect which the start of the copper mining industry had on the development of the colony, is of the view that: --

The opening of the copper mines had no effect whatever upon the great majority of the people of the Cape Colony, who remained a purely agricultural and pastoral community. After the industry became settled, the white labourer employed was obtained from Cornwall, and the district was as secluded, owing to its physical features and its barrenness, as if it had been an island. The mines indeed provided a small market for Cape produce, but that was sent by sea from Capetown (sic) to Hondeklip Bay or Port Nolloth, and the farmers came no closer in contact with the consumers than did the Malay fishermen on the south-western coast [of the Cape Colony] with the labourers on the sugar plantations of Mauritius for whose use they dried snoek and geelbek.<sup>535</sup>

By contrast, professor J Noble, from the vantage point of his office where he summarised the available materials on the condition and resources of the Cape Colony, is more lenient in his evaluation of the impact of the first commercial mines in South Africa.<sup>536</sup> He in fact visited the O'okiep copper mine in 1873. For one thing, according to Noble, Messrs Phillips & King in 1863 retired "deservedly enriched by their enterprise and energy". After the transferral of their property to the Cape Copper Mining Company (Limited),<sup>537</sup> from that time...

the development of the mineral wealth of the district has been most marked. Skilled labour and machinery were introduced, new centres were opened, a railway constructed from the seaport towards the mines, and the whole business conducted under a well arranged system of administration and management. As a mercantile success, the result has been highly satisfactory. Their principal mine is that of "Ookiep" and the richness of its yield may be judged of from the fact that it produced more metal last year than the whole of the Cornish and Devon mines during the same time.

Professor Noble after his visit to the mine at Okiep in 1873, said without fear of contradiction: "It is beyond all doubt the richest copper mine in the world."

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<sup>535</sup> G M Theal, *History of South Africa since 1795*, Vol. 7, (Cape Town: C Struik, 1964), 88.

(Also, G M Theal, *Compendium of S.A. History and Geography*, (Second edition Revised and enlarged), (Lovedale: The Institution Press, 1876). (Port Nolloth Jetty, Annexure 26)

<sup>536</sup> J Noble, *Descriptive Handbook of the Cape Colony: its condition and resources*, (Cape Town: C Juta, 1875)

<sup>537</sup> Idem, 80 – 81. (O'okiep Mines c1890, Annexure 25).

Perhaps the last word on the subject of the importance and impact of the copper mining industry on Namaqualand (and the Cape Colony) as seen through the eyes of Phillips & King, should be left to Louis Anthing, one time civil commissioner and resident magistrate of Namaqualand. Attempting to bring the necessary balance and perspective to the issue, Anthing observed (with some element of truth):

They are prone to adopt an exaggerated opinion as to the great importance of the mines to the community. I hold a very modified view of the great benefit to any but themselves.<sup>538</sup>

The firm of Phillips & King was often not its own best advertisement in that they were on the road of becoming a law unto themselves. That they put their commercial interests first is clear to the extent that they worked towards a monopoly position to the exclusion of the genuine concerns and interests of others. In the process, we have seen, there were attempts even to influence the course of justice.

If the relations and dealings with the public were perceived as self-serving, they probably had themselves to blame. This was evidenced in their rather overbearing influence on people and events. Their image is perhaps to some degree reflected in the person of the attorney John Barker, who despite taking a solemn oath of office as Notary Public, would appear to have not always acted in the spirit of the law with reference to the sale of both Melkboschkuil and Brakfontein.

Witness to both sales of Melkboschkuil and Brakfontein, Henry Diedrich Jencken was in 1848 admitted to practise as a Notary Public.<sup>539</sup> Of vital importance is the Solemn Declaration Jencken made on being admitted as a Notary Public. The very undertakings given by him would (if not the letter, then in spirit) appear to be repudiated by their (Jencken's and Barker's) actions during the transactions of sale.

I Henry Diedrich Jencken do solemnly and sincerely declare that I will perform my Notarial duties diligently, and faithfully, that I will not draw up any false, unlawful or forbidden Act for any person whomsoever, That I will not authenticate or deliver any attestation Bonds, Surety Bonds, or any other deeds or Minutes without the parties passing the same, appear personally before me and Witnesses, *declaring themselves thoroughly acquainted with the contents*, and subscribing their respective names to the Minutes and Protocols thereof, together with me the Notary and witnesses respectively. (Emphasis supplied)

That I will keep secret and not divulge any such Deeds and Acts passed before me, That I will conduct myself as a diligent honourable and faithful Notary should do, without being moved

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<sup>538</sup> A.97 – 1861, 6 Correspondence between the Government and the Civil Commissioner and Chairman of the Divisional Council of Namaqualand, on the subject of the Seat of Magistracy of Namaqualand. L. Anthing, Civil Commissioner's Office, Springbokfontein, 2 March 1860.

<sup>539</sup> CO 4038 Ref. 140 The Memorial of Henry Diedrich Jencken, 15 April 1848.

from the strict performance of my professional duty, by any feeling or personal hatred or by any bribe or gift whatsoever.

And I make this solemn declaration under and by virtue of the provisions of the Ordinance 14 of 1845 entitled "an ordinance for the substitution of Declaration in the place of certain Oaths, and for the suppression of voluntary and Extra Judicial Oaths and Affidavits"

(signed) H D Jencken <sup>540</sup>

Declared before me at Cape Town this seventeenth day of April 1848.

J Stewart J P

From the above profiles, it is clear that the Cloetes of both Melkboschkuil and Brakfontein were up against seasoned professionals for whom they were no match. Then there is John Barker, the attorney for Phillips & King, who expected to be treated with due care and consideration. We learn much in this regard from the Mutual and Separate Will <sup>541</sup> of John Barker of Bertram Place, Cape Town, and wife Maria Johanna (born Silberbauer), which was filed on 26 August 1854. This document tells us that John Barker had had a vault (reserved for family use) erected in St Georges Burial Ground.

And as I [John Barker] am horrified at the idea of being entombed alive it is my express will and desire that my coffin shall not be fastened or screwed down until certain signs of decomposition have taken place...

The Will further specified that thereafter Barker's body was to be entombed in the vault alongside or above that of his predeceased wife, Ann Bertram. In keeping with this sober and business-like image, his last wish stipulated that his funeral "be conducted and performed decently void of all outward appearance of pomp or ostentation", perhaps reminiscent of the simplicity of life in rural Namaqualand where fate had drawn him.

### **Closing down of the copper mines**

Mines have always been a major factor in the economic life of Namaqualand, forming a bulwark against retrogression. Although an extractive industry with finite mineral resources, it has long been the barometer of the economic life of the district. In the course of its long history, the Namaqualand copper area has certainly proved to be most productive, with attractive dividends paid by the old Cape Copper Mining Co. and its successors. For a small outlay of just under £3 000 Phillips & King acquired the farms Melkboschkuil (Springbokfontein), Brakfontein (Okiep) and Lelyke Pad (Nababeep) where satisfactory returns were yielded on their entrepreneurial initiatives over the next century and a half.

<sup>540</sup> CO 4038 Ref. 140 H D Jencken. Solemn Declaration.

<sup>541</sup> MOOC 7/1/220 Ref. 91 Mutual and Separate Will of John Barker & wife Maria Johanna Silberbauer.

It has been recorded that the indigenous inhabitants of Namaqualand (which would have included the Cloetes) were more concerned with the appropriation of their lands by the mining companies than the fact that the latter were mining copper in their territory.<sup>542</sup> At the time, land resonated deeply with them but copper had limited known commercial and utilitarian value, besides ornamentation in historical times.

It is perhaps best left to Jade Davenport in “Digging Deep” to bring perspective to the great importance of the mining industry for South Africa, which had its beginnings in lowly far-off Namaqualand:<sup>543</sup>

To say that the mining industry has played a defining role in the course of South Africa’s history, at least during the last century and a half, would be no great exaggeration. Nowhere else in the world has a mineral revolution proved so influential in weaving the political, economic and social fabric of a society.

Before the advent of its great mineral revolution in the latter half of the nineteenth century, South Africa was a mere colonial backwater whose unpromising landscape was seemingly devoid of any economic potential. The region’s economy was rudimentary, being almost entirely dependant on a middling agricultural sector, which itself was considerably constrained by harsh climatic conditions and the limited size of the domestic market.

It was the uncovering of an incredibly rich treasure trove of minerals that completely transformed the economic prospects of the southern region.

It was the intensive exploitation of copper, followed by diamonds, gold and coal in the latter half of the nineteenth century, that ultimately catapulted South Africa’s backward economy into the modern, industrialised era ... Most importantly, the mineral revolution enabled the introduction of an aggressively organised and racially dominated form of industrial capitalism, an economic system that dominated South Africa’s socio-political and fiscal arena for more than a century.<sup>544</sup>

The years 1938 – 1975 brought a period of modest but continued growth in the copper mining industry of Namaqualand. By 1973, the Okiep Copper Company Limited (OCC) was however experiencing financial difficulties as a result of the Oil Crisis and a drop in the copper price. This was compounded in the early 1980s by economic sanctions imposed on South Africa, in opposition to its policy of apartheid.<sup>545</sup> These developments were some of the reasons that caused Newmont Mining to sell its interest in the OCC to Gold Fields of South Africa in 1984. Despite the entry of a major new shareholder, the OCC continued its decline and by the early 1990s only two mines, Carolusberg and

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<sup>542</sup> G.8 – 1855, *Reports of the Surveyor-General Charles D Bell on the Copper Fields of Little Namaqualand and of Commander M S Nolloth, of HMS Frolic, on the Bays and Harbours of that Coast*, 6.

<sup>543</sup> J Davenport, *Digging Deep. A History of Mining in South Africa 1852 – 2002*, (Johannesburg & Cape Town: Jonathan Ball Publishers, 2013), 1.

<sup>544</sup> *Idem.*, 2.

<sup>545</sup> *Idem.*, 35.

Nigramoep, remained in production. When Gold Fields in turn sold its stake to mining house Metorex in 1998, this signalled the final chapter and demise of the copper mining industry of the Okiep Copper District. Its Nigramoep works, the last active copper mine in Namaqualand, was closed in 2004, and the processing of stockpiled ores was completed the following year. Metorex next stripped the Namaqualand operations of the bulk of its mining equipment, destined for its new copper mine in the Democratic Republic of the Congo.<sup>546</sup>

By the time that the last operation was closed, Namaqualand's copper resource had for the most part been worked out, after 150 years of (virtually) continuous production. "During its lifetime, more than 26 commercial copper mines were worked in the region, with the total value of copper exploited being estimated at over R130 billion."<sup>547</sup>

With the complete cessation of copper mining (except at Aggeneys, 140 km north-east of Springbok), Namaqualand has experienced increasing levels of poverty and unemployment. The region itself, once described as South Africa's cradle of mineral development, became a symbol and a victim of the cyclical nature of mining.

Seen against the closure of the copper mines and downscaling of the diamond mining industry in the area, the under-stated tourism potential of Namaqualand awaits to be exploited. Tourism as a resource for sustainable development could contribute to the long-term economic health of the region. The community also has much to offer in terms of cultural and material assets such as language, food, indigenous knowledge, story-telling traditions, the floral/plant kingdom and the (dormant) copper mines and associated infrastructure.

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<sup>546</sup> Jade Davenport, *Digging Deep*, 2013, 35.

<sup>547</sup> *Idem*, 35 - 36.

### CONCLUSION: THE SALE OF MELKBOSCHKUIL

The sale of both Melkboschkuil and Brakfontein farms to the copper mining company Phillips & King can not be seen in isolation. There are several recorded instances where Baster families in Namaqualand lost their land because of pressure from surrounding (wealthier) farmers. The Basters were always vulnerable to exploitation by more powerful or scheming neighbours.

In several instances potential grantees of colour were put off by the cost of inspection and survey of the land, thus their claims were not consistently pursued or pressed. Furthermore, with changes of civil commissioners in the magistracies, movement of staff at the office of the Surveyor-General and the Colonial Office, it would be easy to lose sight (deliberately or through unfortunate oversight) of genuine long-standing claims by Baster applicants.

Also, despite official undertakings and promises, potential grantees were at the mercy of a bureaucracy which would not always have the interests of a non-white underclass of Colonials at heart. In these circumstances, a patriarchal system based on race and class inevitably flourished.

There was at least one Civil Commissioner of Namaqualand, E A Judge, who felt strongly that a restrictive clause should be inserted as a precaution in the deed of grant of quitrent farms. This safety measure was to be aimed at prohibiting grantees from selling off the land without them first notifying his office, whose duty it would be to advertise in the Government Gazette, calling for objections to the sale of Crown Land. From experience, the Civil Commissioner realised the necessity of such a limiting clause as a safety measure against an unfortunate trend:

It has occurred to me that if a grant were made with a condition attached thereto that it should not be legal for the grantees to dispose of the property or any part thereof except by Public Auction, & after giving three months notice to the Civil commissioner, whose duty it should be to advertise the same, all objections on one side & on the other would be obviated.<sup>548</sup>

Of significance in the context of quitrent farm grants, is the Civil Commissioner's further comment with regard to the Basters. Referring to instances which he had personally observed, "in which a native was persuaded by a neighbouring farmer to sell his grant for less than one half of its real value", he could only endorse the statement made by the Surveyor-General in the latter's report of 6 April 1859 to Government: that a grant "places the industrious Colored man too much at the mercy of designing neighbours,..."<sup>549</sup> Here magistrate E A Judge was specifically trying to protect "respectable and deserving" Baster landowners, at risk of losing their land to more powerful interests.

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<sup>548</sup> SG 1/1/6 Letters received from Civil Commissioners (1860 – 1868). The Office of the Civil Commissioner, Namaqualand to the Surveyor General, Cape Town, 25 November 1862.

<sup>549</sup> Idem.

Although it is recorded that the Cloetes were the earliest permanent residents of Springbokfontein at Melkboschkuil, there are few written sources to give a fuller picture of their effective occupation of the area. Their continued settlement of Springbokfontein and Melkboschkuil would, however, after annexation of the territory in 1847, be drastically affected through the advent of mining.

Not long after the documented sale of Melkboschkuil to Phillips & King in 1853, the Cloetes were prevented from exercising full ownership rights over the farm. They became de facto tenants, or were dispersed by force of circumstances to find new homes in the Steinkopf/Pella mission station and elsewhere.

In the absence of reliable primary sources describing the actual circumstances surrounding the sale of Melkboschkuil, some reliance was placed in this thesis on the oral testimony available. Problems were encountered with a reconstruction of early and later Cloete history from fragments of oral testimony. No direct written accounts by the protagonists themselves have survived or come to hand. Although doubt can be cast on their claim that no land was ever sold, there was just that hint of hesitancy and sadness in the efforts of the descendants to recall the past and place the loss of the farm in its proper context.

Surveyor-General Bell's theory in regard to the inherent weaknesses of the non-white races and the (unfavourable) characterisation of the early Cloetes and others, is referred to in the Introduction of this thesis. Other commentators again, describe the good-natured ostentation and display of pretensions of the Bastards. Did these perceived traits perhaps hide an inability to hold onto and assert their land and other civic rights?

The offer of hard cash for the seven brothers' shares in the property must no doubt have been tempting and may explain their willingness to sell. But were the Cloetes duped into signing the transfer of the land as a result of undue pressure applied? Or were the brothers misled as to the true nature of the contract they were asked to sign? Up till today there is no absolute clarity surrounding the circumstances of the sale of Melkboschkuil and Brakfontein. More primary documents such as contemporary witness accounts and sworn affidavits by the brothers themselves, need to be uncovered to conclusively prove the employment of any unscrupulous activities on the part of Phillips and King. The reality is however that two of the Cloete brothers, Dirk and Gert, are on record as not having resigned themselves to the loss of the farm. They and their descendants have since contested the sale.

Despite possible irregularities as claimed by the Cloetes in respect of the sale of Melkboschkuil (and Brakfontein), the consensus amongst conveyancers appears to be reflected by the report of attorney R W Bowen to Mrs E Cloete (ouma Ellie) of Ouboegas on 10 December 1947 : ..... "that all these items have been verified from the records in the Deeds Office, and reflect the acquisition of and entire disposal of the Lands known as Melkboschkuil by the seven Cloetes and this being so there appears to be no residue left in this estate."

In 1863 the directors and shareholders of Messrs Phillips & King would sell off at a handsome profit their mining assets and properties in their Namaqualand venture started only a decade before, thereby ending the initial phase of their relationship with the Cloetes.

### **Attempts to regain Melkboschkuil**

The legal claims on the farms may be debatable, but this does not in any way invalidate the truth of the experience of the Cloetes of Melkboschkuil and Brakfontein. Certainly, one is moved by their efforts to reclaim what they once had, and to rectify what they have seen for several generations as injustice. Their efforts to restore their rights over the farms at times bordered on the heroic, in the sense that the claimants never gave up on the quest for justice.

Although the claimants on the Springbok Commonage during the 1940s and 1950s disagreed to some extent amongst themselves, it would appear that today the Cloetes have, as one might expect, internalised the logic of the discourse to a significant degree: that Melkboschkuil/ Springbokfontein was acquired under dubious circumstances from their forebears. This is largely based on hearsay evidence passed down the generations by the older members of the family. But they all concur on one crucial aspect: in the collective memory of the Cloete descendants, fraud and coercion were involved and they remain unconvinced by any argument to the contrary.

As bearers of the fallen standard of the Cloete clan, there is Ouma Ellie who fought the land battle on behalf of her kin at personal cost to herself. Another is Dirk Petrus Cloete, D/zoon, who during the 1920's made enquiries at the Deeds Office and the Department of Native Affairs, in order to go to the heart of a matter which he viewed as still unresolved.

Wilfred Cloete's correspondence again is a somewhat incoherent (and eccentric) expression of distress over the loss of the family's land at Melkboschkuil, but nevertheless a genuine attempt to address the issue. In the absence of definite proof of what happened, he had to rely partly on conjecture and moral persuasion. All along the claimants, such as Wilfred Cloete, had to face an uphill struggle to regain the farm, and the fact that they were scattered after the sale of the farm, did not help at all.

Perhaps the efforts of Jan 'Primus' Cloete to reclaim the land deserved more consideration at the time. What was perceived as disruptive behaviour on his part to plough the copper company's land at Garracoup in 1993, was in fact a calculated strategy to focus attention on the land claim and the attempt to regain the family's rights on Melkboschkuil.

In perspective, the saga takes on the form of a fascinating encounter between an English mining company and unsophisticated frontiersmen who had pioneered the land beyond the colonial boundary. In the end, the Cloetes proved to be unequal partners engaged in negotiations with seasoned businessmen. A lack of formal education and commercial experience appear to have been the stumbling block, as even today otherwise level-headed people are relieved of their hard-earned savings through various scams. There is nothing new under the (South African) sun. Semi-literate signatories educated at home by itinerant teachers are ideal candidates for usurpation, emphasising the reality of inequality in bargaining power.

Unequal bargaining power may, and often does, result in the “weaker” contractant playing very little or no role in the contract-creating process, the terms of the contract being dictated by the “stronger” contractant on a take-it-or-leave-it basis.<sup>550</sup>

The sale of Melkboschkuil can thus simply be regarded as a deal between unequal partners where, given the circumstances, one party (the Cloetes) found themselves in a vulnerable position. The Cloetes could not have been expected to be familiar with the provisions of commercial law, the regulations pertaining to the registration of deeds, or for that matter, be acquainted with the terms and conditions of contracts, mineral rights and mining leases.

Within this context, negotiations surrounding the purchase of the farm would have been the perfect opportunity for entrepreneurially-minded businessmen (John Wild waking up the owner of Springbokfontein at the dead of night) to take advantage of rural people. By all accounts, the Cloetes were no match for the experienced directors of Phillips & King -- at least two of the latter were notaries public, with offices in Cape Town and London.

#### **“Geluk by die ongeluk”: a philosophical view of the sale of Melkboschkuil**

Here essentially is a South African narrative of a region shaped and formed by an initial scramble for its mineral resources, in a country where the battle for these resources continues up to the present. The manner in which the livelihood of Baster families in a rural remote region was disrupted by the discovery of minerals on their land, somewhat tarnishes the shine of the discovery of copper and the (romantic) story of its subsequent exploitation. Can, as so often happens, the alleged misfortune of the descendants of Lang Kowie Cloete (and Jan ‘Baster’ Cloete) be interpreted as another haunting story of dispossession and betrayal of a community striving to lead “a quiet honest life”?

The prior rights of the Cloetes to both Melkboschkuil (Springbokfontein) and Brakfontein were recognised with formal grants on 21 January 1850. The ironic twist is that the subsequent sale of the land is generations down the line, still being questioned. The sale of both Springbokfontein and Brakfontein would in fact have far-reaching implications in that it brought in its wake profit and progress for Namaqualand, as against stagnation and under-development. Against this background, the Afrikaans expression “geluk by die ongeluk” (every cloud has a silver lining, or sometimes good can come from mishaps?) appears to be applicable to their misfortune.

The closing down of the copper mines in the Okiep Copper District since the year 2000, has brought about large scale unemployment and hardship. The following development has however brought some hope to the district. The United Nations Educational, Scientific & Cultural Organisation (UNESCO) encourages States to submit Tentative Lists of properties which they consider to be cultural and/or natural heritage of outstanding universal value and therefore suitable for inscription

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<sup>550</sup> M Sulaiman, “Contractual Discretionary Powers and the *Essentialia* of Price and Rental in the South African Law of Sale and Lease – A Jurisprudential and Comparative Analysis”, LLD, University of the Western Cape, 2013, 79.

on the World Heritage List. In response, the Department of Sports, Arts & Culture of the Northern Cape Provincial Administration on 8 July 2009 submitted to The Secretariat of UNESCO the Nomination of the Namaqualand Copper Mining Landscape as a World Heritage Site.<sup>551</sup>

The opening of the Namaqualand copper mines saw the development of the first company towns of the industrial era in South Africa and the movement of people from various parts of the Cape Colony (and abroad) to provide labour and to service the infrastructure which developed there. Significantly, the development of the copper mines was undertaken using British technology developed on the mines of Cornwall and West Devon. In fact, the mines worked around Okiep contributed significantly to the demise of copper mining in the south-west of England, with the resulting transfer not only of technology and skills, but also of numbers of Cornishmen to Namaqualand and other parts of the world. Hence there remains a strong historical connection between these two great former copper producing regions of the world, Cornwall and Namaqualand.<sup>552</sup> As such, it is anticipated that the Namaqualand Copper Mining Landscape will be nominated as an extension of the Cornwall and West Devon Mining Landscape World Heritage Site, along with similar sites that share the same connection in Mexico, Australia, Brazil and India.

On two occasions before, Namaqualand had emerged from economic stagnation. First, when a start was made in the 1850's with working the deposits of copper discovered in the region, and subsequently, when diamonds were found on its coast in August 1925. One cannot but feel hopeful that Namaqualand will once again in the near future come into its own and attract fresh capital for the development of its mineral wealth. The region indeed owes a great debt to mining which until recently, halted economic decline and the depopulation of its rural towns.

Would the following have been Namaqualand's fate had it not been for the sale of the farms Melkboschkuil, Brakfontein (and Lelyke Pad)? When the mechanical engineer R T Hall in 1871 strongly recommended the directors to send a light locomotive to be tried as an experiment to transport ore and goods over the sandy coastal strip to and from Port Nolloth, the engine was fittingly named "John King", after the head of the late firm of Phillips & King. This mining company, Hall wrote, had "originated the working of the present productive mines, and but for whose energy and skill Namaqualand would probably have lapsed into destitution and barbarism ..."<sup>553</sup> The mining initiative undertaken by Phillips & King is perhaps then one of the redemptive features of the whole saga of the annexation of the land across the Buffels River and the sale of Melkboschkuil and Brakfontein.

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<sup>551</sup> Dept. of Sport, Arts & Culture, Northern Cape Provincial Administration, Ref. 5460 (website)

<sup>552</sup> Idem.

<sup>553</sup> R T Hall in *The Cape Monthly Magazine*, "The Little Railway in Namaqualand", Jan – Jun 1871, (Cape Town: J C Juta, 1871), 254.

The enduring question remains, nonetheless: were the Cloetes of Melkboschkuil and Brakfontein tricked into selling their land? From the available evidence no clear picture emerges for us to deduce beyond any reasonable doubt that the sale of the farms was indeed fraudulent, except for some lingering doubts and suspicions and the firm stance and repudiation of the sale by Gert and Dirk Cloete at Pella mission station. Although Gert and Dirk left Melkboschkuil of their own accord, their sojourn in Pella was largely the result of intolerable conditions on the farm, and not by their own design.

Another charitable view is that the Cloetes of Melkboschkuil (and Brakfontein) had laboured under a misapprehension and that in consequence, mistakes had been made regarding the facts of the contracts and the reasons for going ahead with the sales. Both families can look back ruefully and perhaps with wry smiles, reflect on their hard luck brought about by the same mining company.

Today, under the *caveat subscriptor* rule,

A contractant who has signed a written contract, albeit unwisely, is deemed to be bound by the terms of such contract. Illiteracy, ignorance of, or mistake regarding the content of the written document, or the fact that the contractant did not read it will, in general, be of little or no avail. The subjective intention of the contractants when signing a contract is irrelevant and their intention must be gathered from the language in the contract.<sup>554</sup>

In current South African law, a signatory may however escape liability and a signed contract may be repudiated "if his or her consent was tainted by misrepresentation, duress, undue influence or commercial bribery".<sup>555</sup>

The historical claims on land made by the two Cloete families are in part related to a resurgence in Khoisan identity politics of the 1980s rather than simply as a reassertion of a century-and-a-half long issue of burning resentment. From oral interviews, the beliefs and assumptions that people had and still have about their relationship to the land, are not always borne out by the details of the existing legal documentation and records.

The story of the sale of two farms – Melkboschkuil and Brakfontein – can on one level be read as a cautionary tale. It is no doubt a salutary lesson to be learnt and a sobering reminder about lack of vigilance (and the dangers of undue influence exerted through cash incentives and other coercive means) -- a convincing enough reason to capture the chronicle of the hapless Cloetes of Melkboschkuil No. 132 and Brakfontein No. 133, district of Namaqualand.<sup>556</sup>

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<sup>554</sup> M Sulaiman, "Contractual Discretionary Powers and the *Essentialia* of Price and Rental in the South African Law of Sale and Lease – A Jurisprudential and Comparative Analysis", LLD, University of the Western Cape, 2013. 63-64.

<sup>555</sup> Dale Hutchison and Chris-James Pretorius (eds), *The Law of Contract in South Africa* (Second Edition), (Cape Town: Oxford University Press Southern Africa, 2012), 239.

<sup>556</sup> Deed of Grant of Melkboschkuil, 1850; Mine Workings at Springbokfontein, early 1850s (Annexures 27 & 28)

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3/SBK Ref. 1/1/1/5 Council Minutes 1946 – 1948 Ploughing Agreement on the Commonage 1946 (Die Meent Ploegooreenkoms 1946).

3/SBK Ref. 1/1/1/5 Council Minutes 1946 – 1948 Agreement on Commonage 1946 & Court Case (Die Meent 1946 Ooreenkoms & Hofsaak).

3/SBK Ref. 1/1/1/5 Notule van Munisipale Vergadering gehou op 23 November 1946.

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3/SBK Ref. 1/1/1/5 Minutes of Meeting, Springbok Town Council, 29 July 1947.

3/SBK Village Management Board Minutes 1922- 1929 Springbok Commonage 1924. Application C Davies, 13 November 1924.

3/SBK Ref. 1/1/1/6 Council Minutes 1948 – 1951, 13 September 1948. Carools (sic) Davis relinquishes rights at Vaalwater, 1948.

3/SBK Ref. 1/1/1/4 Minutes of Meeting, Springbok Town Council, 6 February 1945.

3/SBK Ref. 1/1/1/1 Minutes of Meeting, 26 June 1933.

3/SBK Ref. 1/1/1/1 Minutes of Meeting, 28 October 1934.

3/SBK Ref. 1/1/1/5 Meeting of Town Council, 27 August 1946. "Goudswasies", probably the place called Houtswartjes, 8 km north-west of Springbok, where the Agreement on First Right of Refusal (13 April 1852) was signed and witnessed by the representatives of Phillips & King, and the five Cloete brothers.

3/SBK 1/1/1/3 Ordinary Meeting of Town Council, 28 April 1939.

3/SBK Ref. 1/1/1/7 Minutes of Meeting, 28 March 1955.

3/SBK 1/1/1/8 Ordinary Municipal Meeting, 1 March 1956.

3/SBK Ref. 1/1/1/8 Meeting of Municipal Finance Committee, 13 March 1956.

3/SBK Ref. 1/1/1/1 Springbok Town Council Minutes of Meeting, 16 March 1934.

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3/SBK 1/1/1/4 Springbok Town Council Minutes of Meeting, 20 April 1944.

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AG 1633 Ref. 7289 Reuben Lloyd Kwaza. Appointment as Constable (1906).

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BAO 2283 File no. 115 / 305. Dirk Petrus Cloete D/son, PO Concordia to The Secretary for Native Affairs, Houses of Parliament, Cape Town, 11 May 1926.

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MNW 691 Ref. mm 3514/23 Registrar of Deeds to Dept of Mines & Industries dated 13 July 1923.

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Clanwilliam Quitrents Vol. 8 No. 24.

Deed of Grant of Melkboschkuil Farm No. 132, ated 21 January 1850.

Title Deed No. Clw. 8 – Folio 27 dated 21 January 1850 in favour of Jan Cloete (Bastard).

Deed of Transfer T956 dated 11 July 1850 (Clanwilliam Quit Rent Clw 19 – 90).

The Agreement of Sale dated 28-10-1850 is filed in the Deeds Office, Cape Town, together with Deed of Transfer No. 197, dated 26-12-1850.

Power of Attorney to make Transfer dated 22 November 1850. Signed and witnessed at Melkboschkuil, Namaqualand, District of Clanwilliam.

Deeds Search conducted by N P Cleary, 1997.

DOC 2/1/1/2 Letters Despatched (Jan. 1857 – December 1867). Registrar of Deeds Office, Cape Town to the Civil Commissioner, Namaqualand 7 July 1857. (Western Cape Archives & Records Service)

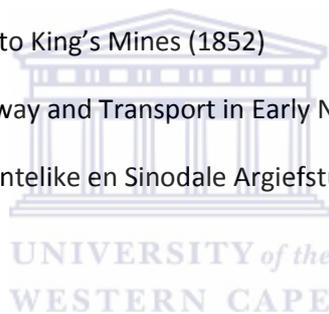
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SK-G 4/2/2



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Surveyor General (SG) Reference Book Clanwilliam/Calvinia (1840 – 1865) and Namaqualand (1865 – 1880).

Surveyor General (SG) 1/1/1/3 vol. 47: C W Meyer per H D Jencken, Namaqualand to Hon. John Montagu, Secretary to Government, Cape Town, dated 15 May 1851.

The Agreement of Sale (A), dated 28 October 1850.

The portion sold is now Erf 385, Springbok. See Folio 385 Springbok Erven. Also Transfers Vol. 4, 12 – 27 February 1852. (Deeds Office, Cape Town)

Agreement of Sale (Copper Koppie), 28 October 1850. (Annexure 15)

Agreement of Sale (Copper Koppie), 28 October 1850. The portion sold is now Erf 385, Springbok.

Agreement of 13 April 1852 filed with Deed of Transfer No. 242 / 1851. (Annexure 16).

The site of the mine (and nucleus of early settlement) at Springbokfontein, now Erf 385 Springbok. (Transfers Vol. 4, 12 – 27 February 1852)

The accounts of Transfers of Shares and Property are based mainly on reports by Niall Patrick Cleary (former Registrar of Deeds); Carl Friedrich Pohl, sworn conveyancer; J M Smalberger, *A History of Copper Mining in Namaqualand*, 1975; as well as copies of deeds of transfer at hand.

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- (i) Letter dated 26 November 1945 from D J Scholtz, attorney, to Carolus Davis, Vaalwater, Springbok.

- (ii) Mnr Wolfred Cloete, N.V.K. [Nasionale Vereniging van Kleurlinge], Plaatjie, Nababeep aan Departement van Kleurlingsake, Monte Carlo-gebou, Heerengracht, Kaapstad, 23 Oktober 1966.
- (iii) Mr Wilfred Cloete, N.V.K., Plaatjie, Nababeep to the Office of the Regional Representative, Dept. Coloured Affairs, Private Bag, Springbok, dated 3 January 1967.
- (iv) C L Lanham, Secretary O'okiep Copper Company Ltd, dated 31 March 1967 to Mr Willem Cloete, Nature Reserve Farm, near Carolusberg.
- (v) ACLT 292 Aansoek om oordrag van Grond bekend as Vaalwater naby Springbok (1972). Sekretaris van Landboukrediet en Grondbesit aan Mnr C W Davis, Posbus 70, Okiep, Kaap Provinsie, 26 September 1972.
- (vi) Letter C W Davis of P O Box 70, Okiep to Surveyor General, Cape Town, n.d. (c. 1976).
- (vii) (Handwritten) Copy of Last Will and Testament of Catherina Davis dated 17 March 1976.
- (viii) C W Davis, Okiep, to the Secretary, Minister for Lands, Pretoria, undated, circa 1976. (Draft letter translated from Afrikaans)
- (ix) C W Davis, Okiep, to the Minister for Agriculture and Land Tenure (Grondbesit), Pretoria, n.d. (Draft letter in Afrikaans).
- (x) C W Davis, Okiep to Messrs Van Wyk & Swanepoel Re: - Springbok Munisipaliteit en Myself, 1976. (Draft Letter in Afrikaans)
- (xi) Letter dated 22 July 1993 from the Office of the Attorney-General, Cape, to J Cloete, Plaatjie, Nababeep.
- (xii) Rosenthal & Walton, Attorneys, Cape Town, 22 January 1998.

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### List of Illustrations and Maps

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5. Memorial of the Inhabitants of Namaqualand (1842)
6. John Wild, mine manager, Springbokfontein (1850s)
7. Memorial of Gert and Dirk Cloete, Pella, 1863
8. Letter Dirk Petrus Cloete to the Secretary for Native Affairs, 1926
9. Letter to Mrs Elizabeth Cloete, Oubegas, from R W Bowen, Cape Town, 1947
10. Sketch Map of land on Commonage offered in settlement (1945)
11. Proposed Coloured Reserve on Springbok Commonage (1946)
12. Wilfred Cloete of Blomhoek
13. Map: Vaalwater, Springbok Commonage
14. Descendants of Dirk Cloete of Melkboschkuil
15. Agreement of Sale (A), Copper Koppie, 1850
16. Agreement: First Right of Refusal, 1852
17. Deed of Grant Brakfontein (1850)
18. Deed of Transfer Brakfontein, T956/1850
19. Power of Attorney signed by Gert Cloete, 18 April 1852
20. View of King's Mine, Springbokfontein (1850s). Land being ploughed.
21. Map: Bergsig Township
22. Group Areas, Springbok, 1967
23. "The Copper Dance", Springbok, 1952
24. Passengers, Port Nolloth—O'okiep Line
25. O'okiep Mines, c 1890
26. Port Nolloth Jetty, 1905

- 27. Deed of Grant Melkboschkuil (1850)
- 28. Springbokfontein: Mine Workings

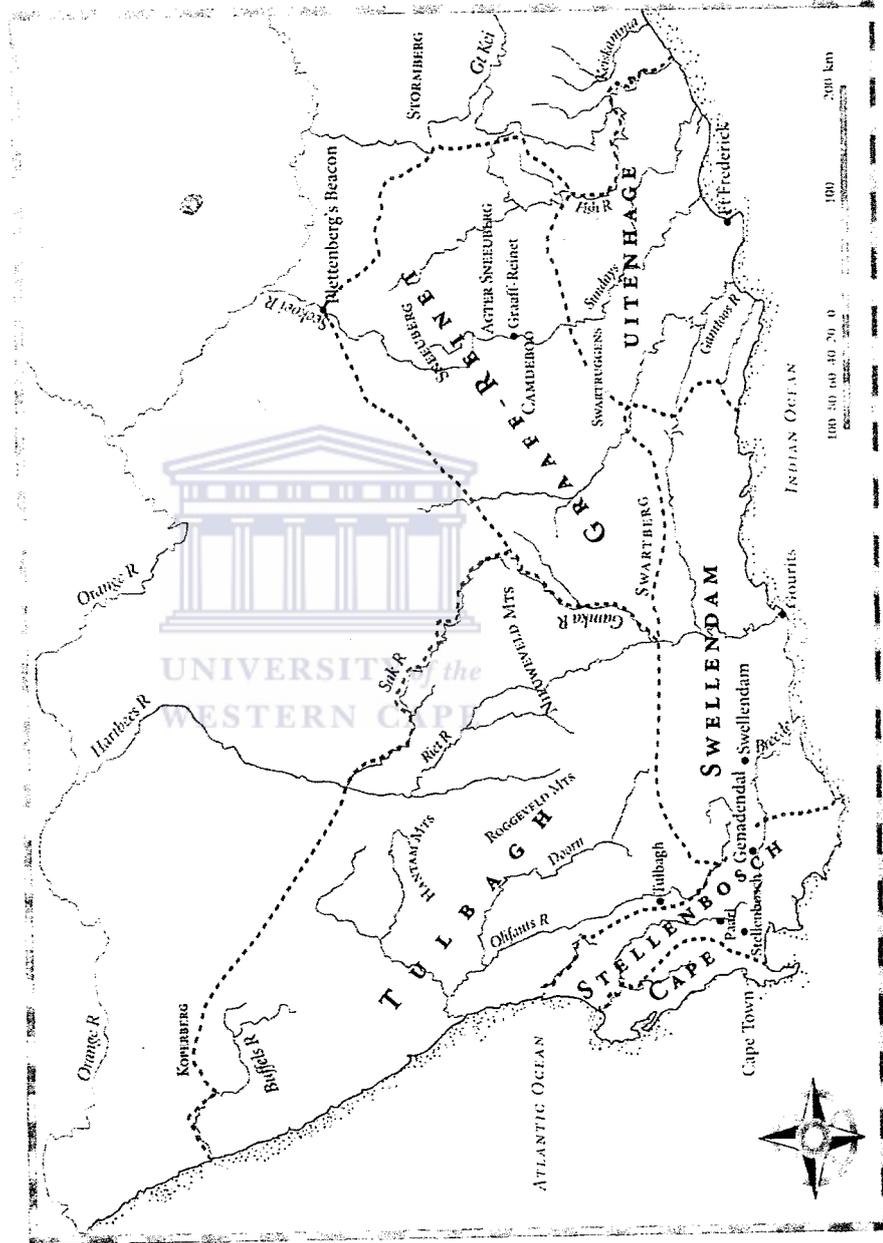
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### Oral Informants

1. Sentiments about the debt of honour still held by the British royal family, expressed at a land claims meeting held in the Raadsaal, Steinkopf, on 4 February 1993.
2. J F van Wyk, Steinkopf, 4 February 1993.
3. Hendrik Cloete at Steinkopf, on 5 February 1993.
4. Charles E Cloete, Development Officer, Steinkopf, 5 February 1993.
5. Mrs Maria Engelbrecht, Matjeskloof, 5 February 1993.
6. Charles F Hein, Springbok, 1993.
7. Jan 'Primus' Cloete, personal communication, Athlone, 4 May 1993.
8. Paul 'Lulu' Cloete, NBV (Namakwaland Burgervereniging ) chairman, Athlone, 4 May 1993.
9. Jan 'Primus' Cloete, Belhar, Cape Town, 18 September 1993.
10. Jan 'Primus' Cloete: About the year 1947, the "Eerste Diagram" (most probably a copy of the Original Grant document) is believed to have been in the possession of Gert Cloete of Steinkopf (also known as Gert Skoolmeester) who had obtained it from Ouma Ellie Cloete of Kouboegas. Belhar, Cape Town, 18 September 1993.
11. Jan 'Primus' Cloete, 20 October 1993: In 1903 Dirk Petrus Cloete still had control over the Commonage of Melkboschkuil, the only one of the seven brothers to do so at this time. After his death, none of Dirk's children took over and exercised further control over the land.
12. Jan 'Primus' Cloete on the Sale of Melkboschkuil, Athlone, 22 December 1993.
13. Timotheus Union (b. Okiep 31 May 1958), is also a direct descendant of Jan 'Baster' Cloete of Brakfontein. Cape Town, 15 January 1995.
14. Ouma Hakkie Cloete, 101 years, Okiep, September 1995.
15. Mrs Cloete, mother of Timotheus Union Cloete, Okiep, September 1995.
16. Johannes George 'Jonsie' Cloete of Nababeep, 2008. Elizabeth Cloete, born Gilbert, married to Johannes 'Jaap' Cloete, a descendant of one of the seven Cloete brothers.



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Cape districts and the northern boundary, 1805

Nigel Penn,  
Forgotten Frontier, 2005.

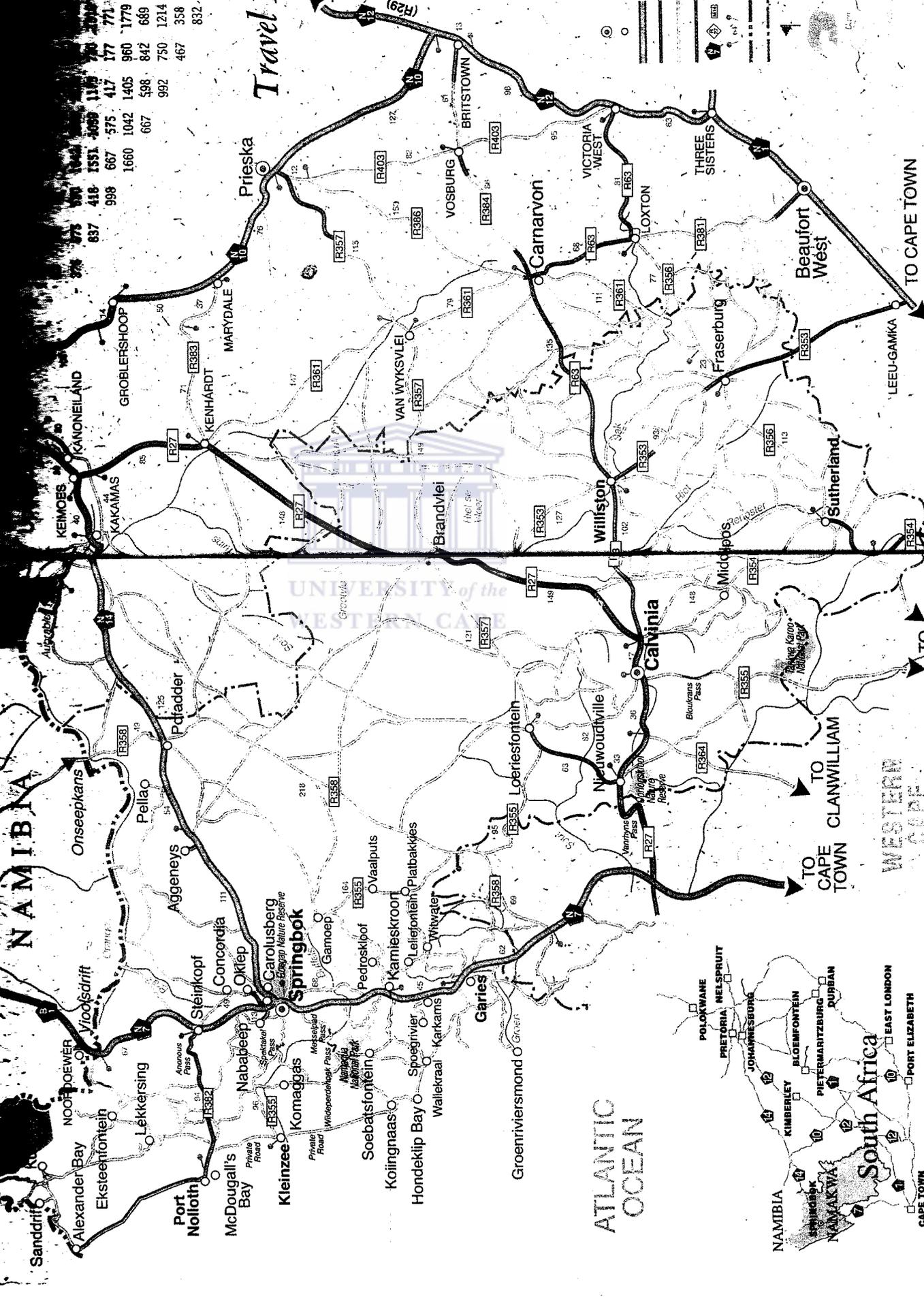
*Travel Planner*

775	837	998	1152	1315	1478	1641	1804	1967	2130	2293	2456	2619	2782	2945	3108	3271	3434	3597	3760	3923	4086	4249	4412	4575	4738	4901	5064	5227	5390	5553	5716	5879	6042	6205	6368	6531	6694	6857	7020	7183	7346	7509	7672	7835	7998	8161	8324	8487	8650	8813	8976	9139	9302	9465	9628	9791	9954	10117	10280	10443	10606	10769	10932	11095	11258	11421	11584	11747	11910	12073	12236	12399	12562	12725	12888	13051	13214	13377	13540	13703	13866	14029	14192	14355	14518	14681	14844	15007	15170	15333	15496	15659	15822	15985	16148	16311	16474	16637	16800	16963	17126	17289	17452	17615	17778	17941	18104	18267	18430	18593	18756	18919	19082	19245	19408	19571	19734	19897	20060	20223	20386	20549	20712	20875	21038	21201	21364	21527	21690	21853	22016	22179	22342	22505	22668	22831	22994	23157	23320	23483	23646	23809	23972	24135	24298	24461	24624	24787	24950	25113	25276	25439	25602	25765	25928	26091	26254	26417	26580	26743	26906	27069	27232	27395	27558	27721	27884	28047	28210	28373	28536	28699	28862	29025	29188	29351	29514	29677	29840	30003	30166	30329	30492	30655	30818	30981	31144	31307	31470	31633	31796	31959	32122	32285	32448	32611	32774	32937	33100	33263	33426	33589	33752	33915	34078	34241	34404	34567	34730	34893	35056	35219	35382	35545	35708	35871	36034	36197	36360	36523	36686	36849	37012	37175	37338	37501	37664	37827	37990	38153	38316	38479	38642	38805	38968	39131	39294	39457	39620	39783	39946	40109	40272	40435	40598	40761	40924	41087	41250	41413	41576	41739	41902	42065	42228	42391	42554	42717	42880	43043	43206	43369	43532	43695	43858	44021	44184	44347	44510	44673	44836	45000	45163	45326	45489	45652	45815	45978	46141	46304	46467	46630	46793	46956	47119	47282	47445	47608	47771	47934	48097	48260	48423	48586	48749	48912	49075	49238	49401	49564	49727	49890	50053	50216	50379	50542	50705	50868	51031	51194	51357	51520	51683	51846	52009	52172	52335	52498	52661	52824	52987	53150	53313	53476	53639	53802	53965	54128	54291	54454	54617	54780	54943	55106	55269	55432	55595	55758	55921	56084	56247	56410	56573	56736	56899	57062	57225	57388	57551	57714	57877	58040	58203	58366	58529	58692	58855	59018	59181	59344	59507	59670	59833	60000	60163	60326	60489	60652	60815	60978	61141	61304	61467	61630	61793	61956	62119	62282	62445	62608	62771	62934	63097	63260	63423	63586	63749	63912	64075	64238	64401	64564	64727	64890	65053	65216	65379	65542	65705	65868	66031	66194	66357	66520	66683	66846	67009	67172	67335	67498	67661	67824	67987	68150	68313	68476	68639	68802	68965	69128	69291	69454	69617	69780	69943	70106	70269	70432	70595	70758	70921	71084	71247	71410	71573	71736	71899	72062	72225	72388	72551	72714	72877	73040	73203	73366	73529	73692	73855	74018	74181	74344	74507	74670	74833	75000	75163	75326	75489	75652	75815	75978	76141	76304	76467	76630	76793	76956	77119	77282	77445	77608	77771	77934	78097	78260	78423	78586	78749	78912	79075	79238	79401	79564	79727	79890	80053	80216	80379	80542	80705	80868	81031	81194	81357	81520	81683	81846	82009	82172	82335	82498	82661	82824	82987	83150	83313	83476	83639	83802	83965	84128	84291	84454	84617	84780	84943	85106	85269	85432	85595	85758	85921	86084	86247	86410	86573	86736	86899	87062	87225	87388	87551	87714	87877	88040	88203	88366	88529	88692	88855	89018	89181	89344	89507	89670	89833	90000	90163	90326	90489	90652	90815	90978	91141	91304	91467	91630	91793	91956	92119	92282	92445	92608	92771	92934	93097	93260	93423	93586	93749	93912	94075	94238	94401	94564	94727	94890	95053	95216	95379	95542	95705	95868	96031	96194	96357	96520	96683	96846	97009	97172	97335	97498	97661	97824	97987	98150	98313	98476	98639	98802	98965	99128	99291	99454	99617	99780	99943
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- Major Town
- Secondary Town
- National Road
- Main Road
- Untraded Road
- Mountain Passes
- Route Markers
- Distances in Kilome
- International Bound
- Provincial Boundary
- Border Control
- National Parks and/
- Nature Reserves
- Water Features
- Mountain Range



NAMIBIA

ATLANTIC OCEAN

South Africa

WESTERN CAPE

CAPE TOWN

EAST LONDON

PORT ELIZABETH

PIETERMARITZBURG

DURBAN

NAMIBIA

SPRINGS

NAKAKWA

POLOKWANE

PRETORIA

NELSPRUIT

JOHANNESBURG

BLOENFONTEIN

RIETVELD

ROSBURG

FRANCOISBURG

WINTERBURG

WINDHOUK

WITBANK

WITWATERSBURG

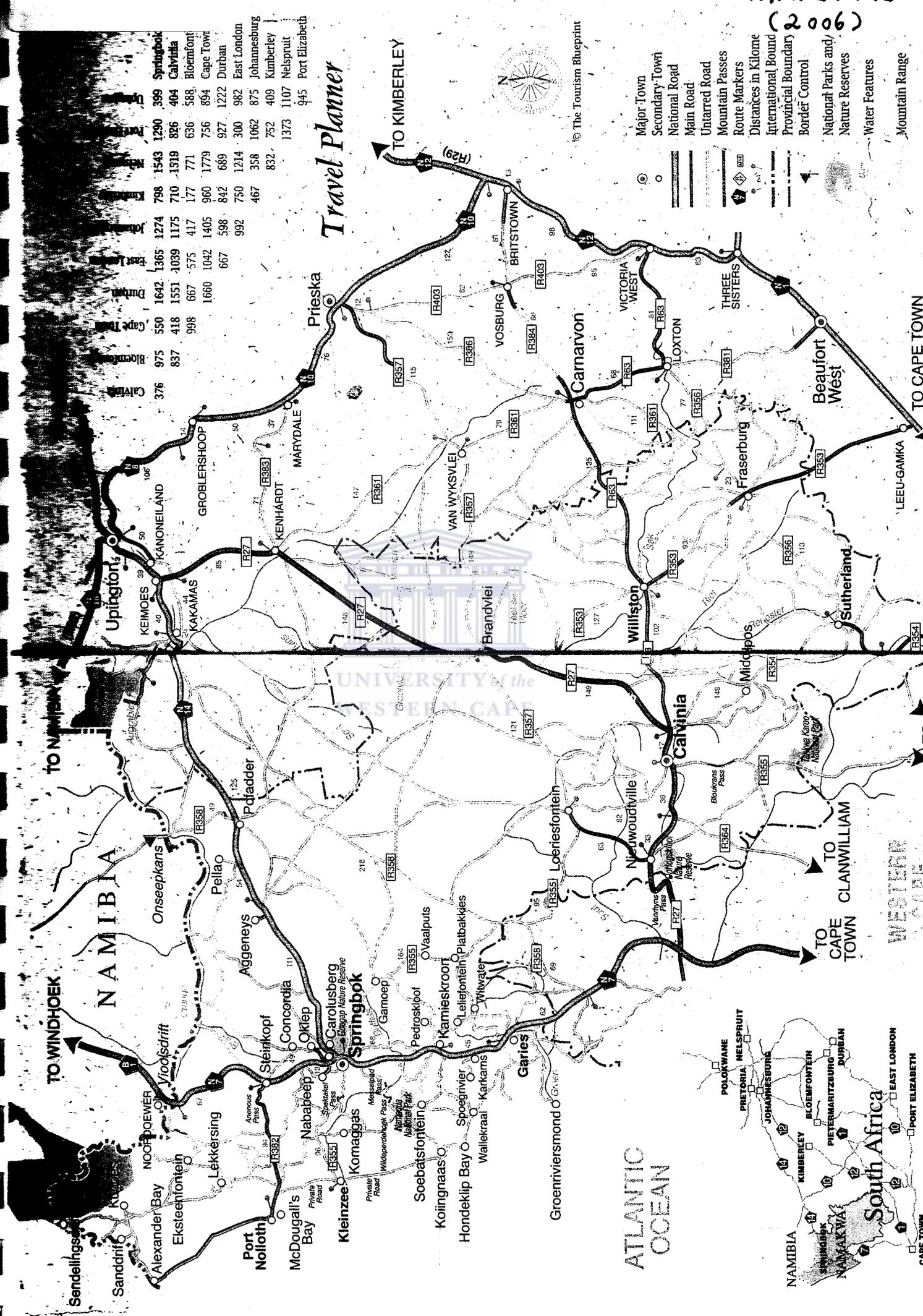
*Travel Planner*

Springbok	399	1290	1543	798	1274	1365	1642	550	975	376	376
Calvinia	404	1319	1519	826	1175	1039	1551	418	837	837	837
Bloemfont	588	1771	1771	636	1175	1039	1551	418	837	837	837
Cape Town	694	1779	1779	756	1405	1042	1660	998	998	998	998
Durban	1222	1779	1779	756	1405	1042	1660	998	998	998	998
East London	982	1214	1214	300	992	750	1214	300	982	982	982
Johannesburg	875	1062	1062	467	992	750	1214	300	982	982	982
Kimberley	409	752	752	409	832	832	832	832	832	832	832
Nelspruit	1107	1373	1373	1107	1373	1373	1373	1373	1373	1373	1373
Port Elizabeth	945	1107	1107	945	1107	1107	1107	1107	1107	1107	1107

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- Major Town
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- Mountain Range



ATLANTIC OCEAN

South Africa

WESTERN CAPE



TO WINDHOEK

TO NAMIBIA

TO KIMBERLEY

TO CLANWILLIAM

TO CAPE TOWN

TO CAPE TOWN

TO

TO

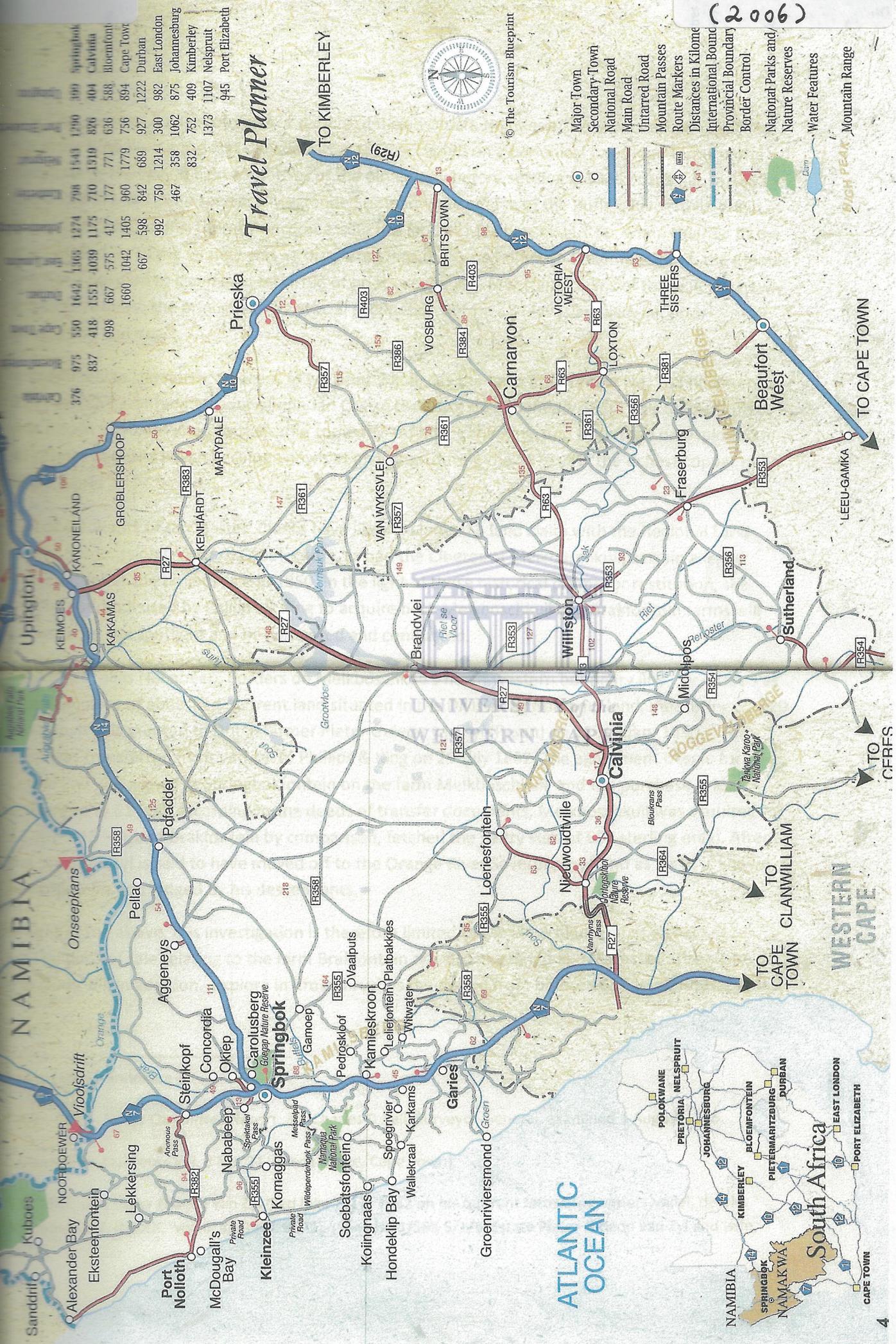
TO

Travel Planner



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- Major Town
- Secondary Town
- National Road
- Main Road
- Untarred Road
- Mountain Passes
- Route Markers
- Distances in Kilometres
- International Boundary
- Provincial Boundary
- Border Control
- National Parks and Nature Reserves
- Water Features
- Mountain Range



376	975	550	1642	1274	798	1543	1290	109	Springbok
837	418	1551	1039	1175	710	1519	826	404	Calcutta
998	667	575	417	177	771	636	588	109	Bloemfontein
1660	1042	1405	960	1779	756	894	667	1222	Cape Town
598	842	689	927	1222	982	1214	300	982	East London
467	358	1062	875	1062	875	1062	875	1062	Johannesburg
832	752	409	Kimberley	832	752	409	Kimberley	832	Kimberley
1373	1107	Nelspruit	1373	1107	Nelspruit	1373	1107	Nelspruit	Nelspruit
945	Port Elizabeth	945	Port Elizabeth	945	Port Elizabeth	945	Port Elizabeth	945	Port Elizabeth

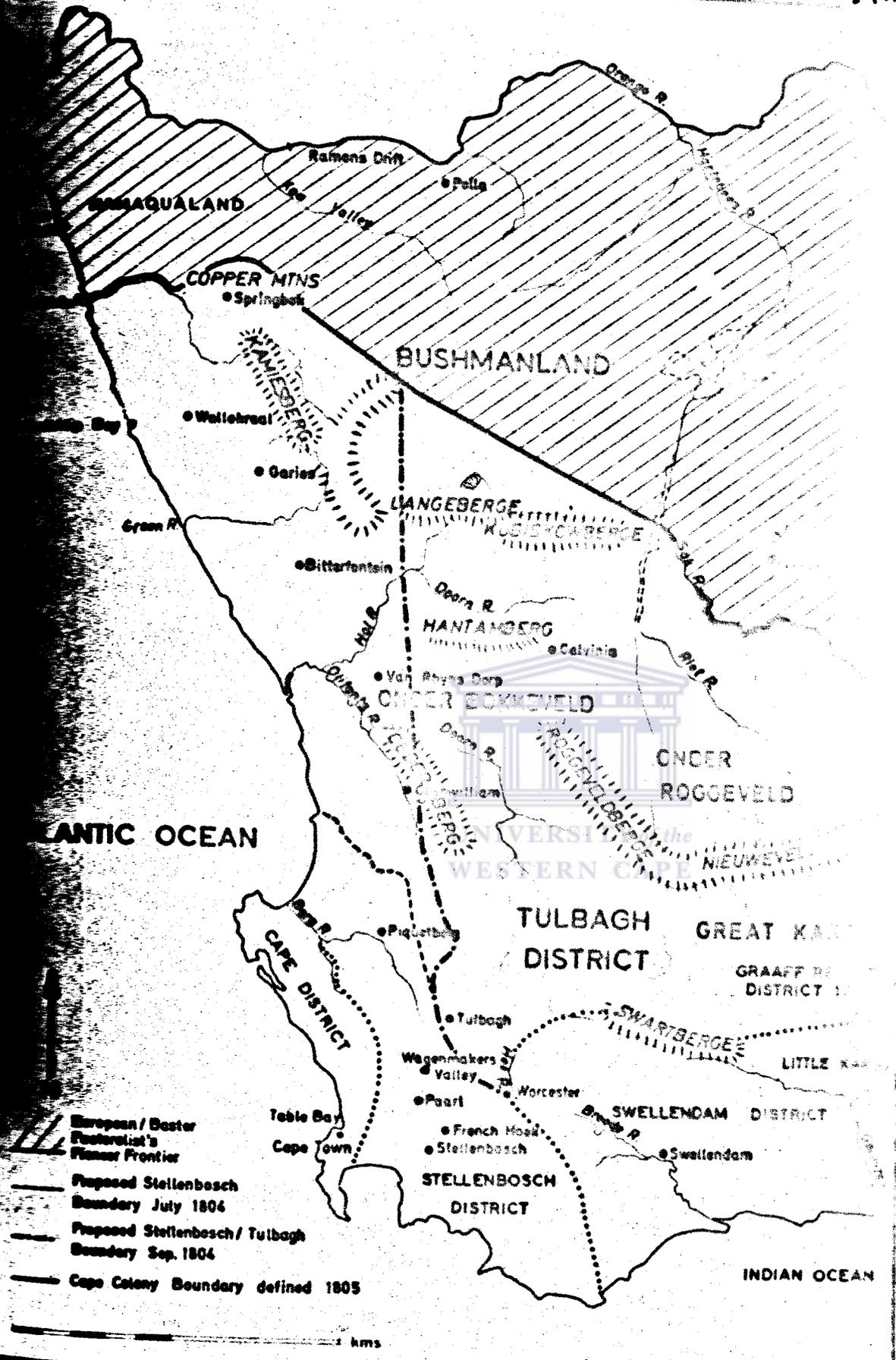


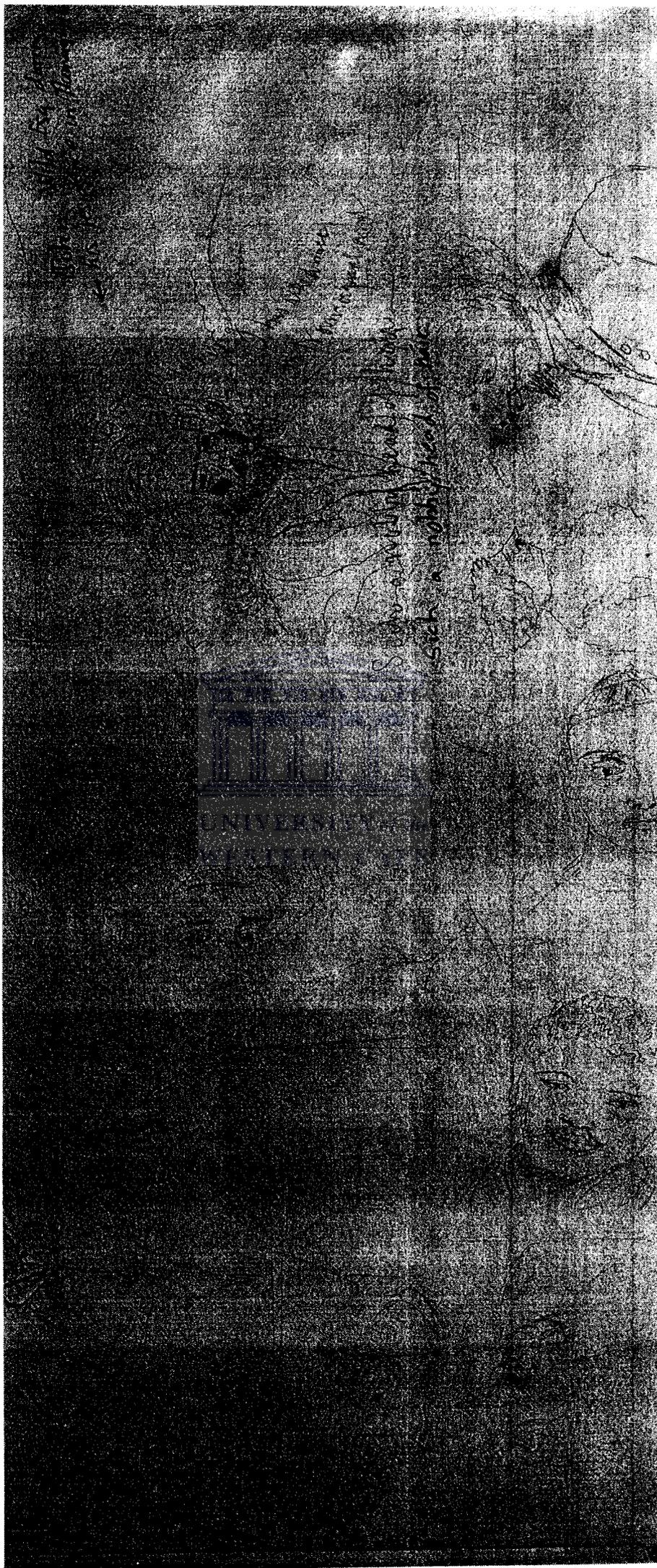
Fig. 9. Official boundaries defined for the establishment of landrocs' districts and the extension of the Cape Colony, 1804-1805.

Source: D G B Slade,  
Aspects of Rural Occupance, 1974.

ANNEXURE 4  
S A PARL. LIBRARY







6 Nov 1863.  
 D. & J. Selochs  
 Ticket of Occupation  
 Pella Station  
 To share in

Tella, 22<sup>nd</sup> October 1863.

The Honorable the Colonial Secretary

Sir

We the undersigned, since  
 four years Member of the German Mission-  
 ary Congregation of Tella, Namaqualand.

Humbly pray to be allowed to  
 participate in the Ticket of occupation  
 which his Excellency is pleased to grant to  
 the said congregation, which our worthy  
 Magistrate refuses, as we have been formerly  
 and at present are partly the owners of  
 Springbokfontein.

We have been obliged to leave Spring-  
 bokfontein with our Cattle and Sheep as  
 we eight brothers with our Children and  
 Grand-Children could not exist on the  
 farm any longer, since thousand of  
 Cattle of Copper-carriers grazing on the  
 farm daily during the Riding-season,  
 and the erection of a village ther  
 has forced some of us to remove.

And

19/12

And in conclusion Your Honorables  
would humbly pray Your Honorable  
to take the matters in consideration  
and grant as soon as possible a  
favorable reply -

We have the honor  
to be

Your Honorables most  
Obedient and humble Servants

David X (at. Gen.) O'Leary

Thomas X (at. Gen.) O'Leary



Report

This is a request that cannot, I think, be  
entertained for a moment, and only shows how far  
the boundaries under the influence of the  
Assessors are disposed to surge claims based  
upon no appearance of right.

In 1800 the farm "Spring Botfontein"  
(21,599 morgen) was granted to the  
Kommunisten & their five brothers

in satisfaction of their claims  
as occupiers prior to the

creation of the Colonial

Boundaries They were

not "obliged to leave" the

place as stated, but

sent to assess their & c.

Afterwards about 4 years after

the two Kommunisten went to

reside at Pella, and they are

Report to the Hon. Secretary of the Cape Colony

of the Cape Colony

Colonial Office, 11/11/63.

By order

Louis A. Searles

for the Colonial Office

11<sup>th</sup> May 1926

The Secretary  
for Native Affairs  
Houses of Parliament Capetown.

Application to purchase Diagram of farm  
Milkbosch Kuil alias Kopperberg of  
Dloete and six others

21 JA.1850 Cl. 8.28. Folio 908

Sir

In my letter of last month addressed to the Secretary of Native Affairs, I asked a question whether Springbok was purchased by messrs' Philip and King; as they stated in their unlawful acknowledgement document that they purchased from from my late father Dirs Dloete his one seventh share of a place called milkboschku. Owing to lack of Education I did not fully express my what information I wanted from the Secretary of Native Affairs; my letter was referred to the Superintendent of Communal Reserves to inquire into my letter as it was not understood by the Secretary of Native Affairs. My particulars are as follows.

CHAMBERS

148 St Georges Street  
Cape Town

December 10th 1947

Mrs Elisabeth Cloete  
"Oubegas "  
P.O. O'Kiep.  
Namaqualand....

Dear Mrs Cloete,

Please accept my thanks for monies received Five Guineas , and in respect of which please find my receipt.

The investigation made in the Deeds Offices Cape Town and which refers to the grant of land from the Governor General to the seven Cloetes, discloses that on the first day of January 1850, 21410 morgen of land , named Melkboschkuil was granted to them in perpetual quitrent of FOUR POUNDS to be paid to the Civil Commissioner every twelve months , the roads and outspans remaining Government property.

The following are transactions of sale and purchase of the above named lands recorded since the Cloete brothers acquired possession of the property up to the time of their disposing of same.

- No. 1. Jacobus Cloete , on 29th October 1851 sold his one seventh ~~share of the whole estate to Silvanus Phillips for £100, and who bound the remaining six holders in the sum of £5 each not to dispose of their interest without first offering same to him.~~
- 2/ Jacob Cloete , on 4th December 1851 sold his seventh share to Phillips & King for £100.
3. Gert Cloete , on 3rd June 1853 sold his seventh share to Phillips & King for £375.15. 0
- 4 / Dirk Cloete , on 3rd June 1853 sold his seventh share to Phillips & King for £375.
5. Piet Cloete , on 3rd June 1853 sold his seventh share to Phillips & King for £395.15. 0
6. Nicholas Cloete, on 18th October 1853 sold his seventh share to Phillips & King for £500.
7. Jan Cloete , on 18th October 1853 sold his seventh share to Phillips & king for £500

All these items have been verified from the records in the Deeds Office, and reflect the acquisition of and entire disposal of the Lands known as Melkboschkuil by the seven Cloetes' and this being so there appears to be no residue left in this estate.

Yours Faithfully

R.P. R.W. BOWEN.  
86.

BRAK FONTEIN  
alias  
GROOT BRAK  
Cl. Q. 8.27  
Cl. 1.29.

ANNEXURE 10

T. N.

Lelyke Pad  
alias  
NABABEEP  
Cl. Q. 8.24

O'okiep  
Coppermine

MELNBOESH KUIL  
alias  
KOPER BERG  
Cl. Q. 828  
Cl. u. 5.

Springbok

Springbok  
Township

Commonage

S14957  
MODDER FONTEIN  
Cl. Q. 8.25.

Tweedam  
1918 165-10791

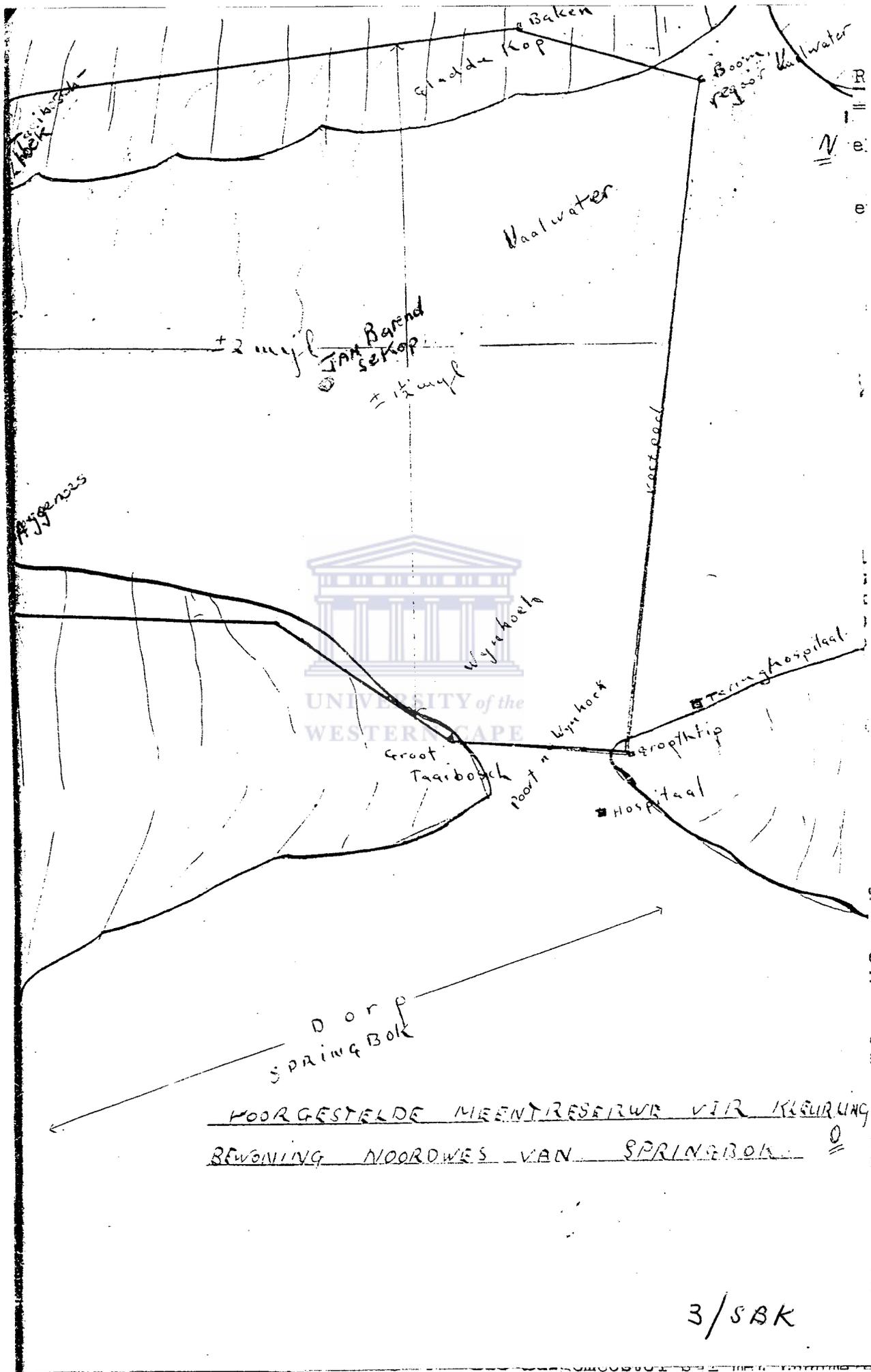
Portion I  
Sym 1498/1499

Portion 2  
Sym 1470/1472

KARREE  
alias  
EENDOORN  
Cl. Q. 8.  
Cl. LII.

Biesjes Fontein.  
d. 8.31

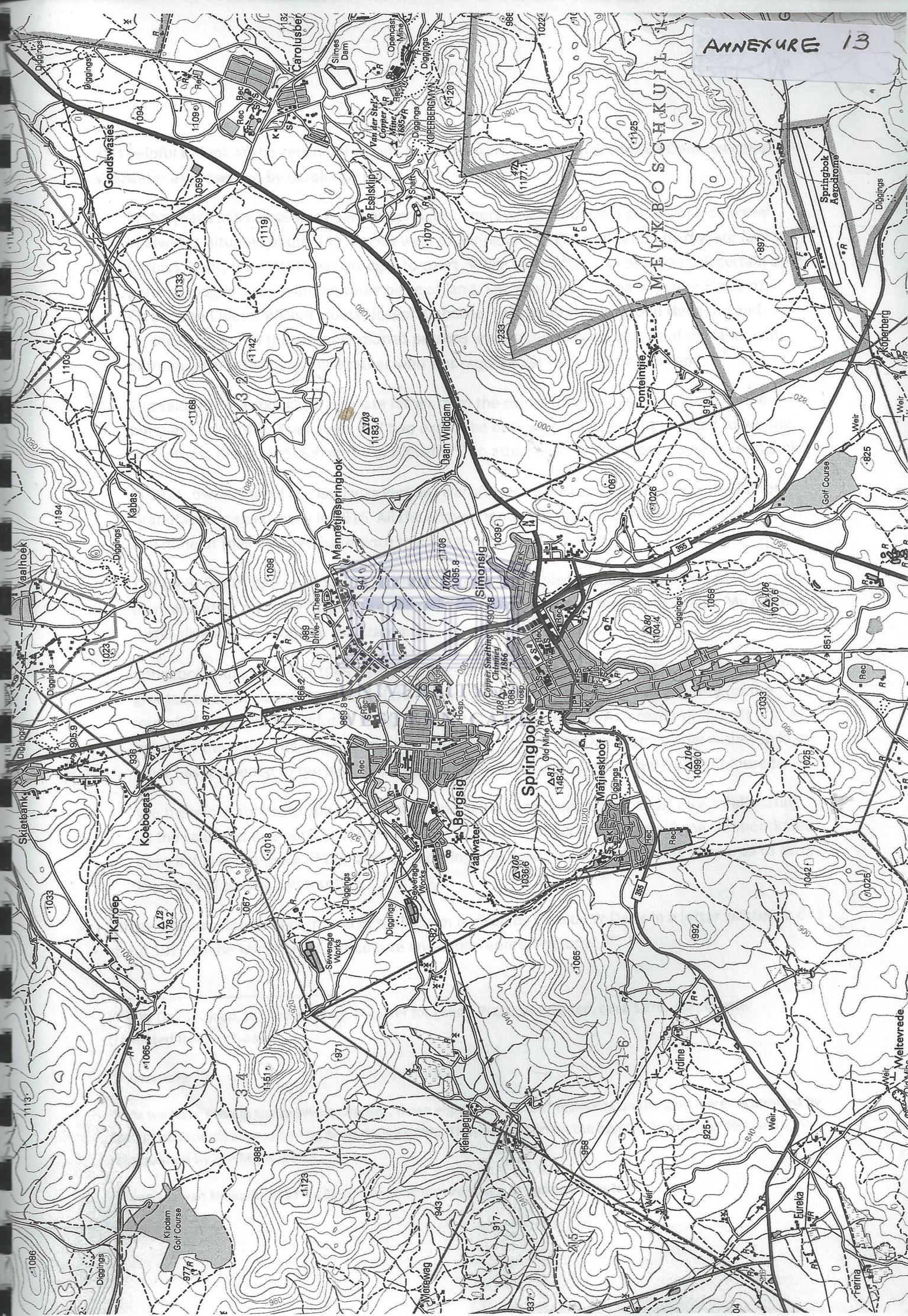
UNIVERSITY of the  
WESTERN CAPE

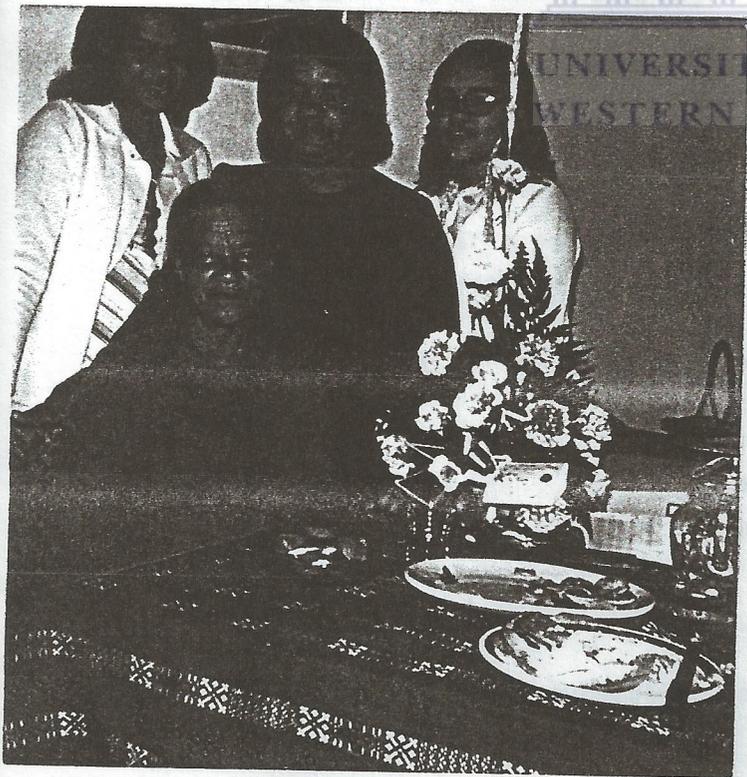
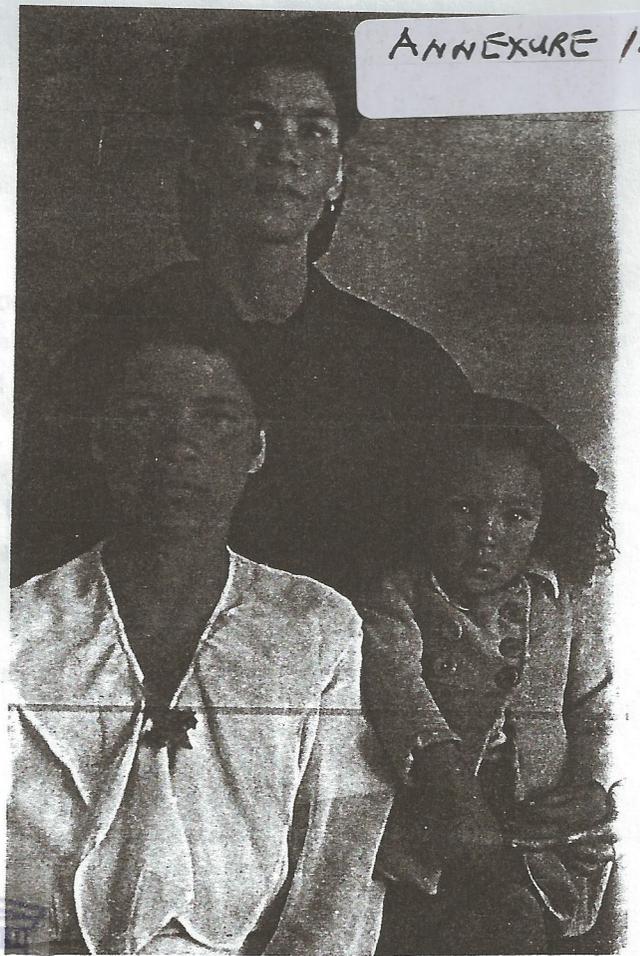
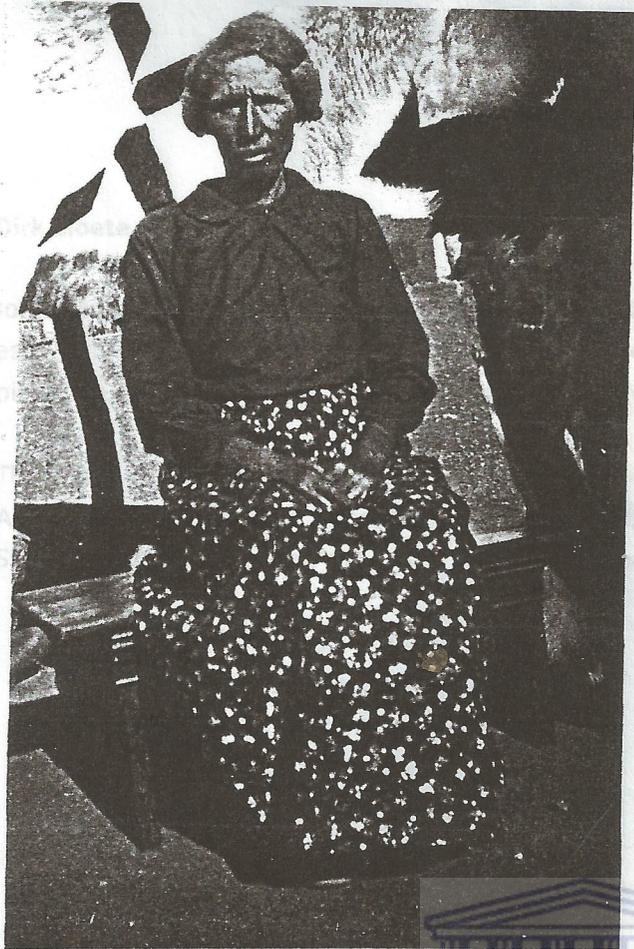


HOORGESTELDE MEENTRESERWE VIR KEURLING  
BEWONING NOORDWES VAN SPRINGBOK

3/SBK







Descendants of Dirk Cloete

X This agreement of Sale of certain place or places containing Copper and other metalliferous ores situated on the Farm called Melk bosch Kuyb, alias Toppen Berg, alias Spring Bokfonteyn, District of Glanwilliam, (Kalkoornely of Namagualand) lately surveyed by Mr. Wenzel, and granted to the undersigned on the twenty first day of January; in the year of our Lord one thousand eight hundred and fifty, as will appear by the Title Deeds and Diagram thereof

Witnesseth that in consideration of the sum of fifty Pounds Sterling (£50 Stg) paid to them on the 16<sup>th</sup> day of March 1850, they acknowledge to have sold on said day, as they hereby jointly and severally do sell unto Silvanus Phillips, John King, and Charles Phillips, trading under the style or firm of Phillips King Cape Town, also to Peter Clarke Daniels, and also to James King, in the following proportions, namely to Silvanus Phillips, John King and Charles Phillips three sixths, to Peter Clarke Daniels two sixths, and to James King one sixth, a certain Copper Mountain or Popping situated about a thousand yards westward and measuring about eleven Morgen, as appears from the sketch marked A hereunto annexed.

And further, they the undersigned, do jointly and severally sell all such place or places where copper or any other metalliferous ore or ores, is, or are now, or shall hereafter be found or discovered on the before named place granted to the said undersigned, with sufficient ground annexed to each of such place or places as may be considered necessary for the erection of Buildings, or works requisite for the working of the Mine.

And further, they the undersigned jointly and severally do sell and dispose of unto the aforesaid Silvanus Phillips, John King and Charles Phillips, also to Peter Clarke Daniels, and also to James King, to the exclusion of all other person or persons the right of grazing their Cattle, horses, goats and sheep, upon said Farm, as may be necessary for the working of said Mine or Mines, and

also the right of the use of water  
And further they the undersigned, do sell and  
dispose of to the above mentioned Siderman Phillips, John  
Ging and Charles Phillips; also to Peter Clarke Daniels, and  
also to James King the right of free ~~use~~ to any  
mine or Mines; also the right of making roads.

And further that they the undersigned, do jointly  
and severally agree to grant Transfer upon any  
such place or places being surveyed, to the said  
Siderman Phillips, John King and Charles Phillips, also  
to Peter Clarke Daniels, and also to James King, their  
heirs, executors, administrators, or assigns, upon their  
said purchasers paying all expenses of Survey and  
Transfer.

And lastly, that they the undersigned do hereby  
bind themselves, their heirs executors, administrators  
and assigns, to the due fulfilment of this Agreement  
as well as their property, both personal and real.

In witness our hands at Melkrosel  
Rivier, this twenty eighth day of October  
one thousand eight hundred and fifty

Nicolaas Cloete

Jans Cloete

His Mark  
Gert Cloete

His Mark  
Jacobus Cloete

Piet Cloete

— Dido x. Cloete —

His Mark —

Jacob x. Cloete

His Mark —

x

Witnesses

H. W. Simons

Notary Public

John W. etc.

Articles of Agreement had made, concluded, and agreed upon between James King duly authorized and acting for and on behalf of Nicholas Phillips, John King and Charles Phillips, Merchants and Copartners trading in Cape Town, under the style or firm of Messrs. Phillips and King of the one part, and Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek, all of Namagualand in the District of Clanwilliam of the other part.

Whereas all the above named parties are joint proprietors and owners of, and to a certain perpetual Inherent Place or Farm called Moltbosch, Veldt, alias Trooperberg, situated in the Fields Territory of Namagualand, in the District of Clanwilliam, granted on the twenty first day of January, one thousand eight hundred and fifty, measuring as per survey and extent twenty one thousand three hundred and ninety nine morgen, two hundred and forty eight square rods, and one hundred and thirty seven square feet, in three several parts, shares and proportions hereinafter mentioned; to wit, the said Phillips and King in two sevenths and each of the other parties in one seventh.

And whereas the said Phillips and King desirous of becoming the proprietors of certain other portions of the said Inherent Place or Farm, of which the said Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek are the respective proprietors to the extent aforesaid have made certain overtures to the last named Parties for the purchase thereof, which has for the present been declined by them, but they have nevertheless expressed themselves willing for the considerations hereinafter mentioned not to sell or dispose of any part of the said Place or Farm to any person or persons whomsoever willing and desirous to become the bona fide purchasers thereof, without first submitting the same to the consideration of the said Phillips and King and giving them the option of refusal to purchase.

Now these Parties witness that in pursuance of the said agreement and for and in consideration of the sum of Two Thousand Pounds Sterling to the said Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek, in hand, well and duly paid by the said Phillips and King the receipt whereof they, the said Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek do hereby jointly and severally acknowledge, and in like manner for themselves, their respective Heirs, Executors and Administrators do hereby covenant, promise, and agree, to and with the said Phillips and King, their Heirs, Executors, Administrators and assigns in manner following, to wit: That if at any time hereafter any person or persons shall be minded, and desirous of becoming the Purchaser or Purchasers of the said Place or Farm called Moltbosch, Veldt, alias Trooperberg, and the said Bloek, any or either of them at or for a bona fide price or sum of money, they shall not, nor will any or either of them, make sale thereof, unto any such Person or Persons, without first giving unto the said Phillips and King, their Heirs, Executors, Administrators or assigns due, free and notice in writing of the overtures aforesaid, or made for the said purchase, and date, thereby giving and allowing them a period of Two Months, to decide whether they will purchase the said Place or Farm, any part, share or portion thereof, at or for the bona fide price, or sums of money, which shall be or may be offered, to them, any or either of them, or which, they, any or either of them, are willing, and will sell and receive for the same. And further, that in case the said Phillips and King, their Heirs, Executors, Administrators, and assigns shall within a like period give notice, in writing unto the said Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek, jointly or severally insofar as they are respectively interested, in the matter aforesaid, of their intention to become the purchasers of the property aforesaid, at or for the sum or sums of money aforesaid; that then they as the Sellers or Seller thereof, will employment of the said purchase money made and customary transfer of the Property, so agreed to be sold, unto the said Phillips and King, their Heirs, Executors, Administrators and assigns on the first demand. For the due and punctual performance of the covenants and agreements aforesaid, the said Nicholas Bloek, Jan Bloek, Gert Bloek, Piet Bloek and Dicks Bloek hereby jointly and severally binds themselves their respective Heirs and Property of every description, submitting the same and the chain thereof, to constraint and execution as the Law directs.

James King  
Nicholas Phillips  
John King  
Charles Phillips

In witness whereof they have hereunto set their respective hands at Montevideo on this twentieth day of April one thousand eight hundred and fifty two.

As witnesses to their  
respective signatures hereunto

James King  
Nicholas Phillips  
John King  
Charles Phillips

Nicholas Bloek  
Jan Bloek  
Gert Bloek  
Piet Bloek  
Dicks Bloek

Wd  
1852

100 40/ 22  
27/1/50

No 108

Folio 34 [223]

ANNEXURE 17



Registered in Namaqualand  
New Farm Register  
Folio 362

By His Excellency Lieutenant General SIR HENRY GEORGE WAKELYN SMITH, Baronet, Knight Grand Cross of the Most Honorable Military Order of the Bath, Colonel of Her Majesty's Second Battalion Rifle Brigade, Governor and Commander-in-Chief of the Settlement of the Cape of Good Hope in South Africa, and of the Territories and Dependencies thereof, and Ordinary, and Vice-Admiral of the same, &c. &c. &c.

In the Name and on behalf of Her Majesty VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

I do hereby Grant, on Perpetual Quitrent, unto \_\_\_\_\_

*Jan. Cloete husband*

a Piece of Land, containing *Three Thousand Two Hundred and Fifteen Morgen*.

situated in the *Division of Clan William field* County of *Namaqualand* called *Brakfontein* also *Grootboom* bounded North by *Government Land*, South South East and South East by the *farm Koperberg*, and West and South West by the *farm Lelykop*.

as will further appear by the Diagram framed by the Surveyor,—on condition, that all Roads and Thoroughfares running over this Land, shall remain free and uninterrupted; that said Land shall be liable (without compensation to its Proprietor) to have any Road made over it, for the public good, by order of Government,

WESTERN CAPE

That the present and future proprietors of the land hereby granted shall allow a public bullock place shown at the spot marked on the diagram.

that he shall punctually pay, or cause to be paid, at the expiration of every twelfth month from the date of these presents, unto the Civil Commissioner of the District, the Sum of

*Two Pounds Sterling*

and be bound (according to the existing Laws of this Settlement) to have the Boundaries properly traced out, and the Land brought into a state of cultivation as it is capable of; the Land thus granted being further subject to all such Duties and Regulations as either are already, or shall in future be, established respecting Lands granted under similar Tenure.

Given under my Hand and Public Seal of the Settlement, at Cape Town, this *Twenty first* Day of *January* 1850.

By His Excellency's Command,

*Charles Bell*  
Surveyor General.

*[Signature]*

ISSUED FOR INFORMATION ONLY  
ALLEN VR INFORMASIELEENDES UTREK

TRANSPERED II. 7. 1850 (1795) To James King.

*Witness by  
Barker*

*190.  
Heston*  
[13]

**DEED OF TRANSFER,**

**By virtue of a Power of Attorney.**

**Know all Men whom it may concern,**

**T**HAT *John Barker* \_\_\_\_\_

appeared before me, Registrar of Deeds, HE, the said *John Barker*

being duly authorized thereto by a Power of Attorney, granted to him by

*Jan Cloete / Bastard / Jan's Son* \_\_\_\_\_  
dated the *20<sup>th</sup> day of March 1850* and drawn up  
and signed by him in the presence of two

competent Witnesses, which Power of Attorney was exhibited to me on this  
Day; and the said *John Barker* declared that his  
Principal the said *Jan Cloete* had truly  
and legally sold and that he the said  
*John Barker* in his Capacity as Attorney  
aforesaid.

did by these Presents, cede and transfer, in full and free Property, to and on  
behalf of *James King* \_\_\_\_\_

his Heirs, Executors, Administrators, or Assigns, certain perpetual  
quit rent Land situated in the Division of  
*St. John William field Comety of Namagualand*  
called *Brak Fontein* alias *Groot Brak* mea-  
suring *Three thousand Two hundred & fifteen*  
and extending as the original Grant and the  
Deed thereon made in the favor of the said  
*Jan Cloete* dated the *20<sup>th</sup> Jan 1850* will more fully  
appear ~~subject to the condition viz that the~~  
~~land and his wife Anne shall be at liberty to~~  
remain on the said Land and at such spots or

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tree  
and  
ition*

Quantity of Stock and measure of a well  
Quantity of Ground for planting and garden  
ing, and also subject to such <sup>other</sup> conditions  
as are mentioned in the said Grant

Wherefore, the Appearer, the said John Parker <sup>of</sup>  
renouncing all the Right and Title <sup>his said Principal</sup> heretofore had to the  
Premises, on behalf as aforesaid, did, in consequence, also acknowledge the said  
Jan Cloete

to be entirely dispossessed of, and disentitled to, the same; and that, by virtue  
of these Presents, the said James King

his — Heirs, Executors, Administrators, or Assigns, now is, and henceforth  
shall be, entitled thereto, conformably to local custom; moreover, promises  
to free and warrant the Property thus sold and transferred, as also, to clear  
from all Encumbrances and Hypothecations, according to the Laws respecting  
the Purchase and Sale of Landed Property: Government, however, reserves  
its Right; — and finally, acknowledging <sup>his said Principal</sup> be satisfactorily  
paid the whole of the Purchase Money, amounting to a Sum of Thirty

Rounds Sterling



**In Witness** whereof, I, the said Registrar, together  
the Appearer, *q<sup>o</sup>q.* have subscribed to these Presents, and have caused the  
of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds  
Cape Town, Cape of Good Hope, on the Eleventh  
Day of the Month of July, in the Year of  
Lord One Thousand Eight Hundred and Forty-Five

*[Handwritten signatures and scribbles]*

DEED OF TRANSFER

Power of Attorney to make Transfer.

ISSUED FOR INFORMATION ONLY  
ALLEN & WILSON INFORMATION SERVICES - DURBAN

I, the Undersigned, *Genl. Cloete of Middelburg*  
*Division of Cape Province*

hereby nominate, constitute, and appoint *Genl. Cloete of Cape*  
*Province, Attorney at Law*

with power of substitution, to be my lawful Attorney and Agent, in my name,  
place, and stead, to appear at the Office of the Registrar of Deeds of this Colony,  
Cape Town, and then and there, as my act and deed, to make Transfer to *Johannes Phillips*  
*John King & Charles Phillips, trading under the styles of firm of Phillips & King*  
*partners.*

to certain, My *One Seventh Share*, right, title, interest, and to a certain remain-  
der of a certain perpetual Provision Place, called *Middelburg*, situate  
in the *Ward of Middelburg* District of *Cape Province*  
bounded to the north, by *Jan Cloete, Nicolaas, alias Ruus Cloete, Jacobus Cloete*  
*Dirk Cloete, & Pieter Cloete* on the first day of January 1850, measuring  
the remaining extent, *21399 Morgen* - *268 Square Rods* - *4*  
*Square Feet* (bounded, as per Diagram, subject to all such conditions, as  
mentioned in the said grant, Rights, privileges or servitudes, endorsed  
thereon and which are all referred to in a certain deed of Transfer, dated  
the 26<sup>th</sup> December 1850 and also to two Agreements dated respectively the 20<sup>th</sup>  
October 1850 and the 20<sup>th</sup> April 1852.

sold to them by me for the Sum of *Three hundred & Seventy five Pounds Sterling*  
which has been duly paid; -  
and generally, for effecting the purposes aforesaid, to do whatsoever shall be re-  
quisite, as fully and effectually, to all intents and purposes, as I might or could  
do, if personally present and acting therein; - hereby ratifying, allowing, and con-  
firming, and promising and agreeing to ratify, allow, and confirm, all and what-  
soever my said Attorney shall lawfully do, or cause to be done, by virtue of these  
presents.

Given under My Hand, at *Middelburg* this *18<sup>th</sup>* Day of *April* 1853

in the presence of the undersigned Witnesses

As Witnesses: -

*Witness*  
*Witness*  
*Genl. Cloete*

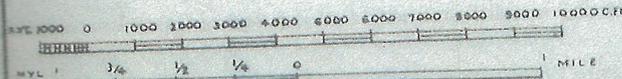
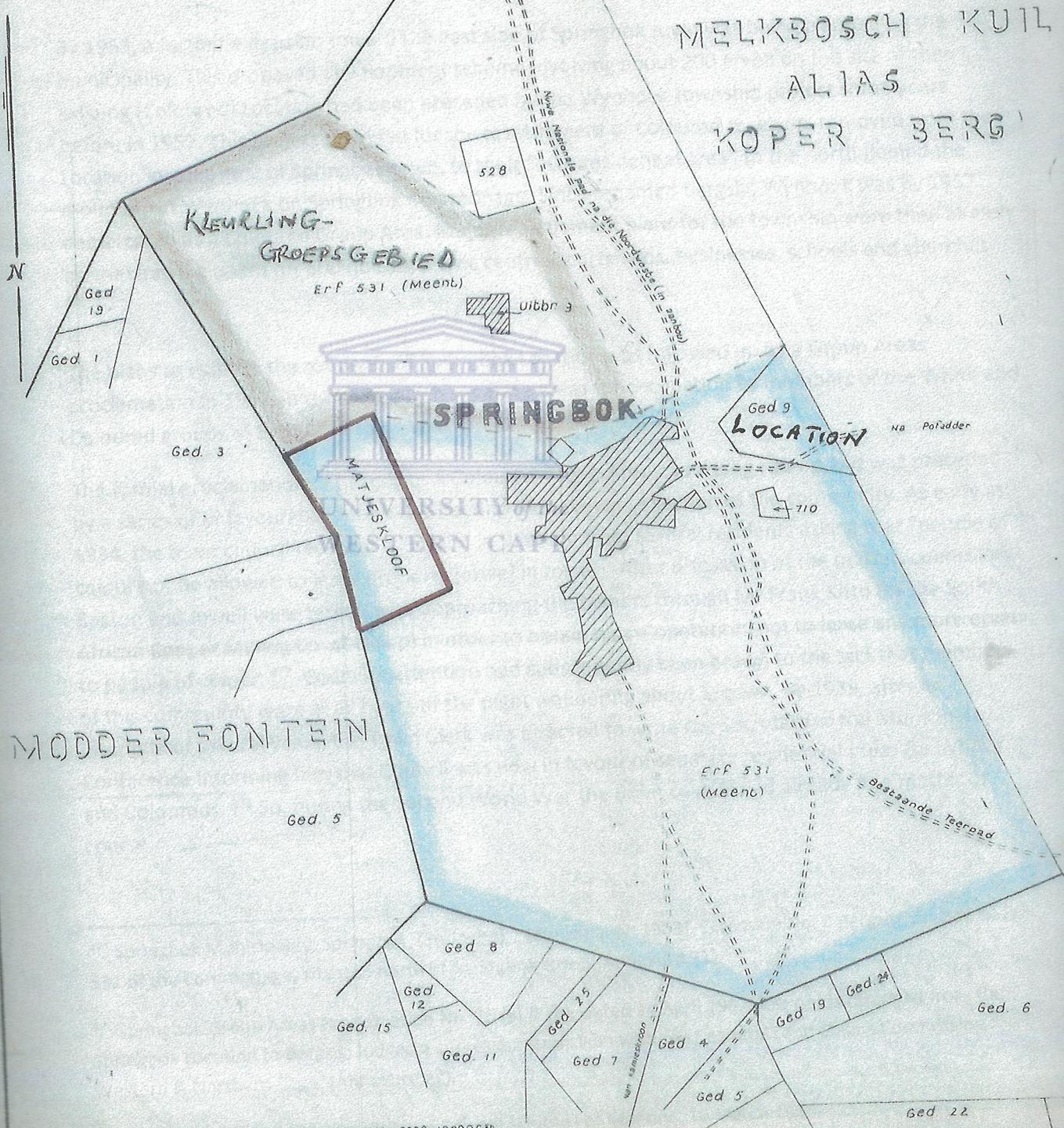




ADVERT ANNEXURE 2  
ADVERT GROUP AREAS

LELYKE PAD  
ALIAS  
NABABEEB

MELKBOSCH KUIL  
ALIAS  
KOPER BERG



GEBIEDE VIR ADVERTENSIE  
AREAS TO BE ADVERTISED

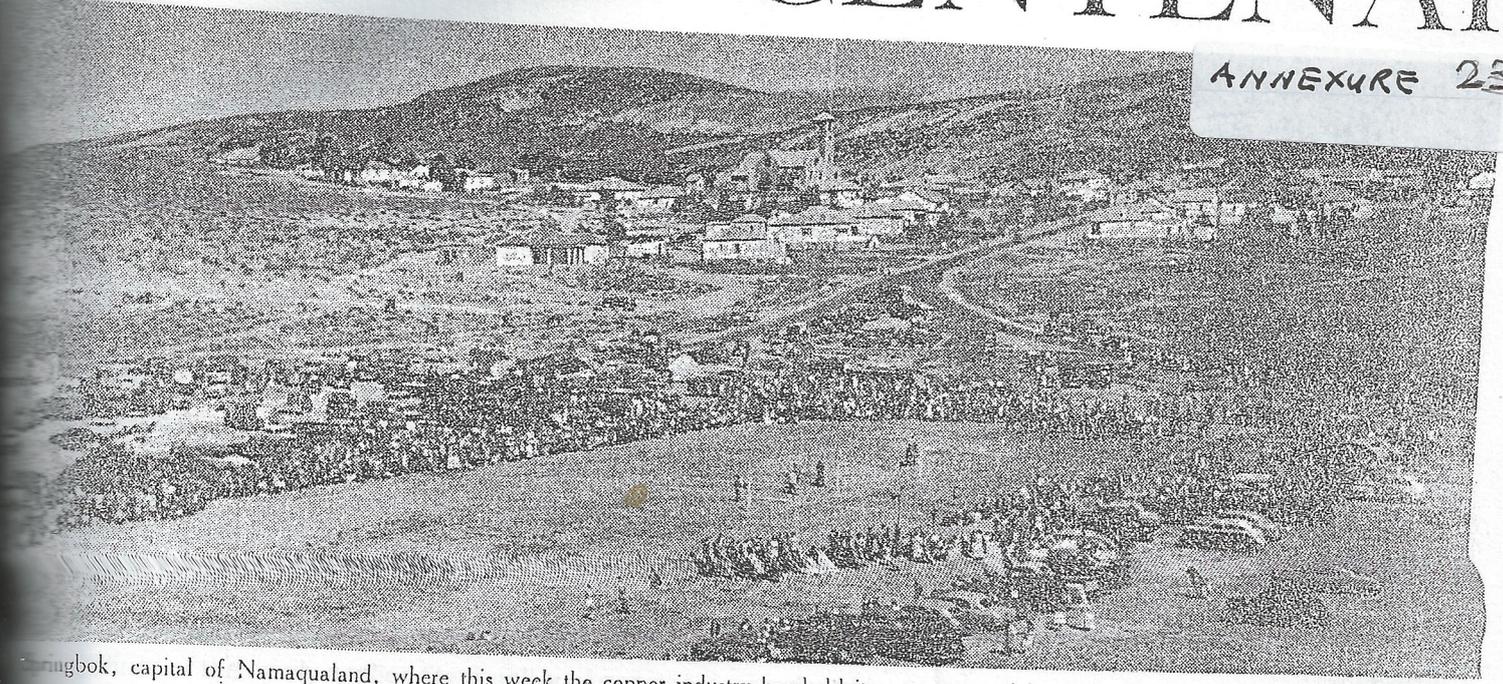
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EN PROKLAMEER GEKLEURD



DEPROCLAIM AS WHITE  
AND PROCLAIM COLOURED

# COPPER CENTENAR

ANNEXURE 23



Springbok, capital of Namaqualand, where this week the copper industry has held its centenary celebrations. On the sports field outside the town (foreground) the festival was staged and visitors watched the pageant from their parked cars.



A pageant staged in Springbok this week traced the history of the town, and the finding and development of copper which brought wealth to the area.

★

(Above and left) Scenes from the pageant in which local residents and school-children took part. On Monday morning colourful scenes such as these drew rounds of applause from the crowd, many of whom had come hundreds of miles to witness the celebrations.

S.A. 1



UNIVERSITY of the  
WESTERN CAP

ANNEXURE 25

O'okiep mines  
SA NAT. LIBRARY

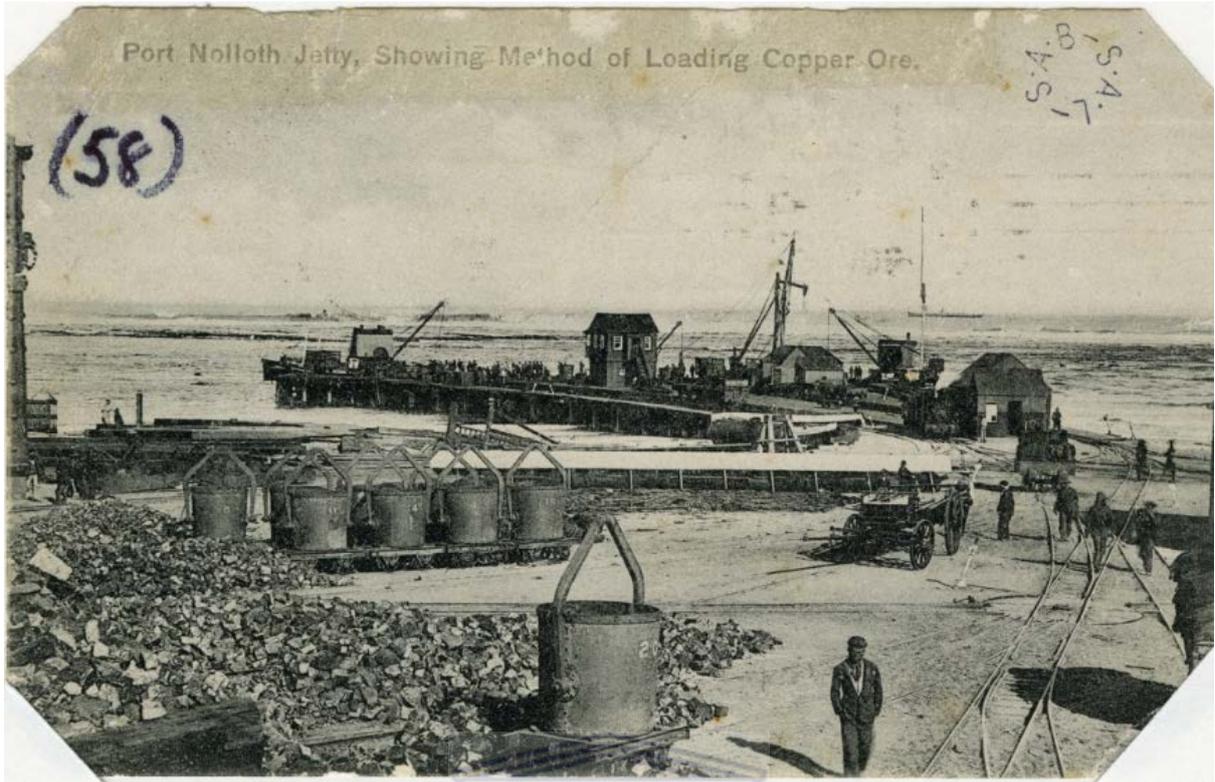
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S.A.K.  
B.A.K.



9523 Springbank  
... showing early mine workings on the hillside.

(6)