

LAND TENURE AND ENVIRONMENTAL CONDITIONS AT WUPPERTHAL



Figure 1 Farmer works his land at Wuppenthal

by

STEPHEN GRANGER

September 1982

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in partial fulfilment of the requirements
for the degree of
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A B S T R A C T

This study documents a unique system of informal land tenure practised internally at the Moravian mission settlement of Wupperthal. The study analyses the system of tenure in terms of formal recognized systems, that exist or have existed in the past, and also in terms of the settlement's physical and social environment. Suggestions are made as to changes which could be introduced to ensure a constructive life-style for the inhabitants of Wupperthal, as well as the presentation of both the cultural and physical environment, so that future generations will be able to appreciate the beauty and tranquility of the village.

P R E F A C E

It is almost inconceivable that a more aesthetically pleasing site could have been chosen for a study area than Wupperthal. It is difficult not to fall captive to the spell cast by the beauty of this mission village as each season unfolds a different and distinct character.

I have restricted the area of study to the village, Wupperthal, and its immediate environs, only referring to the other farms comprising the entire Moravian mission where contextually necessary. Time limitations made an extensive study of the entire 38000 ha Moravian mission of Wupperthal, which comprises numerous consolidated farms (see fig. 3), impossible, and this is a potential subject for future research.

A further limitation on the project is the fact that at the time of writing important social changes are taking place at the mission. This will mean that some of the observations made in this text are already no longer applicable. Most of the field research was carried out in 1981, and this study should be seen in that light. Where possible I have made reference to the changes which are taking place, or which have recently taken place.

I would like to thank the following for their assistance on the project: Prof R Fuggle (School of Environmental Studies, UCT) and Prof R Fisher (Dept. of Land Surveying, UCT) for their valuable advice and

constructive criticism; Ds M Wessels (Superintendent of the Moravian Church in the Cape) for his time in willingly answering numerous questions on various aspects of Wupperthal; Ds Moos (Missionary in charge of Wupperthal 1980 - 1981) for his co-operation in granting access to all church records; Pastor E Esslinger (former Rhenish missionary at Wupperthal), Mr Valentyn (Postmaster at Wupperthal), "Oom Burton" Zimri (member of the *Opsienersnaad* at Wupperthal), "Oom Baard" Valentyn (senior citizen of Wupperthal) and Mr A Mouton (member of the *Opsienersnaad* for Eselbank) for their time in giving interviews, which, in the light of the sparse documentation on Wupperthal, proved invaluable; the 1981 UCT Land Surveying students who compiled the map of the village (fig. 7); the 1981 Environmental Studies Post-graduate students who supplied valuable information on various aspects of Wupperthal (see Bibliography for individual names); Mrs L Bakker for typing the draft; Mr R Begbie for assistance with the mapwork and printing; Ms D Field for proof-reading and assistance with the colour plates; Mrs L Green for assistance with the colour plates; and, most important of all, the inhabitants of Wupperthal, who provided the inspiration for this study, and whose outstanding hospitality is deeply appreciated.

C O N T E N T S

| | |
|---|-----|
| ABSTRACT | ii |
| PREFACE | iii |
| CHAPTER 1 INTRODUCTION | 1 |
| 1.1 THE STUDY | 2 |
| 1.2 WUPPERTHAL : ITS SETTING | 2 |
| 1.2.1 <u>Geographical Location</u> | 2 |
| 1.2.2 <u>Topography</u> | 4 |
| 1.2.2.1 Mountains | 4 |
| 1.2.2.2 Rivers | 8 |
| 1.2.2.3 Natural Vegetation | 8 |
| 1.2.3 <u>Geology</u> | 11 |
| 1.2.4 <u>Climate</u> | 13 |
| 1.2.5 <u>History</u> | 15 |
| 1.2.5.1 The Establishment of the Mission (1830-1833) | 15 |
| 1.2.5.2 The Formative Years : Leipoldt's Life Work (1833-1872) | 18 |
| 1.2.5.3 The Era of Schmolke and Strassberger (1872-1952) | 20 |
| 1.2.5.4 The Final Rhenish Years : Dittmer and Esslinger (1952-1966) | 22 |
| 1.2.5.5 The Moravian Takeover (1966-1982) | 23 |
| 1.2.6 <u>Sociology</u> | 24 |
| 1.2.6.1 The Population Structure | 24 |
| 1.2.6.2 The Spirit of Wuppertal | 27 |
| 1.3 APPROACH TO THE STUDY | 28 |
| CHAPTER 2 THEORY OF LAND AS PROPERTY AND OBSERVED TENURE AT WUPPERTHAL | 30 |
| 2.1 PROPERTY AND LAND | 31 |
| 2.1.1 <u>The Nature of Property</u> | 31 |
| 2.1.2 <u>The Nature of Land</u> | 34 |
| 2.1.3 <u>Land as Property</u> | 35 |
| 2.1.3.1 The Proprietary Land Unit | 37 |
| 2.1.3.2 Land Boundaries | 38 |
| 2.2 OBSERVED TENURE AT WUPPERTHAL | 40 |
| 2.2.1 <u>Land Parcels at Wuppertal</u> | 40 |
| 2.2.1.1 Communal Land | 41 |
| 2.2.1.2 Individually Owned Land | 42 |

| | | |
|---|---|----|
| 2.2.2 | <u>The Social Matrix</u> | 48 |
| 2.2.2.1 | The Church | 49 |
| 2.2.2.2 | The <i>Opsiensraad</i> (Supervisory Committee) | 52 |
| 2.2.2.3 | The Wupperthal Institute | 55 |
| 2.2.2.4 | The School | 59 |
| 2.2.3 | <u>Societal Restrictions in Land Rights</u> | 61 |
| 2.2.3.1 | The Right to Tax | 62 |
| 2.2.3.2 | The Right of Confiscation | 62 |
| 2.2.3.3 | The Right to Impose Restrictions in the Community Interest | 63 |
| 2.2.3.4 | The Right to Minerals | 64 |
| 2.3 | SUMMARY | 65 |
| <i>CHAPTER 3 A COMPARATIVE ANALYSIS OF SYSTEMS OF LAND TENURE</i> | | 66 |
| 3.1 | THE ORIGIN OF LAND REGISTRATION AND CADASTRAL SURVEY | 67 |
| 3.2 | DUTCH TENURE IN THE CAPE COLONY | 68 |
| 3.2.1 | <u>Loan Tenure</u> | 69 |
| 3.2.2 | <u>Quitrent Tenure</u> | 70 |
| 3.2.3 | <u>Property Tenure</u> | 71 |
| 3.3 | COGNATIC TENURE | 72 |
| 3.3.1 | <u>The Traditional African (Tribal) Tenure</u> | 72 |
| 3.3.2 | <u>Current Tenure in Black Rural Regions</u> | 73 |
| 3.3.3 | <u>The Tomlinson Commission Report (1955)</u> | 74 |
| 3.4 | LAND TENURE IN "WHITE" SOUTH AFRICA | 75 |
| 3.4.1 | <u>Recording and Transferring Land Rights</u> | 76 |
| 3.4.1.1 | Deeds Registry System | 76 |
| 3.4.1.2 | The Cadastral System | 77 |
| 3.5 | ENGLISH LAND LAW | 79 |
| 3.6 | AN ANALYSIS OF THE BASIS FOR LAND TENURE AT WUPPERTHAL | 79 |
| 3.6.1 | <u>Similarities to Early Cape Tenure</u> | 79 |
| 3.6.2 | <u>Similarities to Cognatic Tenure</u> | 81 |
| 3.6.3 | <u>Comparison with English Tenure</u> | 83 |
| 3.6.4 | <u>Informal Tenure within the Formal South African System</u> | 84 |
| 3.7 | SUMMARY | 85 |
| <i>CHAPTER 4 ENVIRONMENTAL ELEMENTS</i> | | 87 |
| 4.1 | PHYSICAL ASPECTS | 88 |
| 4.1.1 | <u>Hydrological Factors</u> | 88 |
| 4.1.2 | <u>Pedological Factors</u> | 89 |
| 4.1.2.1 | Crop Diseases | 92 |

| | | |
|-----------------------------------|---|-----|
| 4.1.3 | <u>Biotic Factors</u> | 93 |
| 4.2 | CULTURAL ASPECTS | 95 |
| 4.2.1 | <u>Social Factors</u> | 95 |
| 4.2.2 | <u>Economic Factors</u> | 97 |
| 4.3 | SUMMARY OF ENVIRONMENTAL FACTORS | 98 |
| 4.3.1 | <u>Physical Factors</u> | 98 |
| 4.3.2 | <u>Cultural Factors</u> | 100 |
| 4.4 | CONCLUSION | 100 |
| CHAPTER 5 WUPPERTHAL : QUO VADIS? | | 102 |
| 5.1 | CONSEQUENCES OF MAINTAINING THE <i>STATUS QUO</i> | 103 |
| 5.1.1 | <u>Moravian Withdrawal</u> | 104 |
| 5.1.2 | <u>Moravian Church Remains</u> | 105 |
| 5.2 | SUGGESTIONS FOR CHANGE | 106 |
| 5.3 | GOVERNMENT LEGISLATION AFFECTING WUPPERTHAL | 110 |
| 5.4 | CONCLUSION | 111 |

CHAPTER 1

INTRODUCTION



Figure 2 Wuppenthal
(photo: Dr E. Moll)

1.1 THE STUDY

Land tenure, or the system under which land is held, plays an important role in the development and, indeed, the day to day functioning of a community. Whether a village, town, city or country, the security of ownership in land held, as well as the nature (e.g. individual or communal) of the tenure, is an important factor in that community.

The nature of land tenure has an influence on both the social and physical environment of a region, and, in turn, the environment of that region is instrumental in shaping its land tenure.

South Africa practises a system of land tenure that is characterized by its formality, rigidity, accuracy and comprehensiveness. Although the individual farms which comprise the Wupperthal mission (see fig. 3), which is situated in the Northern Cedarberg region of the Cape Province, are part of the South African system - their boundaries have been accurately measured and recorded in the deeds office - the internal tenure practised on the mission stands as an anomaly to this system. The informal nature of this internal land tenure is the object of study in this thesis.

1.2 WUPPERTHAL : ITS SETTING

1.2.1 Geographical Location

Wupperthal is situated in the valley of the Tra-tra river near its confluence with the Koms river in the Northern Cedarberg, about 40km east of Clanwilliam (75km by road) and 200km north of Cape Town. The geographical grid reference of Wupperthal is

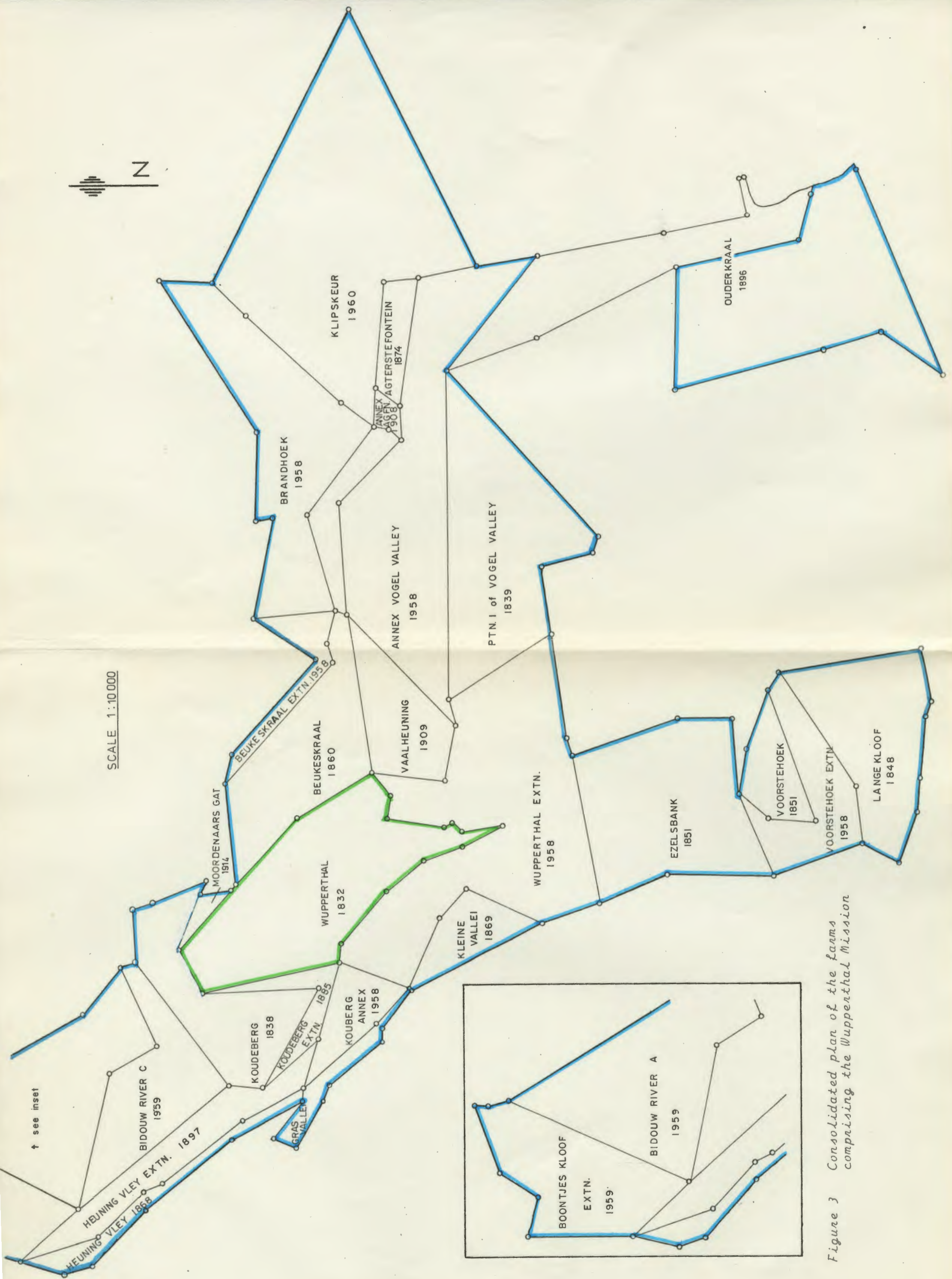


Figure 3 Consolidated plan of the farms comprising the Wuppenthal Mission

32° 16' south, 19° 13' east. The village is 490 metres above sea level. (See fig. 4)

The original deed of 1832 describes the farm - that is, the farm Wupperthal, and not the many surrounding farms that comprise the total land area belonging to the Mission, also loosely referred to as Wupperthal - as "situated in the sub-drosdy of Clanwilliam at the Cedar Mountains, extending NNE and NW to Government land requested by Jan Koopman, SW to the Cedar Mountains and Eastwards also to the said mountains." (See fig. 6)

There is only one road serving Wupperthal that is in good repair. This is the road that turns south to Wupperthal off the main Clanwilliam to Calvinia road, shortly after the Pakhuis Pass, crossing the Bidouw Valley before continuing to Wupperthal. (See figs. 5, 7 and 15)

A road leads south to Ceres via a mission outpost, Eselbank, but is in a poor condition prior to reaching the Cedarberg road at the farm Matjiesrivier. A smaller track branches off this

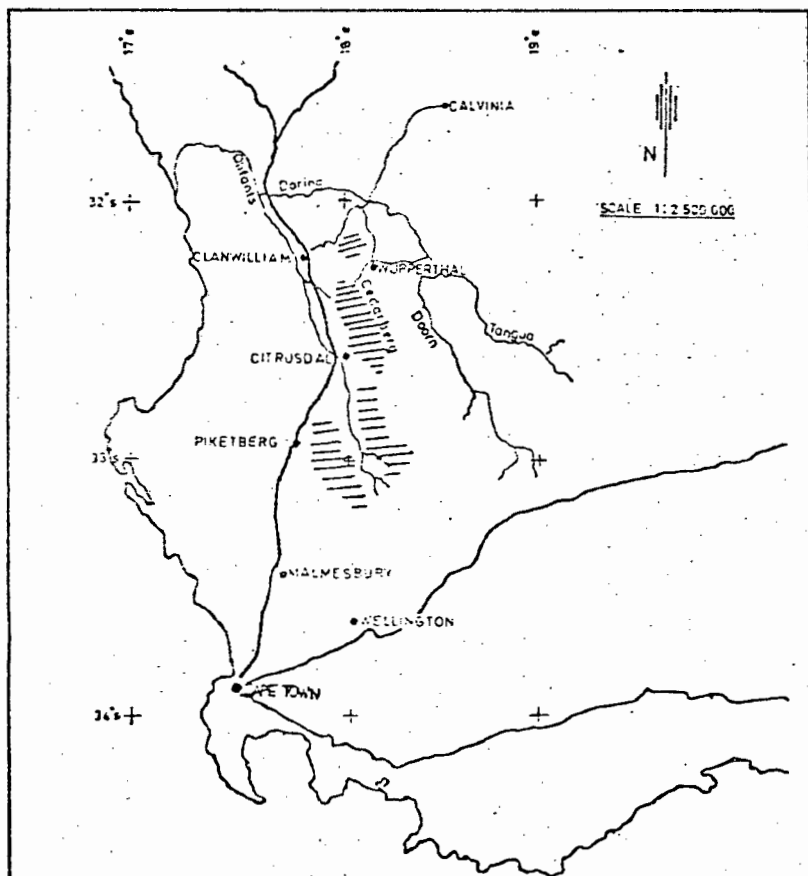


Figure 4 Geographical location of Wupperthal



FIGURE 5 Location of Wupperthal within the Cedarberg range

road just beyond the hill Singkop, crosses the Koms river and leads south-east to the farm Vogel Valley, part of which is owned by the mission. (See figs. 5 and 8)

The only other route from Wupperthal is the road to Beukeskraal, an outstation 4 km east of the main village, which has been constructed along the north bank of the Tra-tra river. (See figs. 5 and 7)

1.2.2 Topography

1.2.2.1 Mountains

Wupperthal is a community in isolation, cut off from the outside world by the mountains that surround the village. (See fig. 15) Communication links in the form of roads and telephone wires have breached this isolation, but the feeling of seclusion remains and has played an important role in moulding the society.

The Krakadou Peaks rise in the distance to the north west, while the second and third highest peaks in the Cedarberg range, Tafelberg (1969 m) and Sneekop (1930 m), may be observed to the south west, towering above Eselbank, which is itself on a plateau 400 metres above Wupperthal. (See fig. 8)

The Tra-tra mountains to the north east are mostly hidden from view from the village by the peak Grootkop, which rises immediately to the north of Wupperthal (see fig. 15) while the dominant peak in the near vicinity is that of Spitskop, which overshadows the village to the south east. Snow falls on this 1200 metre, double-peaked mountain in winter. (See fig. 5)

Directly to the south and dividing the agricultural land into the *groentetuine* (lit. vegetable gardens) and the *saaituine* (lit. cereal gardens) is the smaller hill, Singkop, deriving its name from the fact that it has served as the site for church choir practices. (See figs. 9 and 15)

The Kouberg range, through which the Tra-tra river passes by way of the Sassekloof, encloses the village to the west. (See fig. 15)

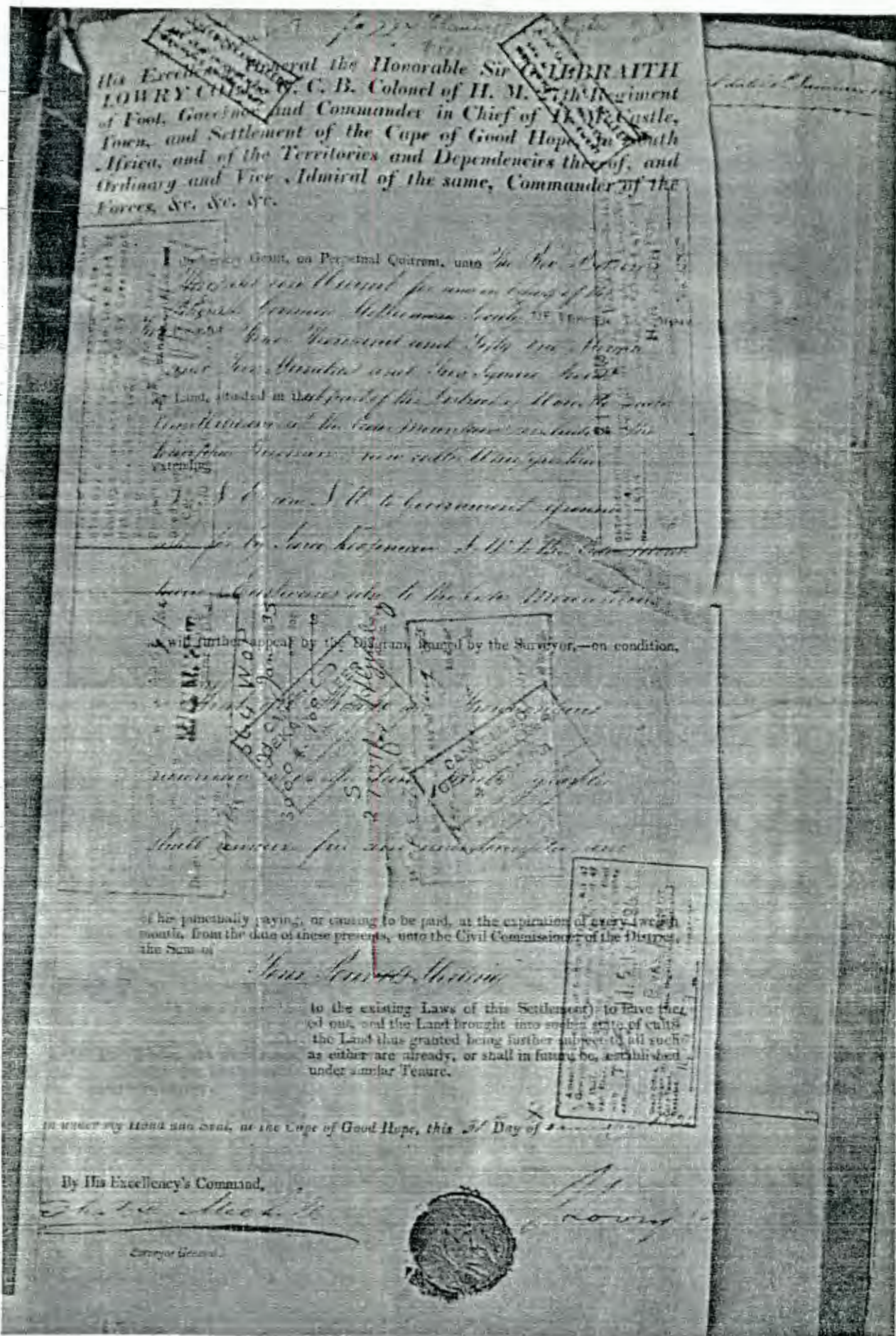


Figure 6 The original title deed for the farm "Whuppenthal"



Figure 7 Aerial view of Wuppertal (photo: University of Natal, Land Survey Dept.)



Figure 8 Tafelberg, the second highest peak in the Cedarberg mountains, towers above Eselbank, south of Wuppenthal. The road to Eselbank can be seen on the left of the photo, climbing towards the plateau on which the outstation is situated.



Figure 9 Singkop separates the groentetuine (left) from the saaituine (right).

1.2.2.2 Rivers

Wupperthal enjoys the benefit of being the focus of a number of river systems, and thus remains well-watered, even in drought conditions (See figs. 5 and 7)

The main source of water for the settlement is the Tra-tra river, which flows alongside the main agricultural land parcels and from which the canalisation system is led. The Tra-tra rises as the Sand river in the Skerpioensberg, in the Middelberg region of the Cedarberg range. It then feeds into the Dassiesboskloof river, which in turn flows into the Tra-tra, just before cutting its way through the Sassekloof, in which can be found the Krokodam pool, which provides welcome relief from the severe Wupperthal summer heat. From there, the Tra-tra flows across the Wupperthal valley and then eastwards past Beukeskraal. It flows into the Doringrivier near Elandsvlei, which eventually finds its way, via the Olifants river to the Atlantic Ocean.

The Koms river rises in the Wolfberg Range, just south of the most southerly farm on the mission, Langekloof, (see fig. 3) and flows north via a long, deep gorge, Moordenaarsgat, to emerge some twenty kilometres further on on the eastern border of the agricultural land at Wupperthal, at the base of Spitskop, adding to the volume of the Tra-tra.

A minor tributary of the Tra-tra rises in Matjiesgoedkloof on the western side of Grootkop. It crosses the main road from Clanwilliam, flows through the public campsite and across the agricultural land, the *eafuine*, to join the Tra-tra at the base of Singkop.

1.2.2.3 Natural Vegetation

Two main classifications of natural vegetation can be distinguished at Wupperthal and coincide with the Table Mountain series/Bokkeveld series geological division (see section 1.2.3). The Bokkeveld vegetation is very open, with a low percentage of ground cover (less than 30%), consisting of small succulents and ericoids (Taylor 1978 and personal observation), while that which grows on the TMS is more varied, consisting of scree

forest, phreatic vegetation, proteaveld and ericoids. (personal observation and Southwood, 1981) The two vegetation types can be clearly seen in figures 8 and 15.

Various names have been assigned to these plant types. Acocks lists them as Macchia (on the TMS) and Succulent Karoo. (Acocks, 1953). Taylor and Kruger have referred to the TMS vegetation as Arid Fynbos - a sub classification of Mountain Fynbos - and have avoided giving a definitive name to the shale soil Bokkeveld vegetation, merely indicating that it tends towards Karoo-type vegetation. (Taylor, 1978 and Kruger, 1979).

Moll has suggested that the whole area surrounding Wupperthal should be regarded as Mountain Fynbos with localised regional differences affecting the amount of ground cover. (Moll's unpublished observations.) However, as a comparison between Acock's vegetation map (Acocks, 1953) and the Geological Map of the RSA (Dept. of Mines, 1972) reveals a close relationship between vegetation types and geology (Kruger, 1979), it is helpful to make a distinction here between the two vegetation types at Wupperthal.

The natural vegetation will be discussed more specifically under the following headings: Arid Fynbos (TMS vegetation), Karoo vegetation (that on the Bokkeveld soils) and Riverine vegetation.

a) Arid Fynbos

This vegetation is found largely on the quartzitic sandstone slopes to the west of Wupperthal. The overall vegetation cover varies from 33% to 45% and can be divided into three layers: an upper layer, a middle layer and a ground layer. (Taylor, 1978)

The relatively sparse upper layer consists of shrubs and trees (mostly evergreen) established on rocky outcrops, and includes *Olea africana*, *Colpoon compressum* and an *Aloe* spp. (Southwood, 1981), while the Proteaveld contains large shrubs such as *Protea laurifolia*, *P. glabra* (approximately 2,5m in height), *Cannamois dregei* (1,5-2m) and *Rhus incisa*. Seasonal annuals (flowering in

late winter and spring) are often prominent.

The middle layer consists mostly of ericoid shrubs (between 0,5m and 1.5m in height), which are characterised by a rigid erect appearance and small stiff leaves. Common amongst these are *Phyllica rigidifolia*, *P. pulchella*, *Passerina glomerata*, *Diosma hirsuta*, *Restio ocreatus* and *Leucadendron pubescens*. (Taylor, 1978 and Personal Observation)

The very open ground layer consists of scattered ericoids, restioids and small succulents. Typical of this area are the globose-shaped *Passerina* spp. and tufted restioids (*Willdenowia striata*) standing approximately 0,5-0,8 metres tall. This is the most common vegetation type in the Wupperthal environment and is used extensively for pasturage.

b) Karoo vegetation

This Bokkeveld shale soil vegetation is relatively unknown and poorly documented. It consists of sparsely populated ericoid and drought deciduous shrubs, with a ground cover of less than 30% (personal observation). *Relhania* is a typical example of the Karoo type vegetation in this region and is distinguished by its very stiff, small, dentate leaves with resinous surfaces (Kruger, 1979) and amongst other shrubs present are *Rhuschia*, *Tetragonia*, *Wilborgia*, *Euphorbia* and *Crassula*. (Southwood, 1981, Kruger, 1979 and personal observation). No restio's are apparent in this area.

c) Riverine vegetation

This is restricted in the Wupperthal area to Sassekloof in the Kouberg range through which the Tra-tra river flows. The river bank soil varies from deep, sandy fernwoods to shallow rocky mispahs and relatively dense stands of trees and reeds inhabit this area. (Southwood, 1981)

Included amongst these are the indigenous *Dodonaea viscosa*, *Meterosideios angustifolia*, *Phragmites australis*, and *Psoralea pinnata* and the exotics *Acacia mearnsii* (Black Wattle), *Populus canescens* (poplar), *Eucalyptus* spp. and *Nerium oleander*. (Southwood, 1981 and personal observation)

The flood plain area is almost entirely under agriculture, but a few clusters of the reeds *Phragmites australis* and *Juncus* remain from what must have, at one stage, been a dominant plant type.

1.2.3 Geology

Wupperthal is situated within the Cape Fold Mountain Belt, and is in the heart of that geological formation known as the Cape system, or the Cape supergroup. This formation consists of three systems laid down at different geological periods, viz. the Table Mountain series (TMS), the Bokkeveld series and the Witteberg series.

Wupperthal has the unusual characteristic of having all Cape system divisions in the near vicinity. (See figs. 5 and 15) The Table Mountain/Bokkeveld interface has a NW - SE axis passing through Wupperthal, along the Clanwilliam road to the NW and following the Moordenaarsgat Kloof to the SE. (See figs. 5, 8 and 15) The Bokkeveld/Witteberg interface is found approximately at the 1 000m contour on Spitskop, and also further east at a lower height on the farm Vogel Valley.

The Table Mountain series is represented in this region by the Nardouw formation, the uppermost and youngest formation in the group, and is easily recognisable by its broken and rugged appearance. (Southwood, 1981) (See fig. 10.)

The Table Mountain group in the Wupperthal area is approximately 3 000 metres thick, and consists of quartzitic sandstone with thin shale and conglomerate lenses. The Kouberg mountains to the west of Wupperthal consist entirely of the Table Mountain group, the rugged, boulder-strewn appearance, with sheets of rock dipping eastwards at 25° - 30° , especially noticeable on the upper slopes, being characteristic of the Nardouw formation. The soil of the *groentetuine* (see figs. 11 and 15) is largely formed from TMS parent material.

The eastern area of Wupperthal consists of rocks of the Bokkeveld series. The full range of the series is in evidence from the Lower Bokkeveld stage, consisting of Greywackes and quartzitic sandstones alternating with bands of shale and fine grained silt-



Figure 10 The rugged Nardouw formation of the Koudeberg above the school

stone to the upper stage of argillaceous sandstone alternating with siltstone and arenaceous shale, which is found towards the summit of Grootkop and on the Spitskop slopes. (Department of Mines, 1951)

The Witteberg series consists of quartzitic sandstone with sandy shale (arenaceous) and is found above the 1 000 metre contour on Spitskop. (Department of Mines, 1951)

There is a minor faultline running NNW-SSE just south of Beukeskraal, and another running in the same direction, two kilometres further east. Both are downthrust on the western side of the faultline.

On the whole, the Nardouw formation (present on the Kouberg range to the west of Wupperthal) gives rise to sandy, coarse-grained, acidic soil, which is characteristic of the *groentetuine* situated at the foot of the Kouberg range, while the Bokkeveld derived soils formed along the banks of the Tra-tra river to the east of

Wupperthal are darker in colour, less acidic, but fairly poorly drained. This soil is characteristic of the Fernwood formation.

1.2.4 Climate

Wupperthal experiences harsh climatic conditions, moderated, to an extent, by the shelter afforded by the surrounding mountains and the fact that it is served by a perennial river.

No temperature records have been kept at Wupperthal, but climatic extremes, in the form of hot summers, with temperatures above 40°C are relatively common, and very cold winters (especially at night), with the temperatures below 0°C, are experienced.

Snow is rare in Wupperthal itself, but each year the peaks of the highest surrounding mountains are whitened. Frost occurs in winter, and early and late frost can ruin crops.

Rainfall figures have been recorded from shortly before the turn of the century, and indicate the extremely arid environment of the village. (See fig. 12) The average annual rainfall (a 58 year mean calculated for the period 1893 to 1950) for Wupperthal is 248,4mm, with a maximum of 436.1mm in 1921 and a minimum of 76.2mm in 1928. The October-April average is 46.3mm.

In comparison the average annual rainfall for Heuningvlei - a mere 8km north of Wupperthal but nearly 400 metres higher - is 635.2mm (a 28 year mean - 1922 to 1950), with a maximum of 1270.0mm in 1941 and a minimum of 379.0mm in 1928. (Dept. of Transport, 1951)

Because of the run-off from the surrounding mountains which are outside the rain shadow in which the mission village is situated, Wupperthal is supplied with water far in excess of that indicated by the rainfall figures themselves.

The following table for the period 1965 to 1976 gives an indication of the seasonal rainfall pattern at Wupperthal. No statistics for 1968 or 1970 were available.

TABLE 1.1 RAINFALL FIGURES (in mm) FOR WUPPERTHAL, 1965-1976

| YEAR | JAN | FEB | MAR | APR | MAY | JUNE | JULY | AUG | SEP | OCT | NOV | DEC | TOTAL |
|------|------|------|------|------|------|-------|------|-------|------|------|------|------|-------|
| 1965 | 0 | 2,0 | 47,5 | 12,5 | 9,5 | 14,0 | 18,5 | 9,0 | 9,5 | 0 | 2,0 | 11,5 | 136,0 |
| 1966 | 0 | 0 | 5,0 | 12,5 | 0 | 37,5 | 16,5 | 10,5 | 0 | 0 | 0 | 0 | 82,0 |
| 1967 | 0 | 45,0 | 0 | 34,5 | 27,5 | 141,5 | 0 | 40,1 | 4,5 | 0 | 16,0 | 0 | 309,1 |
| 1969 | 0 | 0 | 63,5 | 0 | 0 | 2,0 | 2,0 | 8,0 | 8,5 | 25,5 | 0 | 0 | 109,5 |
| 1971 | 1,0 | 0 | 0 | 0 | 9,5 | 33,0 | 91,0 | 42,0 | 0 | 0 | 0 | 0 | 176,5 |
| 1972 | 12,0 | 1,5 | 0 | 6,5 | 34,5 | 31,0 | 16,0 | 1,0 | 16,0 | 0 | 0 | 5,0 | 123,5 |
| 1973 | 0 | 0,5 | 18,5 | 0 | 10,5 | 4,8 | 86,0 | 13,5 | 0,9 | 1,2 | 0 | 20,0 | 155,9 |
| 1974 | 0 | 14,5 | 0 | 2,0 | 13,8 | 66,0 | 20,5 | 144,0 | 4,0 | 11,0 | 18,5 | 0 | 294,3 |
| 1975 | 13,0 | 0 | 0 | 3,0 | 88,5 | 15,0 | 24,5 | 32,0 | 3,5 | 10,0 | 5,0 | 15,0 | 209,5 |
| 1976 | 12,0 | 11,0 | 0 | 47,0 | 7,5 | 117,5 | 25,5 | 17,0 | 1,5 | 1,0 | 78,0 | 45,5 | 363,5 |
| AVE | 3,8 | 7,4 | 13,4 | 11,8 | 20,1 | 46,2 | 30,1 | 31,7 | 4,8 | 4,9 | 11,9 | 9,7 | 195,9 |



Figure 12 The sparse Karoo vegetation on Singkop and the barren slopes of Spitskop illustrate the arid climate of Wuppertal.

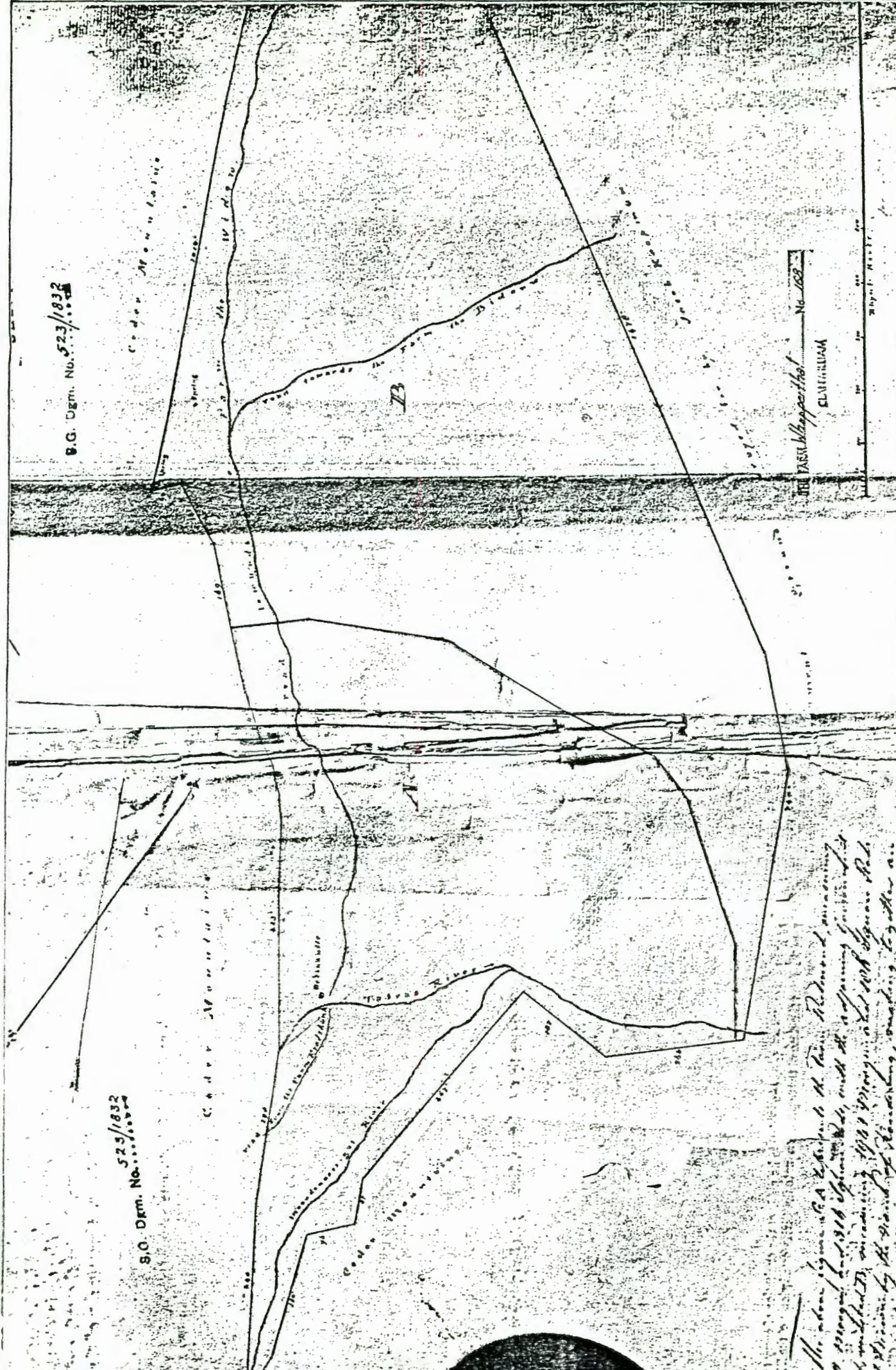


Figure 13 The original diagram of Wuppertal, showing the consolidation of the farms Rietmond (A) and Rondeberg (B)

1.2.5 History

A child's formative years are important in shaping his or her character and values that will be manifest in the adult person. So, too, with any community; and no less so than with Wupperthal.

In order to understand the present socio-political organisation, which is vital in considering land tenure, we must grasp the influences and customs that have shaped Wupperthal throughout its formative years, and, indeed, its adolescence, to the village it is today.

In the following paragraphs particular emphasis has been placed on those events that have played an important part in shaping Wupperthal of today. The Wupperthal 150 years publication (Heyns, 1980) and the book "The Rhenish Mission Society in South Africa, 1930-1950" (Strassberger, 1969) have been used as reference material, with numerous interviews with persons having a knowledge of Wupperthal's past supplying additional information.

1.2.5.1 The Establishment of the Mission (1830-1833)

Johan Leipoldt and Theobald Von Wurmb arrived at Wupperthal on the 4th January, 1830 to establish an independent mission station under the auspices of the Rhenish Mission Society and "to lead heathens to faith and educate them to live a decent moral life". The station they named "Wupperthal" was the farm that had been known as "Rietmond".

The initial size of the mission's land was 3651 morgen and made up of two adjoining farms, Rietmond and Rondeberg, marked A and B on the original diagram reproduced in figure 13.

The description on the diagram reads: "The above figure A represents the farm Rietmond, measuring 1110 morgen and 316 square roods with the adjoining Government land marked B measuring 1941 morgen and 186 square roods and known by the name Rondeberg, making together an extent of 3651 morgen and 502 square roods, both situated in the sub drosdy of Clanwilliam in the Cedar mountains - extending NNE and NE to the Cedar mountains and eastwards also to the said mountains. Reduced to the figure from

the separate diagrams framed by the late surveyor J Schutte".

The main part of the deed (see fig. 6) reads as follows: "I do hereby grant, on Perpetual Quitrent, unto: The Rev Baron Theobald von Wurmb for and on behalf of the Rhenish German Missionary Society (of BARMEN GERMANY), two pieces of Three Thousand and Fifty-one morgen and Five Hundred and Two Square Roods of the land situated in that part of the District of Worcester called Clanwilliam at the Cedar Mountains including the loan place, Rietmond now called Whupperthal on condition that all roads and thoroughfares running in the land hereby granted shall remain free and uninterrupted and of his paying or causing to be paid, at the expiration of every 12th month from the date of these presents, unto the Civil Commissioner of the District the sum of Four 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 such 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. (See also section 3.2.2)

From the start Leipoldt (Von Wurmb left for Ebenhauzer, another Rhenish mission, shortly after arriving at Wupperthal) established strict rules that everyone living on the station had to obey, and an ethos was rapidly formed that was to have a lasting effect on Wupperthal. Some of the rules are listed below:

- ① • Every inhabitant had[?] to attend church regularly, and all children had^{ve} to be sent to school.
- ② • Drunkenness, swearing, breaking of the Sabbath, dancing or dance music^{are} were forbidden.
 - Each family had^s to provide itself with a 'duursame woning' (a durable home).
- ③ • The gardens^{can} could be repossessed if not properly cultivated or if the owner^{is} was absent from the mission for longer than two months without permission.
 - Each family was allocated a garden plot it was obliged to cultivate and for which it had to pay an annual rent to the mission.

- ④ ● No vegetables or other home-made products ^{can} could be sold outside the institute without permission.
- No ground could be sublet without permission.
- ⑤ ● No alcohol or dagga ^{is} was allowed on the mission.
- A verger and two caretakers were to watch over the congregation.
- Only the missionary administered church discipline.

Later a formalised code of rules and laws was published by the Rhenish Mission at Wupperthal. A copy of these rules, which encompass most of Leipoldt's original rules is included. (See Addendum 1)

1.2.5.2 The Formative Years : Leipoldt's Life Work (1833-1872)

Leipoldt was convinced of the need for providing the inhabitants with a means to earn a living, thus a secondary aim for the mission was to teach agriculture and to develop its own industries. Sheep, cattle and goat farming was soon started and in 1833 Johan Schröder, a German cobbler, came out to Wupperthal. A shoefactory was started in 1836, and a tannery shortly afterwards to meet the heavy demands for leather from the shoefactory.

Other industries which began at this time were the manufacture of leather trousers and jackets, supervised by Mrs Leipoldt, and woollen hats, supervised by a German hatmaker, Nicolaus Petersen, who was at Wupperthal between 1841 and 1852. 160 pounds of wool were produced for the hat industry in Petersen's first year. In addition a German artisan, Carl Wagener, came to the mission in 1841 to teach others the building trade, and improve the standard of dwelling houses.

In 1843 Frederick Fismer came to Wupperthal to take charge of the agricultural side of the mission. He was to make this his life work, and remained at the mission until his death in 1890. Besides developing the main farm at the village, he taught the inhabitants to maximise productivity from their own plots.

Largely as a result of Fismer's efforts, there was an annual average profit at the mission of £60 between 1842 and 1874, and this increased to £562 in 1892. All profits were paid into the general

mission fund, and were generally used to improve and expand the work and facilities at the mission.

During these early years there was a lively trade in oranges, dried fruit, calabashes, tobacco, leatherware (including shoes, jackets and trousers) and woollen hats, all of which contributed to the profit shown by the mission. Wupperthal was a self-supporting community with a viable economy.

The church was inaugurated on the 4th May, 1835, and was further extended in 1862, 1894 and finally in the 1930's by Strassberger. Leipoldt reported that by 1837 thirty six of the 156 inhabitants of Wupperthal had been baptised, and by 1855 the population of the mission had grown to "343 coloureds and 18 whites". When Rev Gerdener arrived at Wupperthal in 1873 after Leipoldt's death, there were 700 inhabitants, of whom 272 were communicants.

In 1855 Rev Donges, and in 1859 Rev Sterrenberg came out to work specifically on the school, which had been established shortly after the arrival of Leipoldt and Von Wurmb. The school has played an important part in the life of Wupperthal from the outset, and today nearly 300 pupils attend classes up to standard six.

Other schools were also established on the mission and at some of the farms under the influence of the Rhenish church. Among these were Welgemoed, Heuningvlei, Nuweplaas, Elandsvlei, Matjiesrivier and Kromrivier.

Wupperthal's borders were constantly moving outward from the original farm of just over 3500 morgen, both by means of government grants and purchases of farms by the RMS. Among the earlier additions were the farms Vogel Valley (17056 morgen) and Koudeberg (1570 morgen) in 1838, Langkloof (1244 morgen), which still defines the southern boundary of the mission, in 1848, Ezelsbank (2371 morgen) and Voorstehoek (538 morgen) in 1851, Beukeskraal (1880 morgen) in 1860, Heuningvlei (501 morgen) in 1868, Kleine Valley (665 morgen) in 1869, Agsterstefontein (404 morgen) in 1874, Koudeberg Extension (391 morgen) in 1885, Oudekraal (6626 morgen) in 1896 and Heuningvlei Extension (1172 morgen) in 1897. (See fig. 3).

When Leipoldt died in 1872, the mission lands covered 29 000 morgen, but much of the land was not suitable for cultivation, being used as grazing pasture for the growing numbers of goats and cattle.

1.2.5.3 The Era of Schmolke and Strassberger (1872-1952)

After Leipoldt's death his son Johan continued the work for a short time before Rev Gerdener (1873) and then Rev Gustav Schmolke (1889), were sent out from Germany. Schmolke worked at Wupperthal until 1921 and ruled autocratically, but cared deeply for the people's spiritual and material needs. He applied the philosophy of the RMS, that the mission was to help the congregation in every respect. The church was the centre of all activity and the spiritual, educational, commercial and occupational aspects of the people's lives pivoted on this inner spiritual core. This was a vital influence in the development of Wupperthal.

Schmolke married the daughter of Rev Sterrenberg, whom he had originally come to assist and their daughter, in turn, married Rev Willie Strassberger, who came to assist Schmolke in 1904.

Schmolke took Wupperthal through two wars - the Boer War and the First World War - which both had a serious effect on the community. The industries, in particular, suffered badly and Schmolke was almost forced to close them after the 1914-1918 War because-

- 1) the isolation of Wupperthal meant that it was impossible to deliver goods at reasonable prices;
- 2) Wupperthal could not compete with the mass-production of modern industry; and
- 3) raw materials had to be transported from Cape Town, which raised the prices substantially.

It is significant that these three factors remain the stumbling blocks to Wupperthal's economic viability today.

Strassberger, who took over from Schmolke in 1921, infused new life into the industries, and a trained tanner came from Germany in 1925 to assume responsibility for the tannery. He was later joined by an experienced German cobbler who arrived in 1934 to extend the shoe industry.

Strassberger's son, Heinie, worked on the irrigation canal scheme, which is still in operation, although it has since been modified. (See fig. 14) Johannes Van der Westhuizen was responsible for the agricultural work between 1922 and 1951, and during this time the dried fruit and Rooibos tea industries, in particular, flourished.

By 1938 18 persons were employed in the tannery, nearly 50 in the shoefactory (which produced 25 different kinds of shoe) and 20 in the agricultural work of the mission. Heinie Strassberger was appointed by the RMS to take over the affairs of the Wupperthal Institute which, besides the industries, also ran a Post Office and a shop. The profits were so great that at one time mission work in the Cape was partly dependent on this source of income. It appears that the standard of living of the inhabitants rose accordingly, but no figures could be obtained to show what percentage of the profits returned to the people themselves.

In 1948 the RMS made a significant decision when they separated the Institute from the direct control of the church, but the

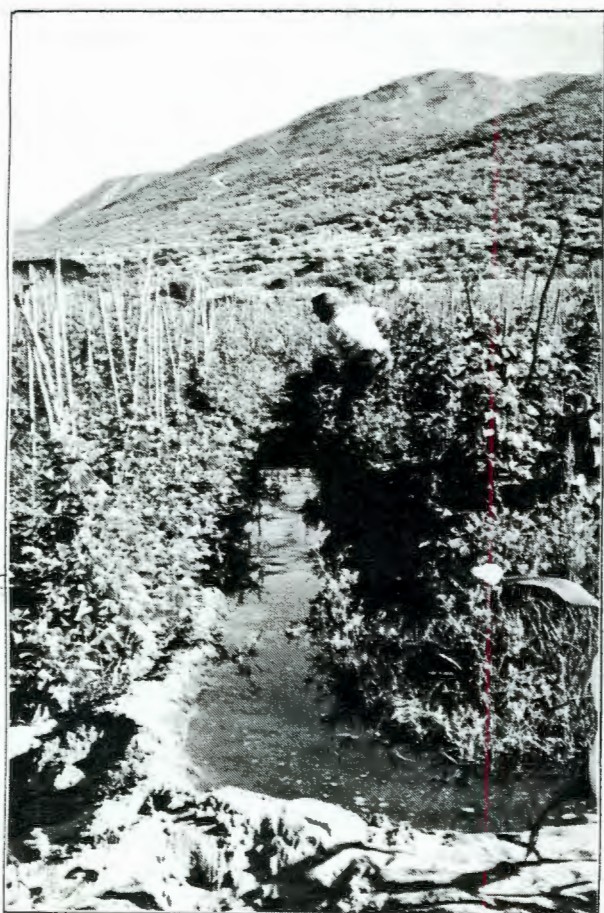


Figure 14 Farmer using irrigation furrow to water his groentetuin

connection remained strong when Heinie Strassberger was officially appointed to continue these affairs, which he did until 1954.

When Willie Strassberger returned on Christmas Day, 1951 at the age of 73, having been at Wupperthal for 47 years, 7298 people had been baptised at the church since 1830, and 3201 had become communicant members.

1.2.5.4 The Final Rhenish Years : Dittmer and Esslinger
(1952-1966)

Rev Gerhard Dittmer succeeded Strassberger in 1952, and decided that the church should again resume control of the affairs of the Institute. When it did so in 1954, Heinie Strassberger - it is quite possible that he was instrumental in the decision for the church to part with the Institute six years previously - moved to Clanwilliam to establish a large machine-operated shoefactory and took two thirds of the workers from Wupperthal and all the boot lasts with him. He marketed boots and shoes under the name "Wupdal". These events proved to be a major setback to the Wupperthal shoefactory. Before the Strassberger move, the factory at Wupperthal produced 800 to 1000 pairs of shoes and boots per week. It has never again reached this peak.

In addition, Heinie Strassberger had been given the farm Vogel Valley in 1951 (17000 morgen) in return for his work on the irrigation system. This was an extraordinary gift, as it represented about half of the area belonging to the mission at the time. Although 3000 morgen were transferred back to the church in 1955, nearly 6000 morgen has been sold to individuals, and attempts to regain the remaining 8000 morgen following Heinie Strassberger's death have been unsuccessful. (See Addendum 2)

By all accounts, Dittmer, as Willie Strassberger before him, established an excellent relationship between the church and the people, making frequent pastoral visits and obtaining orders for the factory.

In 1957 Pastor Ernest Esslinger, who had worked with Strassberger for a year in 1933, returned to Wupperthal as missionary-in-charge. This marked a period of further expansion for the mission, and a

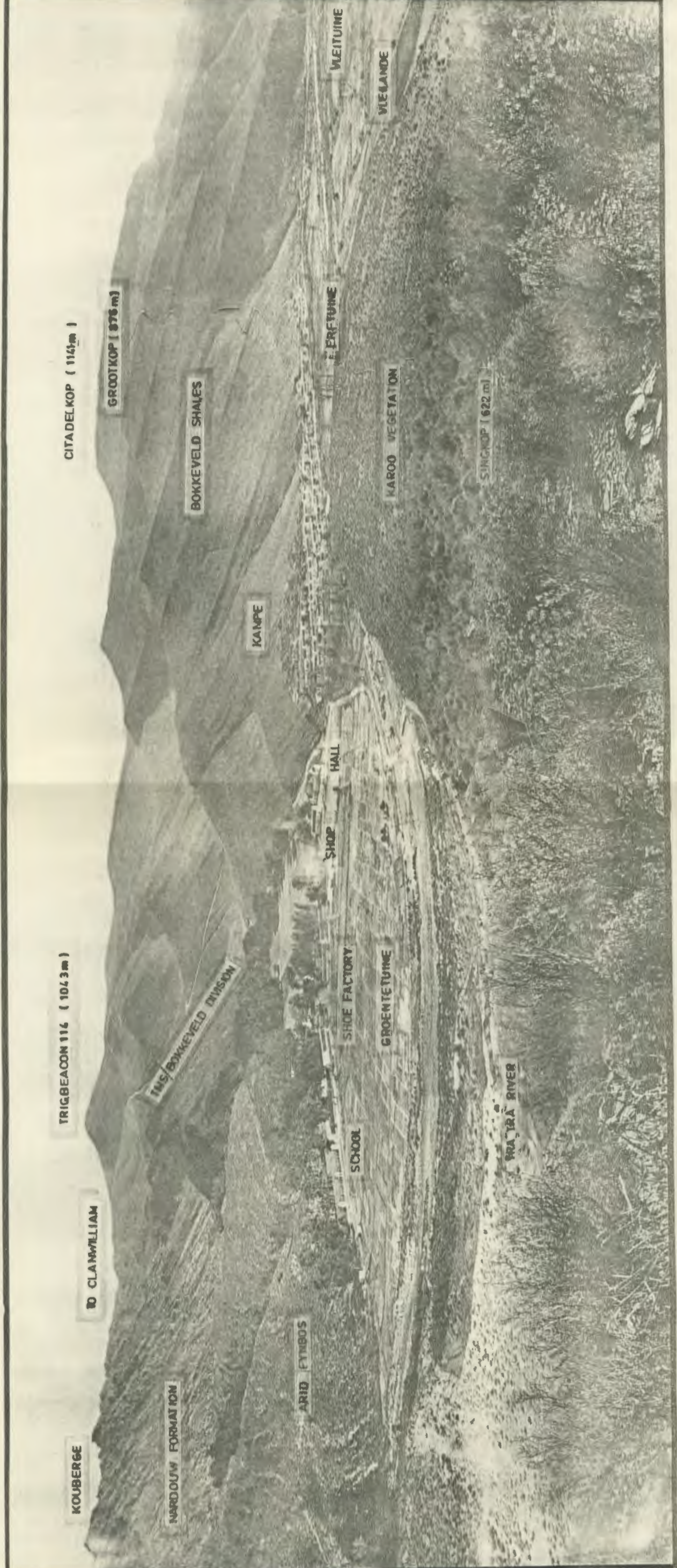


Figure 15 Panoramic view of Wuppenthal from Singkop

number of farms were added to the existing area. (See fig. 3) This greatly relieved the burden on the existing farms, which were being grossly overgrazed.

Esslinger, who now lives in Bellville, also brought the first electricity to Wupperthal. He installed a number of generators and films were shown in the village for the first time - both for entertainment and "to show the people that others also lived under difficult conditions". (Esslinger, personal interview, 1981)

A division amongst the people at Wupperthal was in evidence at this time with some, including the current school principal, Barend Van Rooy, advocating Dittmer's return in place of Esslinger, and others favouring the latter. According to some of the residents at Wupperthal, this split has never really healed, and has manifested itself in different forms.

Esslinger recalls that during the time he was at Wupperthal, it often occurred that land was taken away from the people due to their negligence. The Opsienersraad (the supervisory committee), which was and remains a committee elected by the mission inhabitants to assist the missionary in the day to day running of the settlement (see section 2.2.2.2), applied the rules with greater strictness during that time than is the case today. There has been no repossession of land in recent years.

1.2.5.5 The Moravian Takeover (1966-1982)

Most of the Rhenish mission stations in South Africa were handed over to the Dutch Reformed Church in the 1930's. Wupperthal alone remained in Rhenish hands, but in 1966 the Rhenish church finally transferred the Cedarberg station not to the DRC, as the inhabitants were strongly opposed to this, but to another German-based mission, the Moravian Church.

The Moravian Church, however, adopts a different approach to their Rhenish counterparts in its attitude to missions. This church has an excellent record in the field of missionary work in South Africa, with their first station, Genadendal, often cited as an ideal in mission work. There is, nevertheless, little doubt that the people of Wupperthal are less than happy with the change-

over. The main emphases of the Moravian Church will be examined in section 2.2.2.1, but, broadly, the Moravian church has been almost exclusively concerned with the spiritual dimension of the mission inhabitants. The Moravian Church immediately hired out the Wupperthal Institute to an outsider, Mr Edgar W Stopka, and appear to have shown little further interest in the industries apart from recently taking over the insolvent shoefactory.

One pointer which is indicative of the different approaches of the two societies is that in the 136 years under the Rhenish Church only six missionaries were at the helm at Wupperthal, although a number of others came out as assistants, whereas in the 16 years of Moravian control six "Eerwaarders", or missionaries, have already occupied the Pastorie. These were Dominees Wessels and Van Niekerk, who started the Moravian work (1965-1970), Kronenberg (1970-1977), Shiefer (1977-1980), Moos (1980-1981) and at the time of writing a new missionary, Rev Potberg, has just been appointed. Obviously during these relatively short periods the missionaries have been unable to build up personal relationships with the people as did their Rhenish counterparts, who made Wupperthal their life's work.

The reactions to Karl Shiefer highlights the divisions that exist amongst the people. Some speak of him with warmth, saying that, of the Moravians, only he showed concern for the people, and that he invested time and money in the people themselves, rather than in the church alone. It was during his time that a number of new buildings, including an attractive, white-washed community hall were built. (See fig. 16) On the other hand, others claim that he led the mission to the brink of bankruptcy, and squandered money needlessly, leaving minimal funds for his successor.

1.2.6 Sociology

1.2.6.1 The Population Structure

A population anomaly within the South African and, certainly, the African context exists at Wupperthal. While one of the major environmental problems in the world today is the population explosion, the problem at Wupperthal is the reverse - a population in decline. Not only are too many people leaving for the towns and cities (not an unusual problem), but insufficient babies are being born to maintain a steady state population.

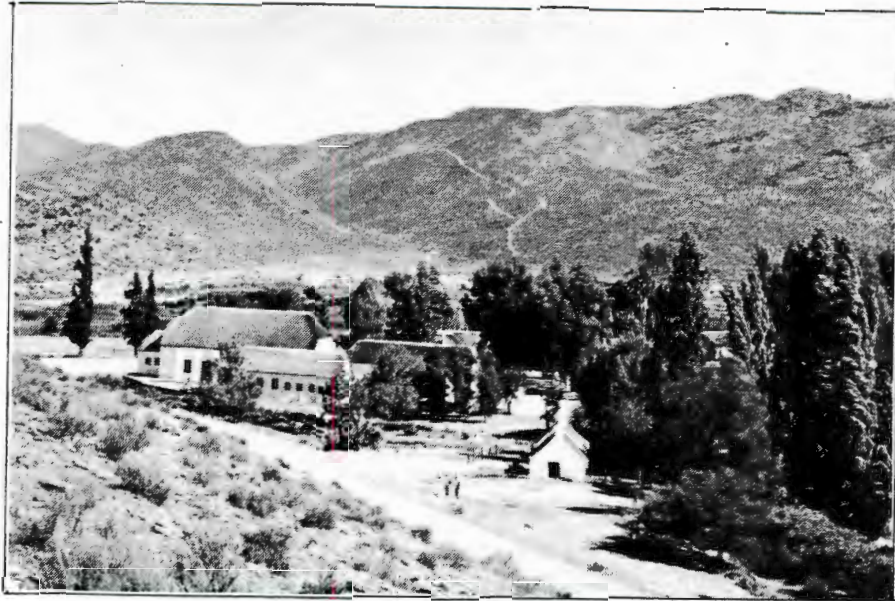


Figure 16 Community hall at Wupperthal

For the following information I have relied to a large extent on a survey carried out at Wupperthal in 1981 by C Schweizer and G Preston, supplemented by some figures from the Department of Statistics and my own observations.

The population figures for Wupperthal over the last sixty years are as follows:

| | | |
|------|---|-----|
| 1911 | - | 531 |
| 1921 | - | 475 |
| 1936 | - | 545 |
| 1946 | - | 743 |
| 1951 | - | 708 |
| 1960 | - | 816 |
| 1970 | - | 680 |
| 1981 | - | 484 |

The last figure was obtained from the survey by Schweizer and Preston, the preceding ones from the Department of Statistics. The total population on the wider mission is estimated at just under 3000. The "huurboek" at the Church Office lists 115 families at Wupperthal at present, 42 at Beukeskraal, 30 at Heuningvlei, and 24 each at Nuweplaas and Langbome, these being the larger settlements on the mission. Families at other outstations total 104.

The detailed breakdown of the population for the village of Wupperthal is given below.

TABLE 1.2
POPULATION DATA FOR WUPPERTHAL

| Population Age Groups | Total (115) | | | | Total | |
|--------------------------|-------------|-----|--------|-----|-------|-----|
| | Male | | Female | | R | R+M |
| | R | R+M | R | R+M | | |
| 0 - 4 | 20 | 21 | 18 | 18 | 38 | 39 |
| 5 - 9 | 41 | 41 | 41 | 41 | 82 | 82 |
| 10 - 14 | 61 | 61 | 38 | 38 | 99 | 99 |
| 15 - 19 | 24 | 31 | 22 | 28 | 46 | 59 |
| 20 - 24 | 9 | 34 | 18 | 36 | 27 | 70 |
| 25 - 39 | 11 | 25 | 11 | 23 | 22 | 48 |
| 30 - 34 | 10 | 24 | 11 | 22 | 21 | 46 |
| 35 - 39 | 3 | 16 | 5 | 20 | 8 | 36 |
| 40 - 44 | 16 | 27 | 9 | 22 | 25 | 49 |
| 45 - 49 | 8 | 12 | 11 | 17 | 19 | 29 |
| 50 - 54 | 8 | 9 | 10 | 12 | 18 | 21 |
| 55 - 59 | 13 | 13 | 8 | 10 | 21 | 23 |
| 60+ | 27 | 27 | 31 | 31 | 58 | 58 |
| | | | | | 484 | 659 |

[Schweizer, 1981]

(115) indicates the number of houses in the sample

R represents the resident population

R+M represents the resident and migrant population

Average number of people per house: 4,5

Vacant houses: 9 out of 115

The coloured population structure in South Africa is typical of a rapidly developing country, described as a late expanding phase. The Birth Rate has been reduced and the Death Rate has stabilised. (Bourne, 1980) The resident and migrant population of Wupperthal is similar to this phase (with the exception of people over 60 years of age), but the resident population shows three marked deviations:

- 1) The birth rate is too low
- 2) The relatively high percentage of the population over the age of 60 years indicates a distortion in the death rate.
- 3) There is a vast reduction in the working group ages.

These factors are expanded on in section 4.2.1.

1.2.6.2 The Spirit of Wupperthal

The contrast, on arriving at Wupperthal, with the city noise still reverberating in one's head is always striking. The pace, for one so fresh out of the concrete jungle, is remarkably slow. The people appear to be in no hurry, they amble along the dusty roads, with time in hand to exchange greetings with their friends or to wave to the city stranger who has recently entered their village. (See fig. 17)

The tranquillity of the village tucked away between the mountains of the northern Cedarberg is forceful, and, to some, paradoxically unnerving.

There is virtually no crime at Wupperthal, and a high degree of community spirit exists amongst the people. There are no fences or demarcations to separate houses, and those that do exist around some of the land plots are to keep donkeys, rather than people, out. The people appear to have an intuitive knowledge of their environment, an empathy with creation unknown to most raised in urban surroundings.

A deeper look into Wupperthal and its people, nevertheless, reveals a ripple on the apparently smooth pond. All is not so tranquil, as first impressions would have us believe. There are tensions that exist between the church, the Institute, the school and the Opsienersraad, as well as within these bodies. This will be dealt with more fully in section 2.2.2. There seems to be a consensus amongst the older generation that the higher moral standards of living are declining. Since alcohol has been allowed into the community there have been incidents of drunkenness; not to any marked degree, but nevertheless in evidence. There is also concern for the youth, and the values they are learning. Modern lifestyles and values have undoubtedly had their effect, and the

recent advent of television has hastened this.

The community worker, affectionately known as "Sister Beatrice", came to Wupperthal in 1980 after undergoing theological training. She leads Bible Study groups, youth and women's church groups. She also expresses concern: "Wupperthal has become very apathetic. There is little initiative and the children are spoilt. They have always been given everything on a plate." She had, for example, organised outings to Namaqualand and the Strand, but no-one wanted to go.

And yet, there remains a certain pride and loftiness about this community, perhaps engendered by their mountainous surroundings.

"Mountains tend to be associated with nobility, and general feelings of respect and awe, of power and grandeur, of space and height and strength and silence Wupperthal also provides an example of the necessity for the conservation of mountain wilderness areas - in terms of man's health and sanity." (Kaplan, 1981)

1.3 APPROACH TO THE STUDY

The physical, historical and sociological contexts of Wupperthal have been established in the introductory chapter. Having gained an insight into the geographical location, topography, geology, climate, history and sociology of Wupperthal in this chapter, the system of land tenure practised in the village and the environmental factors that have played a role in the development of the village will be examined in chapters two, three and four.

The first half of chapter two discusses theoretical concepts of land and land ownership in order to provide a framework within which the observed tenure at Wupperthal can be discussed (in the second half of chapter two) and various other relevant forms of land tenure can be examined in chapter three.

Included in the section on the observed tenure are both the individual land parcels at Wupperthal and the societal conditions under which the parcels are held (the social matrix). The authority structure that exists at Wupperthal is thus discussed in this section.

Various systems of land tenure are discussed in chapter three. These have been chosen either for their contextual relevance (e.g. the early Cape tenure and current land tenure in South Africa) or for their similarity, in certain aspects, with the tenure at Wupperthal (e.g. English tenure and Cognatic tenure). Section 3.6 is the climax of chapters two and three and examines the basis of land tenure at Wupperthal.

Chapter four discusses the environmental aspects at Wupperthal that are affected by or influence the land tenure. Although all the factors covered in this chapter do not necessarily have a direct relationship with specific aspects of land tenure, they all affect the land in some way, and have thus been included here.

An attempt has been made in the final chapter to predict the consequences of maintaining the present system of local government, and to suggest possible changes that could be made in order to benefit the village, and the mission station as a whole, in the future.



Figure 17 *"....with time in hand to exchange greetings with their friends."*

CHAPTER TWO

THEORY OF LAND AS PROPERTY
AND
OBSERVED TENURE AT WUPPERTHAL

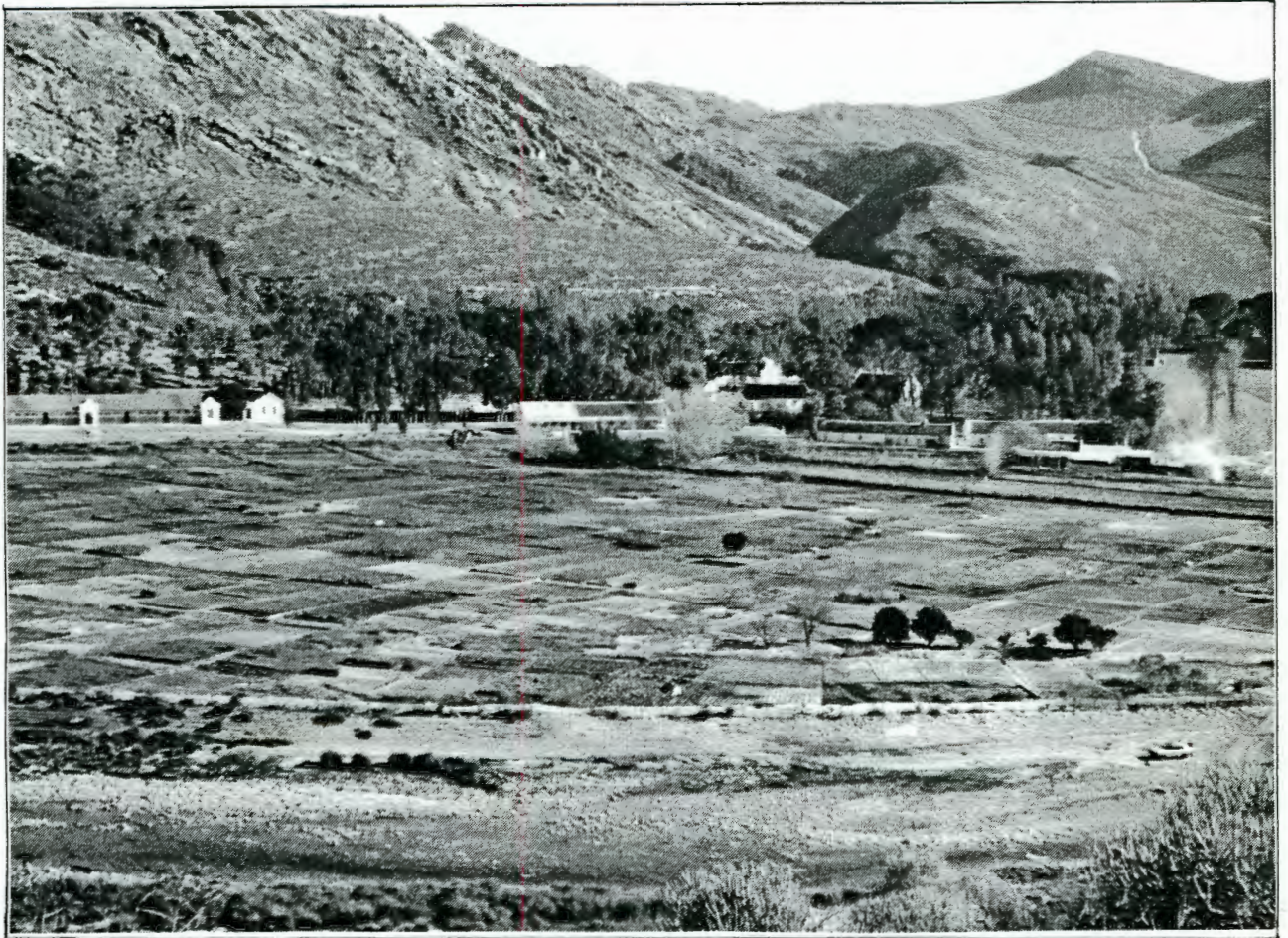


Figure 18 Some of the land parcels which
comprise the groentetuine on the
western side of Wuppertal.

In order to reach a comprehensive understanding of the system of land tenure practised at Wupperthal, it is necessary to grasp the basic concepts of the nature of property and land. In this chapter these concepts, together with appropriate terminology, are introduced prior to the examination of the actual land parcels that exist at Wupperthal.

No attempt has been made here to categorise or label the land tenure at Wupperthal, or to compare it with other systems that exist or have existed in the past. This will be introduced in chapter three.

2.1 PROPERTY AND LAND

The politics of the public control of land use cannot avoid the question of the meaning of property and property rights, and the answer cannot be found otherwise than through knowing what in a juridical sense property is.

(Denman, 1978)

2.1.1 The Nature of Property

Property is a term widely used in speech and literature, but the essential concept of that term is frequently not fully understood. Some of the definitions of property that have been suggested by various authors are listed below.

Property is the exclusive use, enjoyment and control of those things which are of value in so far as, direct or indirect, they serve to satisfy the fundamental needs of the organism.

(Beaglehole, 1931)

Property is a right of control over things society recognises. It may be absolute or partial, held by one person or many, or by a community, but it must be exclusive as against others, and it must have some permanence.

(Hobhouse, 1913)

Property is the permanent possession of an object conferring the exclusive right to use it or dispose of it.

(St Lewinski, 1913)

Property is the right to enjoy and dispose of things in the most absolute manner, provided we do not overstep the limits prescribed by the law and regulations.

(Code Napoleon, Article 544 from Proudhon, 1970)

The appropriation to persons capable of enjoying them of goods or values satisfying fundamental needs.

(Fisher, 1979)

All rights vested in a person or persons or corporate bodies to do, or forbear from doing positive acts on, or in relation to, a specific parcel or area of land.

(Denman, 1972)

Denman also states:

Property is a social and juridical institution, a commonplace in the anatomy of all civilised societies. In human relationships it is a vehicle of power and in the land context a determinant of the occupancy, possession and ownership.

He also argues strongly for at least a minimum of private property:

Born with a body, it is in the natural order of things that a man should have property rights over it; to deny him these would make him a slave.

(Denman, 1978)

The Universal Declaration for Human Rights also comes out in support of a person's right to own property. Article 17 of the Declaration states:

1. Everyone has the right to own property alone as well as in association with others.
2. No-one shall be arbitrarily deprived of his property.

The Article, however, has no definition of the word property, and this has led to confusion.

John Locke, the 17th century English philosopher expressed a similar viewpoint: "Man has natural right to his own person, own labour and to that with which he mixes his own labour." Locke's philosophy was that everything was private - if a man produced a thing, it became his own. This may be satisfactory in an insular, monastic type society, but is not so in today's complex modern society.

Property is possessed, but mere possession or the right to possess a thing does not necessarily constitute property. Property should rather be thought of as a "bundle of rights", of which the right to possess is merely one of those rights.

It is particularly helpful to consider property, and more specifically land ownership, in this light, because the concept of absolute control in property is unusual in civilized society. It is important to consider the source and type of authority that may have recognized power to withhold one or more of the rights in the bundle. In most civilized societies there are acknowledged norms which prevent the exercising of such control over property that may be to the detriment of other members of that society, or even to the detriment of the property over which the bundle of rights are held.

This leads to the concept of stewardship as opposed to the absolute domination of property, that is, the holder of the bundle has the rights to possess, enjoy and alienate that property, but not in a manner that will adversely affect the society as a whole, and even more radically, that same property object.

Thus, private property exists only by the tolerance of society. It is created by society against its own social structures. The authority or ruling group in a society is indeed an important element of property itself. Private property cannot exist without due recognition and protection by that authority. The individuals of a society must accept the rules of society which protect the value attribute of property.

It is important to recognise that the above discussion relates both to individually and communally owned land. Private property is often associated with individual ownership, but in this study includes communal land. All the definitions of property in this section refer to both individual and communal land, as is explicitly stated in the Hobhouse definition.

In conclusion, one could state: Property is the total sum of rights in a thing, recognised by society to be of value and satisfying one or more fundamental needs, with the exception that

one or more of the rights may be subject to the demands of a superior authority in the interests of that society.

2.1.2 The Nature of Land

Land is often regarded as the most basic form of property and is of importance in assessing value, or in providing an economic basis for a country. Since time immemorial land has been recognised as having special importance, properties and values. Ownership of land and control of its many uses has always been a major cause of contention amongst people. (Davis, 1976)

Land is often conceived only in terms of the geological structure that constitutes the earth's surface, but the Roman Dutch principle of *accessio* gives a broader, and more acceptable definition. *Accessio* is "a method of acquiring ownership by a person in a thing by virtue of it being added to, or incorporated with a thing belonging to himself ..." (Gibson, 1970)

Thus any building, structure or tree could be regarded as part of the land. With this wide definition of land, which would also include water, it can be seen that land is a resource of primary consequence in the economy of any country, whether developed (1st world) or developing (3rd world).

Land in itself has no value. It is only the accessible rights in the land that may have a value, depending on the demand for those rights. If land was a limitless commodity, these rights might have little or no value, depending on a convenience factor, thus the value of the rights in the land increases as the demand for the rights in that land increases.

Because land is immoveable, the aspect of location is of supreme importance in assessing land use and the value of rights in the land. A portion of land may be unfavourably situated with respect to, for example, a water resource or transport route. Further, control over a particular area may give or restrict access to other contiguous areas.

Other factors that also have bearing on the character of land, and hence the value of the rights in that land, are its finite

nature and its topography, i.e., its physical appearance and its subsurface composition.

No-one has exploited labour to create land in its virgin state, therefore no person could be recognised, by a natural right, as the exclusive owner of the land. However, in modern day reality, virgin land no longer exists, and either the state, or some person or persons, can be seen as a higher authority with respect to the land.

It is a practical problem to reconcile the *de facto* realities with the ideal state of the Eden-inspired law that all things are in common for the use and enjoyment of all men. Much debate has raged on the issue of private versus common land, and has been manifest in modern times in Capitalist versus Communist terms. For example, Jean Lojkine, a marxist analyst, argues that "the private appropriation of land is becoming an obstacle, within the capitalist mode of production, to the development of social productive forces." (Lojkine, 1976)

The concept of private property clashes with that of the view that nature's bounty in land is and should be common to all men, free of exclusive title. Denman quotes the classical Roman philosophy, referring to a Golden Age when

No fences parted fields, nor marks nor bounds
Distinguished acres of litigious grounds;
But all was common

Perhaps Wupperthal could be said to be part of that "Golden Age"; as the first two lines certainly apply, to some extent, to the land of the mission village. The land, however, is largely not common, and a more complex system is practised.

2.1.3 Land as Property

The basic concept of land ownership is that of tenure, that is the right or capacity to have and to hold land for certain uses. Tenure can be defined as the holding of rights in the land by reference to a superior authority which holds the balance, or part thereof, of the rights in the land.

In the past "might is right" was the determining factor in tenure. Land was held by virtue of the fact that one party had sufficient physical power to act as a deterrent to another who might have wished to occupy the same land. The rule of law has largely replaced the rule of force, and one holds or possesses land by virtue of certain rights conferred and protected by a recognised ruling authority. However, in a broader sense the rule of law can, in some instances, be similar to the "might is right" concept, as the authority may not be recognised by certain persons. An example in this country is the Group Areas Act.

We have seen that it is more realistic to look upon ownership as a bundle of rights in a thing, rather than absolute control over that thing. In considering land ownership, the bundle can either be thick or thin, depending on the degree of power vested in the owner, or the security of tenure enjoyed by the holder of the rights. In civilized society no one can hold a property (land) with absolute power. "A bundle of rights is always an abstraction from absolute power." (Denman, 1972)

Davis lists four rights that are often, if not always, 'removed' from the bundle by a superior authority (usually a local or national government):

- (1) The Right to tax (could be paid in the form of rates of rent on the land owned);
- (2) The Right to condemn, i.e., to take title of privately held land for public use (expropriation);
- (3) The Police Power, i.e., the Right to protect and promote public health, safety, morals and general welfare. This right can restrict the freedom of owners to use their land as they please (e.g. with regard to noise or activities that could be regarded as a public nuisance);
- (4) The Reversion of the grant to land - basically what the government grants can also be taken away if the terms of the grant are not fulfilled.

(Davis, 1976)

This bundle of rights implies the transference of some of the rights under certain circumstances, either to another individual, or to the public.

The emphasis in history on rights arising from private ownership has often had a negative effect on the wider community, i.e., it

has been detrimental to the environment within which the land is owned. The apparent shift to highlight individual responsibility that goes with the rights and privileges is indeed welcome. This trend, which arises out of the third government power listed above, is also noticeable at Wupperthal, and is further associated with an emphasis on the stewardship rather than the dominium of the land.

2.1.3.1 The Proprietary Land Unit

Denman lists two elements which together constitute the decision making unit which is fundamental to all positive decisions about the use of the land, and which is widely referred to as the Proprietary Land Unit. These elements are the run of property rights and the area of physical land to which they pertain (the "solum" or land parcel). (Denman, 1972)

Fisher adds a third element to the Proprietary Land Unit (PLU), namely "the competency of the owner of the rights to deal with the land and make decisions concerning it". (Fisher, 1979) General studies of the Proprietary Land Unit have reduced the study of Land Tenure to general categories and universal concepts, and this has proved helpful for the purposes of this study, enabling the introduction of such concepts as 'bundle of rights' and 'social matrix'.

Fisher has subsequently re-defined the PLU as

the set of co-extensive legal rights which attach to the solum of the land parcel

and regards the PLU as one of the three elements that comprise the land parcel, the other two being the solum and the social matrix. (Fisher, 1981)

Denman defines the PLU as

an area of land used as a single entity and co-extensive in its physical dimensions with vested rights of property to use, to dispose and to alienate.

(Denman, 1972)

In this study the PLU is taken to comprise three elements; the solum, or the physical land parcel, the bundle of rights that is co-extensive over the parcel, and the social matrix - the context in which the rights are held.

The primary physical attributes of a PLU include all those objects that were part of the broader definition of land (See Section 2.1.2) These are all natural objects, including the soil, the subsoil, the vegetation, water and the air above the land, as well as any man-made structure that may be present on the land.

Physical attributes are sometimes used in classifying the PLU for land use purposes. Broadly PLU's are either homogeneous (one major use, e.g., an agricultural unit) or heterogeneous, (more than one major use), which can be further sub-divided into simple and multi-purpose.

Denman lists three abstract attributes that are present in every PLU. These are the size and shape of the PLU, a bundle of rights and the duration of those rights. The size and shape of the PLU is an abstract attribute, as they are determined, not by a hedge or fence, but by the reach of the proprietary rights over the land. The time dimension is important and runs from a moment in history into the future. An instantaneous right has no real meaning. The bundle of rights, as we have seen, determines the power vested in the holder of the rights.

In the same way in which a superior authority can cut down the bundle of rights held over a property, so law and order require that the bundle of rights in a PLU be reduced to provide reciprocal benefits to other contiguous holders, and to non-holders. The reduction process shapes the number and range of the property rights which make up the abstract side of a PLU.

2.1.3.2 Land Boundaries

One of the rights normally associated with ownership is the right to control access to one's property. Physical control may be established by fencing, or demarcating the property (land) boundaries in some other way.

Controversy can arise, and has in the past arisen, over boundary disputes. An incorrect boundary may, over the years, become accepted by all parties concerned. If later discovered and disputed by one of the parties, this can lead to complex legal problems.

Confusion often exists as to the meaning and application of property boundaries. Many would accept the physical nature of a boundary, conceptualising a boundary as a fence, or a hedge, while others regard boundaries as imaginary. In fact both of these concepts are insufficient. A physical entity is not a boundary; it merely represents the position of a boundary, but, although a boundary is invisible, it is a real, though abstract thing, just as property rights themselves are real.

Fisher lists six qualities of a boundary, by way of a broad definition:

- (1) A land boundary is an abstract legal concept.
- (2) It is a surface which marks the limits of a property right or a set of co-extensive property rights.
- (3) The surface may be horizontal, vertical or oblique.
- (4) A boundary may be marked by, related to or defined in terms of a physical object.
- (5) A boundary itself has no physical entity.
- (6) A boundary is invisible but not imaginary.

(Fisher, 1979)

Thus, although we may speak, and correctly so, of a river as a boundary, it is important to realise that we are saying that the river (or some part of it, the bank or middle line) at any time marks the limit of a set of rights in land.

Boundaries can be divided into two distinct categories: viz. a system of precise demarcation and one where boundaries are described in general terms (general boundaries).

a) Precise Demarcation

The basis of this system is the accurate location, demarcation and recording of the corner points that define the boundaries of a given land parcel. Thus boundaries become imaginary straight lines between defined points, that have been accurately fixed by ground survey and well recorded to enable certain re-location. This system is usually more appropriate in undeveloped areas, particularly so in relatively featureless terrain.

b) General Boundaries

In this system the *de jure* boundary is related to, but not defined by, some physical feature, either natural or man made, for example, a river, a hedge or a wall of a building. No attempt is made to define in precise terms where a boundary runs, merely that it "runs along his hedge" or is marked by a particular wall.

General boundaries are thus not subject to precise spatial definition. They exist, rather, in the territorial concepts of contiguous neighbours and in the local unwritten lore which applies to boundaries, and which may be passed on through generations or when the land is transferred. Essentially these boundaries are lines of occupation, and no precise record of the boundaries is kept, merely a reference to a large scale ordnance map, which depicts the boundaries.

This system of general boundaries is well suited to a well developed country, in which the majority of all boundaries have barriers, either natural or man made, along them. It is perhaps surprising that an apparently uncertain and ambiguous system appears to give rise to relatively few land disputes, as is the case in England, which practises a general boundary system. However, the fact that the precise location of a boundary may be uncertain does not mean that it will lead to an increase in land disputes. The *de facto* boundary, whether it be a hedge or a wall of a building is often more convincing to the parties whose extent of rights are separated by the barrier than an imaginary, precise line between two beacons. Unless there is a sudden escalation in the land value of a region, the general boundaries that have been established and accepted over a period of time are unlikely to be questioned.

2.2 OBSERVED TENURE AT WUPPERTHAL

2.2.1 Land Parcels at Wuppertal

Land at Wuppertal is held both individually and communally. The Moravian Church holds the title to all the land within the wider mission and the inhabitants on the mission pay an annual rent for the individual parcels they cultivate. They also have

the controlled use of much of the remaining land for specific, recognised communal purposes, such as pasturage.

2.2.1.1 Communal Land

The vast majority of the 38000 hectares owned by the Moravian Church in the northern Cedarberg is regarded as communal land and used largely for pasturage for cattle, sheep and goats. Much of this land, however, consists of boulder-strewn mountain slopes, useless for cultivation and even pasturage.

Shepherds are employed communally, owners paying 12 cents per sheep or goat per month which contributes to the shepherd's salary of approximately R70 per month. An ear-tagging system is used for identification purposes.

Generally the flood plains are used for cattle pasturage, whereas the shepherds take the sheep and goats to higher ground. Those herds owned by the inhabitants of the Wupperthal village are returned each night, summer and winter, to the enclosed paddocks, or *kampe*, in the village. The *kampe* are kept behind the rows of houses on the eastern side of the village (see fig. 7), and are built entirely at random. The land is regarded as communal, and all residents are permitted to construct these paddocks in the vicinity of their home. Pigs are kept in the enclosures constantly, whereas sheep and goats are returned to their paddocks at night. The sheep and goats of the people of Eselbank, an outstation of the mission, are taken to the settlement Voelvlei, on the farm Vogel Valley, for the winter in order to allow the vegetation surrounding Eselbank to recover.

The use of the communal land is controlled by the *Opsienersraad*, which restricts the rights in the land in order to, for example, afford protection to the natural vegetation, that is used both for pasturage and fuel. These restrictions will be looked at more fully in Section 2.2.3.

2.2.1.2 Individually Owned Land

a) *Groentetuine* [lit. Vegetable gardens] (See figs. 7, 15, 18, 27)

This 12 hectare section of arable land, also referred to as the *bo-tuine*, to denote their position with respect to the other land parcels in Wupperthal, is divided into approximately 240 portions, each individually owned by the people of Wupperthal. The *groentetuine* lie on the TMS/Bokkeveld interface, although they appear to have largely been formed from the TMS (see section 1.2.3).

The approximate size of each *tuin* is 500 square metres, but many are sub-divided, so that it is possible to rent a *halftuin*. It is common practice to own more than one *tuin* or *halftuin* in different segments of the *groentetuine*. This system, while not conducive to good farming practice on a large scale, works well under subsistence agriculture, as the people perceive it as equitable. Not all sections of the *groentetuine* are of the same fertility (see section 4.1.2); the eastern *tuine* generally being the most sought-after, and by allowing a family to own parcels in different areas the Opsienersraad ensures that the prime *tuine* are allocated equitably. The *tuine* are rented at 90 cents per annum.

According to a survey by S Cliff (1981) potatoes, mealies and fruit trees dominate the *groentetuine*. Beans, carrots, cabbage, pumpkin and tobacco are also grown. Of these, beans are the most popular, as they are the most economically viable.

The boundaries of the *tuine* are indicated by means of water furrows and paths, although, as not every furrow and path represents a boundary, the land parcel divisions are not readily discernible to a visitor. Many of the internal divisions of the *tuine* (e.g. between crop types) could well be mistaken for external property boundaries. This appears to present no problem to the holder of the rights in the *tuin*, as these boundaries have become well established over the years, and few boundary disputes have arisen in recent times.

There is a difference of opinion as to just how well these plots

have been marked and recorded. Some village dwellers insisted that each *tuin* is carefully recorded (the position and size) in a "*boek van kaarte en transporte*" (book of deeds and diagrams) and there are buried stones to mark the corner points. Others appeared equally certain that no such record exists, and that the corners of their land parcels are unmarked.

In some cases large white stones mark the corners of the *tuine* on the surface, but they are by no means ubiquitous. In a survey conducted amongst the inhabitants of Wupperthal (see questionnaire, Addendum 4), various responses were obtained to the question: Do you have anything with which to mark the boundaries? These ranged from half metre wide paths and traditional stone beacons ("*butyd klipbakens*") to no boundary markers whatsoever ("Everyone knows where their specific garden is.")

The incumbent dominee knew of no such record, and the head of the Moravian Church in the Western Cape also claimed no knowledge of such a book. On speaking to Rev Esslinger, the last of the Rhenish missionaries at Wupperthal, however, it was clear that such a book had existed, and had been passed on (apparently) to the Moravians. It has obviously been mislaid, perhaps in the transfer to the Moravian Church in 1966, but many Wupperthalian accept that the record still exists, and hold a false sense of security in their land, believing that in the case of a land dispute the Opsiensersraad could readily confirm the exact dimensions of any *tuin*. This would not appear to be the case. The original record appears to have covered all individually owned land at Wupperthal, not just the *groentetuine*. The existing book which is kept in the church office at Wupperthal merely records the fact that a family holds a certain number of land parcels and the amount that has to be paid in rent for each of the parcels held.

It can readily be seen from sections 2.1.3.2 and 3.6.3 that the land parcel boundaries of the *groentetuine*, and indeed all boundaries of individually owned land parcels at Wupperthal, can be described as general boundaries.

b) *Erftuine* [lit. The gardens of the building plots]

(See also figs. 7 and 15)

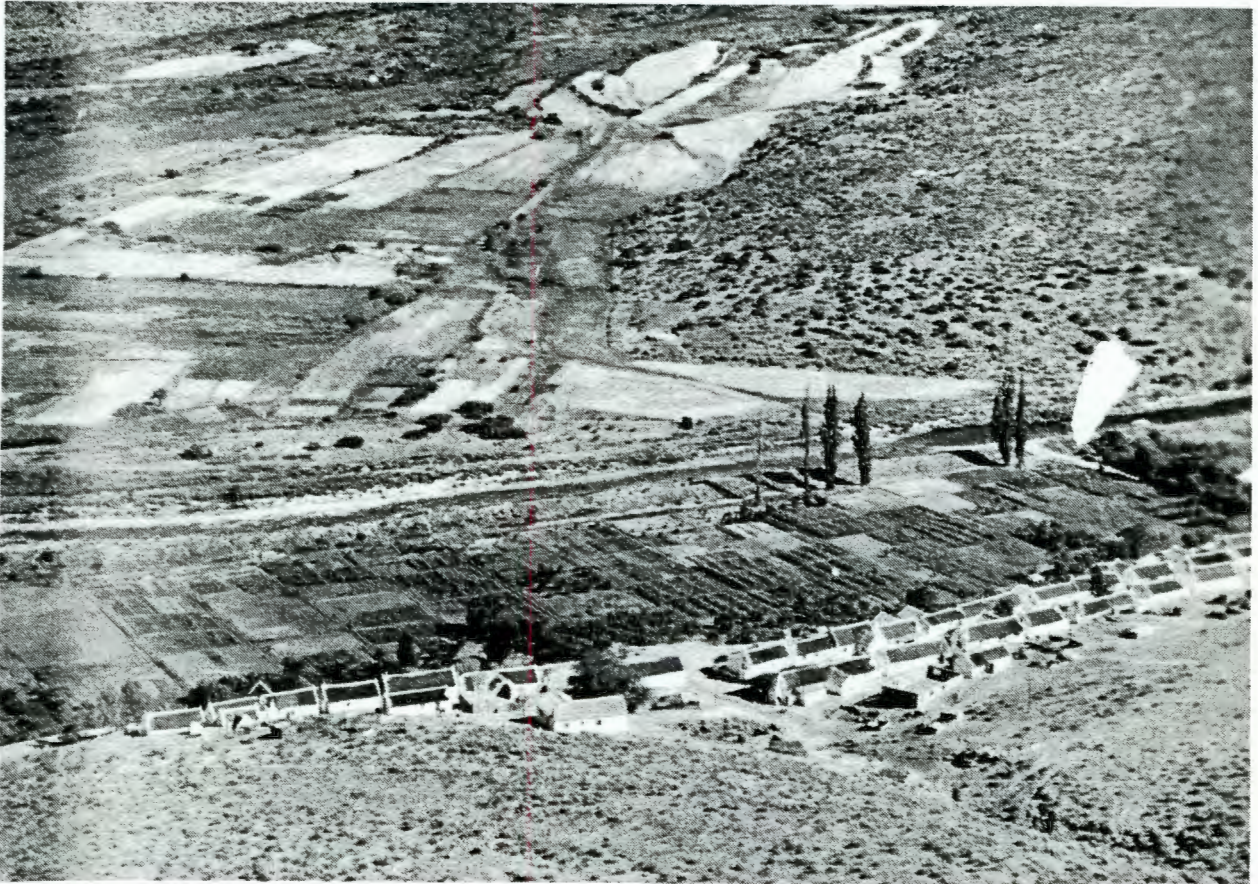


Figure 19 The *erftuine* (foreground) and the *saaituine*, as seen from Grootkop. The arrow points to the dyke on the edge of the *erftuine*. The Tra-tra river separates these two land parcel types. Note the intensity of cultivation of the *erftuine*.

Although the word *erft* has hereditary connotations, deriving from the Dutch word meaning a lot, or plot, which may be willed by a father to his son, that meaning is not apparent here. The word *erftuin* seems to be used merely to indicate that these garden lots are in front of the plots (*erwe*) on which the houses stand, in spite of the fact that there is no precise definition of these houseplots.

This 10 hectare strip of land parcels in the north-eastern sector of Wupperthal, between the rows of houses and the Tra-tra river, is the most productive and fertile of the arable land at Wupperthal, thus making these land parcels the most sought after in the village. The annual rate for an *erftuin* is R2,00, the most expensive at Wupperthal.

The *erftuine* are situated on reclaimed land, which was previously subjected to regular flooding from the Tra-tra river. A dyke has been built on the northern bank of the river and, whereas the land had previously been haphazardly cultivated, mostly with cereal crops, the now well-irrigated, fertile land is intensively cultivated with a variety of crops. The building of the dyke has not been without environmental consequences. This is discussed more fully in Chapter 4.

There are approximately 35 *tuine*, the average size of each being 1500 - 2000 square metres. Some of these are halved, each half being held by different families. According to Cliff, 65% of the *erftuine* are planted with maize and potatoes (mostly sweet potatoes) or kept fallow. The remainder consists of a wide range of vegetables and fruit, including peaches (which are dominant), apples, plums, pomegranates, vines, citrus, cabbages, carrots, cauliflower, pumpkin, lucerne, tomatoes, figs and a small quantity of rooibos tea.

The boundaries of the land parcels of the *erftuine* are clearly discernible, the majority having been fenced. This is a recent addition (August, 1981), and the reason for the fencing is to keep the semi-wild donkeys out of the gardens. A fence had previously surrounded the *erftuine*, but carelessness in leaving gates open led to the donkeys destroying crops and hence the fencing of individual parcels.

c) *Saaituine* [lit. cereal gardens] (See figs 7,9, 15 and 19)

This is a large tract (about 40 hectare) or arable land on the south east side of Wupperthal, between the Koms river and the hill, Singkop, stretching from the southern tip of Singkop to the Tra-tra river in the north. The *saaituine* are divided informally into the *vleilande* and the *vleituine*.

i) *Vleilande*

The *vleilande* are situated on the western side of the valley, that is, against the eastern slope of Singkop. This land is poorly drained, and, in spite of the arid climate at Wupperthal, tends to become waterlogged after rain. In addition, the soil is deficient in potassium.

These parcels of land are the least structured and defined in Wupperthal. It is virtually impossible to distinguish boundaries in most cases, and yet even here there is no doubt in the minds of the farmers as to the extent of their property, and land disputes are unknown. The boundaries are indicated by overgrown paths, furrows, ridges or lines of natural vegetation, in the form of trees and shrubs. The majority of the land parcels are neither square nor rectangular, but have irregular boundaries.

The individual holdings are much larger than the *groentetuine* and the *erftuine*, and are predominantly under cereal cultivation, with barley and rye the only crops of significance.

ii) *Vleituine*

The *vleituine* are situated on the eastern side of the valley, bordered on the east by the Koms river and the west by the *vleilande*, into which they merge with no apparent boundary.

The soil here is more fertile (see section 4.1.2) and does not suffer the acute drainage problem of the neighbouring *vleilande*. In addition these land parcels are closer to the source of irrigation, the Koms river. Because this river is non perennial, only one crop is cultivated per annum on these lands as against the two of the *bo-tuine* and *erftuine*.

The added soil fertility yields a wider crop range, and although cereals dominate (rye, barley, lucerne and maize) potatoes, peas, beans and roobos tea are also grown.

The comments made of the *vleilande* concerning size and the indistinct boundaries are equally applicable to the *vleituine*. These lands experience an added problem, that of relatively frequent baboon raids on the crops. In spite of attempts to destroy the baboons, these raids, mostly from Spitskop, have continued.

d) Rooibos tea plantations

Traditionally Rooibos tea has been grown on the lower mountain slopes around Wupperthal, and the tea picking had been carried out in an arbitrary manner. Over the past three years, however, an area has been cultivated specifically for the production of

Rooibos tea, which has a large potential market. This land, situated on the road to Eselbank on the plateau, is jointly owned by a number of individuals from the Wupperthal village, who pay rent to the church for the use of the land.

No exact record of the dimensions of the land exist, but it is clearly demarcated by means of stones.

e) Langbome (See fig. 2)

Langbome is a small settlement on the southern bank of the Tra-tra river, just east of Wupperthal, off the Beukeskraal road. Although physically separate from the main village, in practice it is conceived as being a part of Wupperthal, and a number of the Langbome residents have jobs there.

The positive feature of the land tenure at Langbome is the integration of the residential and arable units. Typically the main parcel (*erf*) is larger than the *tuine* at Wupperthal and is contiguous to the river bank directly behind the holder's house. In front of the house is a smaller, decorative garden, something absent in the more congested confines of Wupperthal.

An interesting factor here was the general uncertainty as to the exact boundary locations of the land parcels. Because of the relative abundance of land at Langbome this did not seem to be a serious drawback, and the boundaries were merely estimated approximately by means of the position of the road, river and house. The holder of an *erf* in Langbome pays R2,00 per annum in rent.

The settlement of Langbome can be seen in the foreground of fig. 2.

f) Eselbank (See fig. 32)

Although a detailed study of the land of the outstations is beyond the scope of this study (see preface), it is of interest to include a short section on individual land parcels at Eselbank, one of the oldest of the mission settlements, by way of a comparison with the situation at Wupperthal.



Figure 20 An Eselbank home

The size of the cultivated land at Eselbank is greater than that at Wupperthal, but only 12 families are resident in this village, situated on a plateau to the south of Wupperthal, over 400 metres above the main village. Thus the individually owned parcels of land are significantly larger than those at Wupperthal, and there is a greater emphasis on productive economic farming.

Mr Mouton, a member of the *Opsienersnaad* and resident at Eselbank, owns three separate parcels of land of $1\frac{1}{2}$, 2 and $2\frac{1}{2}$ hectare. This is a usual amount for Eselbank land holders. Boundaries are indicated by paths and furrows, rocks have been buried to indicate the corners, and the measurements and diagrams of each parcel were, apparently, entered into the subsequently mislaid book of deeds and diagrams, but no current record of the individual parcels exist. Mr Mouton pays R8 per year to the church for his land.

2.2.2 The Social Matrix

In section 2.1.3.1 the importance of the social context within which the land is held as an element in the Proprietary Land Unit is mentioned. Thus, "the competency of the owner of the rights to deal with the land and make decisions concerning it" (which is a direct function of the societal structure within which the land is held) becomes a vital criterion in any study of land

tenure, not merely as a factor influencing the type of land tenure practised, but as an integral part of the land tenure system itself.

It has also been shown (in section 2.1.3) that the land is always held by reference to a superior authority which holds the balance of the rights in the land. This superior authority, which is established and recognised by the society, is the most important facet of the social structure with regard to land tenure.

Political power and influence, either formal or informal, appears to be vested in four main institutions at Wupperthal. These are the Church, the Institute, the *Opsienersraad* (supervisory committee) and the school. None of these is isolated from any of the others, but all exert a particular, definitive influence on the lives of the people of Wupperthal.

2.2.2.1 The Church



Figure 21 The white-washed gabled church built in 1834

The Moravians are only concerned with the spiritual side - they have taken little interest in the factory.

Although the Rhenish church was very strict, there was a certain freedom in their order. The Moravians don't know about order.

The church won't get involved materially in any way.

These three comments from three of Wuppertal's most senior and respected citizens perhaps sums up the position of the church at Wuppertal as it is today. To be fair, it should be stated that no detailed survey was carried out to assess the feelings of the people towards the church in a formal way. Rather responses from various sources were gleaned during the course of conversation.

It could be that the universal longing for "the good old days" (when the bad times are forgotten) is applicable here. Further, whereas the Rhenish Church occupied Wuppertal for 136 years, the Moravians have only had sixteen years to adapt to a mission whose customs and values had been well formed by the Rhenish presence.

Nevertheless, the present situation is not encouraging. Church attendances have slumped to approximately thirty at the Sunday services (November, 1981) and the theoretical authority the church has over the people does not seem to be applicable in practice. The people appear to have lost much of their respect for the church both because of its apparent lack of involvement in their everyday life, and because of alleged hypocrisy in the lives of some of the church elders.

The daughter of Mr Stopka - the holder of the lease to the Institute - herself an Arts student at Stellenbosch University, commented that the situation at Wuppertal today is very sad. "The spiritual side, the main aim of the whole undertaking is very weak. The church has lost all the authority that it had. The people have no respect for the church...."

Two aspects are clear. Firstly, because of the relatively short time that the missionaries serve at Wuppertal, they are regarded as outsiders, unlike the Rhenish missionaries, who were

as much Wupperthalian as the people themselves. The attitude is "Who are you to tell us what to do?"

Secondly, it is impossible to compartmentalise different areas of the Christian faith. Christianity includes the total person. Christ is concerned with a person's spiritual, mental and physical - and thus his material - wellbeing, and so should the church. If the head is cut off, the body also dies, and that is why it was wrong for the church to hire out the Institute to an outsider. That is why the church is suffering at a spiritual level. The question is being asked; "If the church is not concerned with my day to day existence, why should I attend church on Sundays merely for the benefit of my soul?"

The community as a whole has suffered, in that the people have become used to working for another person. They are not used to working for themselves or for the community as a whole, and thus there is little co-operative work. The community now needs to re-learn to run its own affairs, and instil a greater degree of community spirit into their work. This was the case when the church was responsible for the industries, and when the missionaries took it upon themselves to assist in obtaining orders for the shoefactory.

Nevertheless, the Moravian Church remains the authority over the people, and the land, and so is the most important aspect of the social matrix. The dominee, or missionary, is the chairman of both the Church Council and the Supervisory Committee, the two bodies responsible for the smooth running of the community. Thus the church, as lessor, has authority over the Institute and could fire the lessee, if he proved inefficient.

The church council (*Kerksraad*) is responsible for the spiritual affairs of the congregation. It consists of the missionary, as chairman, a secretary, a treasurer - currently the school principle, and five other members for Wupperthal itself. In addition, there are church council members (elders) for Heuningvlei, Eselbank, Nuweplaas, Kleinvlei, Dwarsrivier, Matjiesrivier, Kromrivier and Reenen. These persons also conduct services at these outstations in the absence of a minister.

The strict laws of the Rhenish church concerning drink and dancing have been partially relaxed, and the emphasis in the Moravian Regulations (the *Ordeninge*) is focused more on general principles and listing the practical tasks of the missionary and the supervisory committee. Article 35 of the *Ordeninge*, however, forbids drunkenness, swearing, witchcraft, superstition, immorality and slander. It further outlaws the brewing of alcohol at Wupperthal and the possession of drugs on the Mission. (See Addendum 3) (*Ordeninge*, 1982)

It should be added that the church took over responsibility for the shoefactory in June 1981, after it had been declared insolvent by Mr Stopka. Nevertheless, by arrangement, all orders and sales are still done through the Institute. The church is contributing funds to the factory by way of a self-help project.

Thus the Moravian Church appears to be making a sincere effort to correct some of the mistakes that have been made over the past sixteen years at Wupperthal, and to re-establish the grass roots contact with the community. This would lead to the church regaining the respect of the people, but is something that will require a substantial period to effect.

2.2.2.2 The *Opsiensraad* (Supervisory Committee)

This body is largely responsible for the smooth running of the day to day affairs of the people of Wupperthal. It is the manifestation of local government in Wupperthal and functions accordingly. The incumbent dominee is *ex officio* chairman of the council, and other members are elected by the community in formal elections. There are six members for Wupperthal, two each for Eselbank, Beukeskraal and Kleinvlei and one each for Heuningvlei, Nuweplaas, Martiensrust, Langkloof and Heiveld. The council for the whole community meets once a month to discuss improvement plans, settle disputes and consider requests of various nature and matters of interest to the wider community. The council of the Wupperthal village meets as often as necessary to ensure the smooth running of village affairs.

The main village is divided into four sectors, or "constituencies", each voting for its own member on the council. The elected representatives are termed here the "Members of the Supervisory Committee" (MSC) or "Lid van die Opsienersraad" (LOR) in Afrikaans. If any inhabitant of the community has a grievance or request to be put to the supervisory committee, he must do so through his local MSC.

In addition to the four constituency representatives, a further two members are elected to the council. These members have the task of supervising an appropriate system of rotational grazing in order to protect the natural vegetation, ensuring the livestock are dipped every six months and that the animal enclosures (*kampe*) are suitably maintained.

Only married persons who have full right of residence may seek election to the council and vote. In addition an MSC must be well-known and have an understanding of local problems. The elections are staggered so that each year a third of the council retires, and new members are elected. Members may seek re-election.

The tasks of the Supervisory Committee as set out in article 7 of the *Orderinge* are as follows: (See Addendum 3) (*Orderinge*, 1982)

- a) Control over the smooth running of the mission station.
- b) Approval of the right to live on the mission station.
- c) Sub-division of the land for the inhabitants of the community.
- d) Control over general work and/or the collection of any payments in that regard.
- e) The upkeep of communal fences and paths.
- f) Control over the water supply, the water *sluits* and furrows, the natural vegetation (the pasturage and trees that could be used for fuel) and property boundaries on the mission station. (See fig. 22)
- g) Control of the local treasury.
- h) The formulation of local regulations in connection with water, agriculture and sanitation.



Figure 22 Part of the irrigation system led from the Tra-tra river

- i) Keeping the missionary informed of any irregularities or dangers that may threaten the station.
- j) Supporting the missionary by means of advice and the execution of orders.
- k) The formulation of recommendations to be made to the church board for short and long term planning.

In addition to the above tasks, the Supervisory Council is responsible for ensuring that a suitable level of production on the land is maintained, effecting disciplinary action where necessary, which could lead to land confiscation, settling disputes as may arise, the organisation of the removal of refuse and nightsoil, maintaining building standards for dwellings, exercising control over livestock numbers, the organisation of community work (every inhabitant is required to perform community work for three days in the year or, failing to do so, pay into the church fund R2,50 per day that he or she does not work) and the presentation of an annual financial report, which must include the following year's budget, to the community.

Taxes are paid by inhabitants for one or more of the following: *groentetuin* (R90c p.a.), *erftuin* (R2 p.a.), *vleituin* (20c p.a.), *vleiland* (50c p.a.), house (varies - approximately R2 - R4 p.a.), water, refuse removal, *inwonersreg* (R3 p.a.) - paid by those who do not have a natural right to live at Wupperthal), livestock (annual rates: 30c per sheep or goat, R1,20 per horse or cow, R1,50 per donkey). Some of the figures are approximate, as the amount depends on the size and quality of the house or land.

Because of the fact that it is responsible for land sub-division and allocation, settling disputes in land and ensuring suitable productivity from the land, the Supervisory Council's role is an important one in the social matrix of the Proprietary Land Unit. It directly determines the competency of the holder to exercise his rights over the land parcel.

The report contained in Addendum 5 is an eye-witness account of the proceedings of a Supervisory Committee meeting in 1975, under the chairmanship of Dominee Kronenberg. It is written by an anonymous UCT Geography student at that time, and well illustrates portions of the above text. The report has been abbreviated.

2.2.2.3 The Wupperthal Institute

The Wupperthal Institute is arguably the single most important factor in the day to day lives of the inhabitants of Wupperthal. Directly or indirectly every resident of the mission village is affected in some way by the operation of the Institute.

The Institute has become synonymous with one man, Mr Edgar W Stopka, who hires the Institute from the Moravian church. This gives him a monopoly on the business side of the mission. Apart from Heinie Strassberger, who leased the Institute for six years from the Rhenish church, Stopka is the only person to have had control of the Institute since its separation from the affairs of the church, and he has held this position for sixteen years.

When Stopka took over the lease of the Institute, he did so under a contract to deal as much for the benefit of the people as for

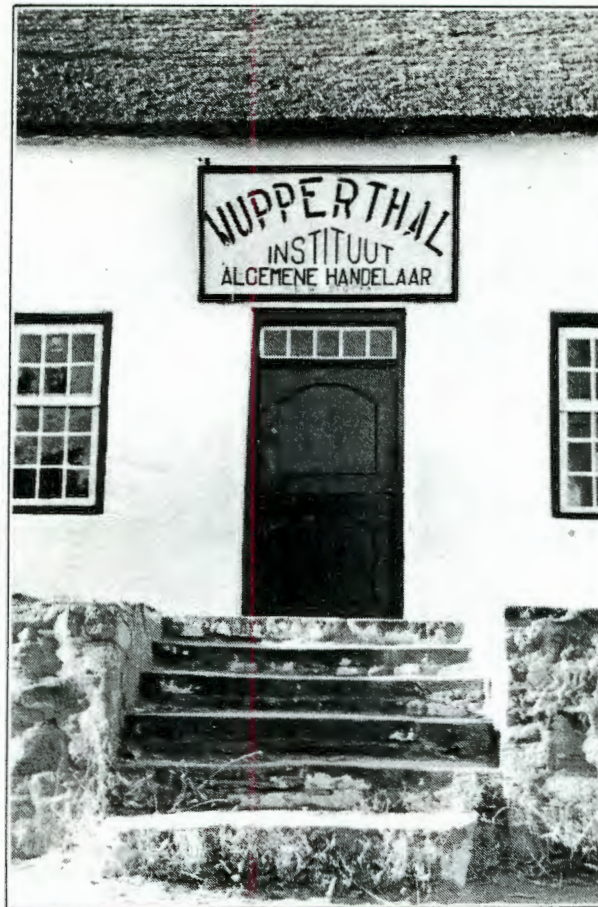


Figure 23 The shop entrance
(Wuppertal Institute,
General Dealer, E W Stopka)

himself. The Institute at that stage (1966) included the shoe-factory, the tannery, the farm, which included the butchery, the dairy and the mill, the rooibos tea packing industry, the chewing tobacco (*roltabak*) factory and the shop. When the shoe-factory encountered problems, Stopka initiated the leather glove factory that could utilise the leather processed at the tannery. This has worked well and employs about 60 workers. He closed down the tobacco factory ("nobody chews tobacco anymore") and in 1979 hired out the farm to one of the inhabitants - Mr Briem Hanekom.

The farm is a productive enterprise, and essential to the mission. In the terms of the lease Stopka is bound to provide (for sale) fresh milk, meat and bread to the community. Hanekom has now taken on this responsibility. The farm is 16 hectare in extent, and supports 30 cows and over 300 pigs. Hanekom employs four permanent farm workers and others as the need arises. He also cultivates mealies, potatoes, beans and tomatoes, although most of the farm is used for cultivating fodder for the livestock.

(Barley and rye are grown for this purpose).

The mill is used to meet the community's needs. Most of the people bake their own bread, using wheat that is crushed at the mill and sold in the shop. Usually fewer than 20 loaves are sold at the shop each week. The mill also supplies stone ground flour to Cape Town health shops.

According to the contract of hire, the four main purposes of the farm were:

- 1) to sell fresh produce to the Wupperthal people;
- 2) to gain income for the mission station;
- 3) to offer work opportunities; and
- 4) to train people to manage their own land more efficiently.

Hanekom buys animals from the people for slaughter and then sells the meat to the community. Cattle fetch R120 - R150, sheep and goats R20 - R40, donkeys R10 - R30, and pigs 90c per kilogram. The meat is sold at a standard price of R2 per kilogram. Stopka buys the skins at R3 - R4 (cattle), R1 (sheep) and 60c to R1,60 (goats)

In this way the Institute offers work opportunities and a market for the people (it paid out R80 000 in wages in 1980), it raises money for the church, and certainly benefits the lessee!

The shoe factory which had flourished in earlier years reeled under competition from machine orientated factories, and Stopka closed it down in 1966. It was re-opened some time later, but has always struggled to become viable. Inflation hit the shoe industry in the seventies, and the traditional tyre-soled boot became too expensive. There were no funds available to acquire additional machines.

Stopka eventually declared the factory insolvent in 1979, but four workers continue to work the factory informally. They still (at the time of writing) have to sell their produce through Stopka, and have come up against stiff competition. A machine operated factory can produce twenty pairs of boots per day per person, as against the five or six pairs from a hand-operated factory.

In 1970 a modern cafe was added to the shop and a start was made on the manufacture of industrial gloves. In 1980 a new factory was completed for the gloves, and at present about a quarter of a million pairs are manufactured each year (5000 pairs per week).

Perhaps because of the position he occupies, Stopka does not appear to have endeared himself to the community, although there is general recognition that he is a hard and efficient worker. In his concern primarily for the financial side of the mission, he has been at odds with the church, and a number of the community leaders. He himself claims "it is harder to make money than to prepare one sermon a week", and says that the people are too smart for their own good, and if it were not for him, the community would collapse. (Kaplan, 1981)

Because he holds the key to so many of the inhabitants' incomes he feels reasonable secure, but threatened by those who are independent of him, in particular the school teachers, whom he considers to be "plotting against him". He also claims that he has never received any thanks or co-operation from the church.

The feeling was expressed by a number of Wupperthal inhabitants that the fact that the whole system depended on one man was wrong. At the time of writing (May, 1982) it has been established that Stopka is due to retire in the near future. It is possible that this will pave the way for a more democratic and co-operative solution for the Wupperthal Institute and all that it entails.

Footnote: Although the Institute is responsible for providing most of the employment available at Wupperthal, there are those in employment at Wupperthal outside the control of Mr Stopka. For the sake of completeness these are mentioned briefly here: teachers (government employed), builders (the size of Wupperthal mitigates against more than four of the inhabitants making a living from this source), farmers (although most sell their produce, which they grow on their allotted *groentetuine*, *erftuine* and *saaituine*, through the Institute, there are those who sell directly to others on the mission, as well as to outsiders), Postmaster (government employed) and community worker.

Employment under the auspices of the Institute includes the following: glove factory, shoe factory (although no longer under direct control), tannery, the shop and cafe, private farming, work on the mission farm, including the butchery and the mill, shepherd, gardener (for Mr Stopka and the Pastorie), garage attendant.

2.2.2.4 The School



Figure 24 *The three gabled school*

Although the school was founded by the Rhenish church, and is still today regarded as a church school, it now falls under the jurisdiction of the Department of the Interior, which pays the teachers' salaries and gives a monthly nett grant of R638 to the schools on the Wupperthal mission (this must be divided amongst six schools - see later in this section). No rent is paid for the land, the school being regarded as a church school. As the one institution that is financially independent of the Institute, the school plays an important role in social politics at Wupperthal, (although the teachers, as *inwoners* of Wupperthal, are subject to local rules and discipline on the mission).

As is the case with many educational institutions, it is suspected by certain conservatives of "plotting to overthrow the establishment" and adversely influencing the children. Certainly a school

which is daily imparting to children knowledge and values must have an influence on any community.

Mr Stopka himself conceded some of the above reservations, while his daughter expressed anxiety with the increasingly liberal attitudes adopted by teachers. "There is a lack of discipline at the school. The attitude is to talk and reason with the children, where what is needed is a good hiding." She added, "It seems as if the school is a big threat to the Status Quo."

The school principal, Mr Barend Van Rooy, is one of the most powerful figures in the village. He is also the treasurer of the church council, and seems to command respect from most of the people with his forthright and open manner, but he is not without his detractors; "He has a wild imagination - he thinks he is God" was one comment from a senior citizen.

The school at Wupperthal caters for children up to the level of Std six. In 1979 it was extended, with four classrooms, an office and a library being added. In 1981 there were 287 pupils enrolled with 32 school leavers, which indicates a decline from the previous year which recorded over 300 pupils on the register, with 38 school leavers. There are currently 12 teachers employed at the school - 7 female and 5 male.

Van Rooy sees two main causes for the declining numbers; firstly, the addition of new schools in the area and, secondly, the Family Planning programme. Since 1968 schools have been built at Nuweplaas, Eselbank (see fig. 25), Heuningvlei, Kleinvlei and Matjiesfontein. Some of these only cater for pupils up to standard four, and thereafter the children come to Wupperthal.

The school at Wupperthal boasts a high standard of work and behaviour, although there are signs that the latter has declined somewhat in recent years. In 1980 there was a 100% pass rate for the school leavers, most of whom attend high school at Malmesbury. Because of the good reputation of the school, most of the pupils manage to find places in the competitive high schools.



Figure 25 The new school at Eselbank

In summary, it would appear that there exists a complex web of social interaction at Wupperthal with relationships between the Church, the Institute and the school in a state of tension, and the Supervisory Committee, which has elements from all sectors within its ranks also displaying signs of internal turmoil while doing its best to keep the village running smoothly. These social inter-relationships play an important role in land ownership at Wupperthal, and have a bearing on the security of tenure the holder of the rights to a parcel of land enjoys.

2.2.3 Societal Restrictions in Land Rights

It has been established that the bundle of rights in land enjoyed by the holder is always an abstraction from absolute power (section 2.1.3) (Denman, 1972). Davis has described four ways in which absolute control over land has been restricted in civilized society (section 2.1.3). Rights held in land are recognized by a ruling authority which may also restrict these rights, thus decreasing the size of the bundle.

At Wupperthal this authority is the Moravian Church, which is the supreme authority over the people and has established a code of restrictive regulations for the benefit of the society (section 2.2.2.1). The *Opsienersraad* (section 2.2.2.2) is responsible for enforcing these regulations. It is thus an important aspect of the study of land tenure at Wupperthal to consider what restrictions have been placed on land rights by the church.

2.2.3.1 The Right to Tax

Every holder of rights in a house and/or land is required to pay an annual fee (*heffing*) on that house and/or land, as well as a levy on water used, refuse removal and livestock (per head). All taxes are payable before the 28th February each year and the *Opsienersraad* can revoke the rights if the holder is behind in tax payment.

2.2.3.2 The Right of Confiscation

The *Opsienersraad* may withdraw the rights in the land from the holder if his land has been unworked for two years, if the holder is absent from the community without permission for more than a year or if the holder is ordered to leave the community by the *Opsienersraad* for breaking one of the laws that carry that penalty e.g. repeated drunkenness. (See Addendum 3)

In the case of an inhabitant being ordered to leave the community through the breaking of a moral law, that person automatically loses his rights to the land. The land, which may consist of any set number of garden lots, and the house are taken to represent one Proprietary Land Unit. However, where the inhabitant has been found guilty of failing to meet the required standard of cultivation of his land or the maintenance of any furrows and embankments on his land (see Article of the *Ordeninge* - Addendum 3) he may be permitted to continue to occupy his residence, while losing his rights in the arable land.

2.2.3.3 The Right to Impose Restrictions in the Community Interest

Numerous restrictions and conditions which limit the absolute control over the land (and that includes the buildings on the land) have been imposed by the Moravian church and listed in the recently drafted *Ordeninge* (April, 1982), the set of rules that apply to all Moravian mission stations in South Africa. The major restrictions are listed here.

a) Only married persons over the age of 21 may receive full residential rights (*inwoonreg*) which permit that person to hold the rights in a house and arable land, although in some cases the *Opsienersraad* may grant this to persons under that age if they are married. (Article 14, Addendum 3)

b) Every family must have a separate house, which must be approved by the *Opsienersraad*. The house, which must be painted white, can be alienated to the church, or to any approved resident of the community. Whereas all land parcels belong to the church and cannot be alienated, the houses can be sold for cash. (See figs 19 & 26)

c) The houses and surrounding area (including water furrows) must be kept in good order, to the satisfaction of the *Opsienersraad*. (Article 21) In other words, the holder does not have the right to allow his house (and his land) to fall into a state of disrepair. This is obviously an area that affects not only the individual, but the community as a whole.

d) No outsider may stay with one of the families in Wupperthal without the permission of the *Opsienersraad* or the missionary. (Article 22) Thus there is not only a restriction on the use of the land, but on the use of the houses as well.

e) Paddocks for livestock (*kampe*) must be fenced and kept in good order on pain of forfeiture of the rights in the paddocks. All livestock must be kept in an enclosure at night, while pigs are to remain in their pens constantly. Each owner is responsible for his own livestock, and may have to pay a fine for damage caused by his animals. (Articles 23 and 25)

f) Water restrictions are imposed by the *Opsienersnaad*, to enable an equitable distribution of irrigation and domestic water to the whole community. Aside from the regulations already mentioned requiring continual maintenance of water sluits and furrows, the *Opsienersnaad* has appointed specific time periods to every landholder for the irrigation of his land. Irrigation furrows are led directly from the cemented canal which draws water from the Tra-tra, so it is important that irrigation times are staggered. Further, there are laws which prevent anyone from polluting or in any other way harming the village's water supply. (See record of court case, Addendum 4)

g) Restrictions to the rights in communal land have been set by the *Opsienersnaad* in the form of limiting livestock numbers that may be kept on the mission station by each family, and stipulating what portions of ground will be used for grazing at a given time and what portions will be left fallow. Burning of the veld is also restricted, and is subject to permission from the *Opsienersnaad*. (Article 25)

h) Further restrictions are placed on communal land by controlling woodcutting and the picking of veld flowers. Dry wood on the ground is free and available to all, but the cutting of green wood from a tree can only be done under licence, which is issued by the *Opsienersnaad*. Similarly a permit (issued by the missionary in charge) is needed to pick any wild veld flowers. (Article 27)

2.2.3.4 The Right to Minerals

This is a right held partly by the South African Government. Base minerals, such as those used in building materials, are permitted to be quarried from the land under supervision of the *Opsienersnaad*. This is seldom done on individual garden lots; rather communal land is used. The control exercised by the *Opsienersnaad* in this area is desirable in light of the possible environmental consequences of uncontrolled quarrying.

In the light of the above-mentioned restrictions which considerably reduce the bundle of rights held by the mission settlement

inhabitants individually, it can be seen that the emphasis on land holding at Wuppertal is, encouragingly, on stewardship rather than domination of the land, and the measures adopted by the *Opsienersraad* to a large extent

prevent the exercising of such control over property that may be to the detriment of that society or of the property over which the bundle of rights are held.

(Section 2.2.2)

2.3 SUMMARY

In this chapter land tenure at Wuppertal has been discussed in the context of theory of land and property. The concepts of bundle of rights, stewardship, Proprietary Land Unit, social matrix and general boundaries have found expression in concrete facets of Wuppertal land practice, and will also provide a basis for the comparison of tenure at Wuppertal with systems practised elsewhere. These will be discussed in chapter three.



Figure 26 *The beginning of the rows of houses which are owned by inhabitants of Wuppertal*

CHAPTER THREE

A COMPARATIVE ANALYSIS
OF
SYSTEMS OF LAND TENURE



Figure 27 *The merging boundaries of the land parcels of the groentetuine well depict the informal nature of the tenure at Wuppertal*



Figure 28 *Beans, potatoes, maize and fruit trees - some of the crops on the groentetuine*

Land Tenure has taken many forms in history, from the earliest years of humankind until the present, in other nations and within South Africa itself. In this chapter a number of these forms are examined, mostly as they have existed within the South African context, and comparisons made with the system of tenure practised at Wupperthal detailed in the previous chapter. An analysis of the basis for land tenure at Wupperthal based on these comparisons will then be made.

3.1 THE ORIGIN OF LAND REGISTRATION AND CADASTRAL SURVEY

The earliest records of man the agriculturalist date to around 6000 - 4000 BC in Mesopotamia and Egypt. Prior to this nomadic tribesmen roamed the more than sufficient earth in search of food. With the advent of a settled, growing agriculturalist population, land became a relatively scarce commodity. Although there were still vast tracts of unused land, prime land became limited, and thus gained a value.

There developed the need to define land boundaries sufficiently concisely to mitigate against disputes arising out of encroachment and fraud. This constituted the first system of land registration.

The word 'cadastral' derives from the French *cadastre* - "a register of property", or "a plan from which the area of land may be computed and from which its revenue may be valued".

(Jones, 1965) The word can be traced further back to the Greek *katastikhon*, meaning a notebook or register, which derives from *kata stikhon*, meaning line by line.

The practice of land measurement was known in the ancient civilizations of Babylon, Egypt and China. Certainly in Old Testament times survey techniques were practised as can be seen from the following quotation:

He showed me: Behold the Lord was standing beside a wall built with a plumb line, with a plumb line in his hand

(Amos, Ch 7, v 7)

A diagram enscribed on a clay tablet from Babylon dating back to 2300 BC (the time of the feared ruler Sargen of Akkad) is the earliest record of a cadastral plan. The earliest known beacon (c. 1000 BC) is also of Babylonian origin. Hewn from basalt, it carried its own built-in protection device - inscribed curses invoked on any person moving or destroying it. Deities were also prayed to to watch over the beacons, and regulations in civil and religious codes at the time carried severe penalties for offenders. That the Hebrew nation also practised a system of cadastral survey is apparent from the following quotation from the book of Deuteronomy:

Thou shalt not remove thy neighbour's landmark
which they of old time have set in thine
inheritance.

(Deut. Ch 19, v 14)

King Sesotris of Egypt ordered a complete survey of his country to re-establish the positions of beacons that were destroyed in a Nile flood in 1950 BC.

Over the years cadastral systems have developed to meet the needs of a growing population with increased pressure on the land. Greater accuracy in the survey and efficiency in registration and recording have been required to cope with more complex systems, but the essence of a cadastral system remains the same today as it did in the earliest times -

To define beacons and boundaries unambiguously
so that boundary disputes may be settled with
finality, and to enable a lost beacon to be
replaced to a degree of accuracy consistent
with that demanded by circumstances.

(Jones, 1965)

3.2 DUTCH TENURE IN THE CAPE COLONY

During the period of Dutch occupation between 1652 and 1795, three forms of land tenure prevailed. The most important of these were the Loan tenure (*Leenings*) and the Quitrent tenure (*Erfpacht*), with the third form, Property or Freehold tenure (*Eigendom*) less prevalent.

3.2.1 Loan Tenure

This form of tenure was nothing more than permission to an occupier to graze his cattle in a certain locality upon payment (later) of a rent and a tithe, and an annual renewal of his lease. (Botha, 1919) As early as 1655 mention in early Cape records (Resolutions of the Council of Policy, 1st October, 1655) is made of small garden plots in Table Valley held on loan. *Ordonnantien*, or permits, were granted to agriculturalists to graze their cattle in a certain locality subject to the rights of others in the vicinity.

Initially grants under this tenure were made free of charge, but as the demand for garden lots and grazing area grew, and the need for government revenue arose, so the pressure to charge a rent and/or tithe for the land increased.

In 1686 a formal decision was made to register deeds and leases with the Secretary to the Council, although a form of crude registration had existed since 1657. A record of Cape freehold deeds from 1657 to 1685 is preserved at the State Archives at The Hague. In 1714 the Council (that is, the governing body at the time) introduced payment of tithes and rent for "loan places" which essentially converted the system to leasehold tenure. The fixed rent was six rix-dollars per annum. In 1715 the government legislated to force the renewal of a loan place, on pain of forfeiture of the grant of the place.

The manner in which loan places were measured off indicates the imprecise nature of this tenure. The potential 'owner' of the loan place, which was marked by some central feature, often a spring (hence the abundance of names ending in *fontein*), applied to the government for the grant. An official, usually the District Field Cornet, would walk for half an hour in various directions from the central point, thus indicating a circular-shaped lot, estimated to be approximately 3000 morgen. The imprecise nature of this method led to cases of encroachment.

Rights were limited, and tenure somewhat insecure. The government had a right to withdraw grants arbitrarily, and although

they rarely exercised this right, there were cases when both the English and the Dutch governments resumed occupation of land given on loan. The farmers were often under a false sense of security with respect to their "loan places". The sale of buildings (*opstalle*) on the land was permitted but the occupier's rights were curtailed. No formal contracts were drawn up with respect to the land, and permits were merely recorded in a register called an *opgaaf*, and later an *ordonnantie* book.

An example cited by Denoon in the 1948 South African Law Journal of a grant for a loan-freehold farm, Klaas Voogdsrivier, well illustrates the rights and conditions inherent in this form of tenure.

The farm was granted with 'full power and authority to the grantee to sow, transplant, plant, erect buildings on and further possess the said farm hereditarily ... to sell, let or otherwise alienate the same (with the concurrence of the authorities)'. There were conditions to allow a three-road road to pass through the land, to replace felled timber and to render the said tithes. Also the requirement to pay an annual 'recognite' of 24 rix-dollars was made. The land was further liable to forfeiture on default and to a right of resumption by the government if required for public purposes.

(Denoon, 1948)

3.2.2 Quitrent Tenure

This form of tenure was introduced by proclamation of the Governor of the Cape on 18th February, 1732. The reason for its introduction is made clear in the words of the proclamation:

.... to permit the inhabitants for the benefit and promotion of agriculture new pieces of land ... to be granted on quitrent for the term of fifteen years, provided that the property of such land remains with the Company who at the expiration of that time desiring to take back the said land ... shall not be obliged to pay the tenants ... anything more than the mere buildings or plantations at proper valuation

(Fisher, 1981)

The emphyteuta (holder on quitrent) was entitled to derive all profits and benefits that normally accrue to a usufructary, except that he/she will not be entitled to "dig out potter's earth, materials for fuel, mines or quarries". (de Villiers, 1874)

In 1797 there were only 35 quitrent grants in the entire colony, 25 in the Cape district (an 80 x 25 mile strip along the Atlantic coast) and 10 in the Stellenbosch district (an area about 380 x 150 miles stretching east). (Duly, 1968)

All grants made under this tenure were accompanied by surveyed diagrams of the area of the grant. In 1743 it became possible to convert to "perpetual loan" or "loan freehold", but few conversions were made. (Jones, 1965)

3.2.3 Property Tenure

The Cape Town Deeds Office records indicate that the first grants under this tenure (freehold land) were authorised on the 14th April, 1657. These grants, both bearing surveyor's diagrams to represent the land parcel conveyed by them were later cancelled and the land regranted. (Fisher, 1981)

A later property grant was given to Jacob Cloete in October, 1657. He was permitted to sow grain and hold it without rent for 12 years, after which it would be subject to impositions and duties. (Botha, 1919)

Grants under this tenure, sometimes given for services rendered to the government, and sometimes payment being demanded, continued to be made until 1813, although fairly irregularly. Conditions were often stringent, the grantee in some cases having to pay one-tenth of his crops, to allow thoroughfare, to cultivate the land to its fullest extent, to replace any trees cut down and liable to forfeit his land if any condition was not met.

In the usual property grants there were not rights of grazing or pasturage, but it was implicit in government legislation that cattle could be grazed on government waste land outside the property limits.

In 1812, when the Cape was under British rule, with Sir John Cradock as governor, the Deputy Colonial Secretary wrote to the

fiscal, Truter, asking his opinion on the existing tenure as practised in the colony and seeking suggestions for improvements. In his reply Truter stated "... the present state of tenure in this colony is very defective.... The want of security is prejudicial to the individual holder, but it also has a material influence on the revenues of Government....". Truter recommended that the best form of tenure would be that by which the holder be allowed the right to possess the land hereditarily and be free to alienate it as he wished. He said the government should give up its previously held rights of revocation, and lease the tenure on Perpetual Quitrent in return for a moderate annual rent, based on the fertility of the soil, accessibility and other circumstances of the land. Truter also suggested further conditions and proposed further that all loan place grants be altered into perpetual quitrent.

Similarities between the early Dutch tenure at the Cape and that practised today at Wupperthal are apparent. These will be discussed in greater detail in section 3.6.1.

3.3 COGNATIC TENURE

As in the case of the early Cape holdings, many similarities exist between the type of tenure in both traditional and westernized black rural areas and that practised at Wupperthal. In both cases a degree of isolation from the cities and cultural norms has led to a less rigid, less formal system, that can work and has worked well, but is not without its shortcomings.

3.3.1 The Traditional African (Tribal) Tenure

It should be noted that the tenure considered here is that which has existed amongst the black peoples of Southern Africa in the times when tribes moved around continually in search of better pastures. Although tenure in black-owned rural land today still bears similarities to the traditional tenure, there are a number of points of departure. These are considered in section 3.3.2.

It was generally accepted under traditional tribal tenure that membership of a community entitled an individual to a share in

the lands of that community and the natural resources of the land. The land was essentially all for the use and benefit of the community and individual rights were not conceived. The chief held the rights in the land, and the power of allotment vests in him, or in his chosen headmen.

The occupier of a parcel of land had various rights in it: rights of residency, arable land, grazing, water, firewood, game, forest produce, clay and other natural products of the land. Only subsistence agriculture was practised, and if more progressive farming methods were learnt, that meant smaller farms and hence more allotments, rather than producing a greater quantity of crops than was needed for family needs.

While rights to water, firewood and game were never allocated as such, residential and arable rights were allocated only on a temporary basis, although they might be regarded as exclusive for that period. When crops were cultivated often the individual rights lapsed and the land once again became communal property.

The mobility of the holdings mitigated against clear demarcation, although a rock or furrow sometimes indicated the limits of an individual concession. The larger ward under a headman was often indicated by natural features, e.g. rivers, streams or hills.

When no more land was available nearby, more land was sought. Old land might be abandoned and used by others, but original holders could return later and press their claims.

Thus under the traditional system of agriculture there was mobility of holdings and flexibility of boundaries, but if the mobility was curtailed, boundaries emerged, and this pattern will become crystallized for the sake of security of tenure. (Jones, 1965)

3.3.2 Current Tenure in Black Rural Regions

Many of the customs and norms of the traditional tribal tenure remain and are practised today. However, there are a number of

changes that have been made. For example, lack of mobility has forced the people to adopt a more permanent system with respect to the land.

Some of the salient points of this tenure are listed below:

- a) The *dominium* of the land is vested in the living family members who hold it in trust from their ancestors on behalf of those not yet born. The ownership is joint and undivided.
- b) The land is inalienable outside the family group.
- c) Use of the land is both communal and individual. Some land is allocated for common use - such as pasturage, firewood, fruits, herbs or thatching reeds.
- d) Each male on attainment of adulthood has a right to the possession and use of a portion of land. The chief is obliged to allocate land to every member of the group under various conditions. Amongst others, these are:
 - i) individually held land is for habitation and cultivation only;
 - ii) possession is continuous and for life, although the land may be withdrawn if the possessor does not meet his social obligations;
 - iii) the extent of the grant varies according to circumstance but boundaries are not clearly defined;
 - iv) the individual holds his land as head of the family and the right will pass to his successor at death; and
 - v) an individual may enjoy the right of use exclusively, but he has no absolute ownership - this vests in the chief of the group or tribe. Personal property may be conceived though in terms of crops and buildings which may be bought and sold separately from the land.

3.3.3 The Tomlinson Commission Report (1955)

This report, *inter alia*, listed the characteristics of tribal tenure as practised at the time of the Commission. Again, there are marked parallels with the informal system of tenure at

Wupperthal, which will be discussed in section 3.6.2. Some of the report's findings are listed here. (The numbering is according to the report.)

- (1) The land is settled on a tribal basis.
- (2) The land is divided into allotments for residential purposes, cultivation and for grazing. Pastures are used by all.
- (3) The Bantu Commissioners control the rights of use and occupation. They have the sole right to allocate land, but they always consult with local headmen.
- (4) The average residential site is one acre, with arable allotments 8 - 10 acres.
- (6) Only married men, or women with families (widows) are entitled to land.
- (8) No charge is made for the right to use and occupy the land. An annual hut tax is payable by married men.
- (10) The right to occupy the land may be terminated by the (Bantu) trust. This may either be for public purposes or for owners' misdemeanours (default in tax payment, failure to occupy an allotment beneficially, absenteeism, conviction of stock theft).

3.4 LAND TENURE IN "WHITE" SOUTH AFRICA

The South African/Roman-Dutch concept of ownership is one that gives the owner all conceivable rights in a thing (except those that the State reserves through national legislation). This form of ownership is referred to as *dominium*. The owner has an absolute title and may enter into agreements and contracts with others in respect to the land. The concept of *dominium* has its origin in a mistaken interpretation of Judeo Christian theology, arising out of the "creation story" found in Genesis, where man was given the land and all that was on it to use and enjoy, but the tenure was essentially one of "stewardship", rather than *dominium*.

3.4.1 Recording and Transferring Land Rights

There are three main formal systems of recording and transferring land-rights: Private conveyancing, Registration of Deeds and Registration of Title.

Private conveyancing is the most primitive of the three. It relies on a private contract drawn up between the seller and the buyer. There is no cadastral survey or public recording system involved. The title deeds are only in single copy and there is much uneconomical work and time wastage.

Registration of Title is the most efficient of the three, but is a complex system and costly to introduce. Its two main features are that the title and rights are dependent on the act of registration, not on documentary instruments, and that the basic unit is the individual land parcel. Thus the cadastral survey forms an integral part of the system.

South Africa practises Registration of Deeds. This includes the registration of all deeds affecting land grants, transfers, servitudes and mortgages. It is an improvement on the conveyancing system as it involves a cadastral survey and all deeds are kept in a public Deeds Registry Office; however, registration does not cure defective deeds, and the Office eventually becomes congested with dead documents (superceded deeds). (Jones, 1965)

3.4.1.1 Deeds Registry System

Jones lists three elements which must be recorded in order to obtain security of title. These are the unambiguous definition of land units, the rights and interests in a specific land unit and the person(s) enjoying these rights in a specific land unit. (Jones, 1965)

There are numerous deeds and certificates under which land can be held in South Africa, and numerous registers are kept (e.g. land [erf and farm], personal, conveyances) to deal with the many land transactions.

Through the Deeds Office it is possible to trace any land transaction that has taken place in South Africa under a tenure that ensured such records be kept. Some early loan farms did not require formal deeds or diagrams of the land parcel. Many of the old, and often inaccurate, diagrams have been updated, and all such diagrams can be checked in the Deeds Office.

A suitable registration system should be simple, cheap, speedy, secure, accurate and appropriate to the needs of the country or region.

The South African system is secure, accurate and generally appropriate, but is perhaps too complex and expensive, and often much time is wasted in registration. The system has, however, been improved over the last decade.

The good cadastral system ensures security, and the system is accurate in all respects except for surveys prior to 1927. The courts have evolved a set of rules to deal with discrepancies arising out of errors from earlier surveys.

The number of titles under which land can be held (e.g. Certificates of Registered Title, Consolidated Title, Amended Title and Uniform Title) and the increasing number of transactions has led to a fairly complex system.

3.4.1.2 The Cadastral System

The object of any cadastral system is to define the limits of a parcel of land unambiguously on the earth's surface. The limits of the unit are either defined by means of physical boundaries, or the corner points of the unit are designated by suitable ground marks or beacons.

Generally one can comment that South Africa has a rigid, formal cadastral system with the basic aim of introducing uniformity in all aspects.

The regulations are wide-reaching and detailed, prescribing guidelines and rules from the qualifications of land surveyors

who may practise in South Africa, to specifications on the construction of beacons.

The use of general (natural) boundaries is discouraged, thus beacons are all-important. All beacons, reference marks and trigonometrical stations are protected under the law. Thus the regulations provide for solid, permanent beacons, with adequate witnessing and connection to the trigonometrical survey system. (Jones, 1965)

The South African cadastral survey system is based on the Gauss Conformal Projection which is relatively simple, allowing a minimum number of corrections to be applied to observations. All surveys are linked to the National Trigonometrical network, and isolated surveys are not permitted, except in unusual circumstances.

Various procedures are outlined for the resolution of any dispute that may arise over the position of beacons and boundaries. Original beacons of the unit always define the true boundaries even if they do not correspond to the original diagram. Where beacons have been recognised by all parties for at least thirty years, they are taken as original beacons. When the position of a beacon is in agreement with the position adopted in a re-survey of a unit, the beacon becomes an "established beacon", and cannot further be brought into question. Since 1927 there have been relatively few disputes as beacon uncertainty is gradually removed.

Every privately owned unit in the Republic is represented on a surveyed diagram, and although state-owned land is not, a map of this land can be compiled by reference to the boundaries of the adjoining property. Thus the cadastral survey system to all intents covers the whole of South Africa.

3.5 ENGLISH LAND LAW

The English concept of ownership (the Doctrine of Tenures and Estates) sees property in terms of rights over land, rather than in the land itself. There is no absolute ownership of land, but rather a citizen may own an estate in it, giving him the right to hold it for a given period of time, which may be perpetual.

Thus a person owns an estate in the land because he holds a bundle of rights over it. He does not have property rights over the land by virtue of the *dominium* of Roman-Dutch law, there being in English law no such concepts. The monarch is the ultimate possessor of all rights to the land, and a subject may be given some of these rights at a time, but never the right of absolute ownership.

England practises a system of general boundaries. The concept of general boundaries has been detailed (section 2.1.3.2) and need not be repeated here. England being a well developed country, it is well suited to the application of the general boundary system. The majority of boundaries in England have either natural or man made barriers along them, and these lines of occupation are passed down through the generations, with remarkably few land disputes.

3.6 AN ANALYSIS OF THE BASIS FOR LAND TENURE AT WUPPERTHAL

A comparison will be made in this section between the various systems of land tenure discussed in sections 3.2 to 3.5 and that at Wupperthal in an attempt to establish the basis for the system practised at Wupperthal.

3.6.1 Similarities to Early Cape Tenure (Sections 3.2.1-3.2.3)

Close similarity can be seen between the present system at Wupperthal and the early Loan tenure. Under that rule, the government had a right to withdraw grants arbitrarily, and the rights held over the land were limited. The holder paid a fixed annual rent for the land. This holds true for Wupperthal,

as does the fact that only the buildings on the land are alienable. If a person is expelled from the community for any reason, (see section 2.2.3.2), the *Opsienersraad* are not obliged to pay compensation for land parcels the expelled person may have cultivated. He is only entitled to remuneration from the alienation of his dwelling. The recognition of the sale of buildings (*opstalle*) on land under Loan tenure by the government led the early farmers into a false sense of security about their land in terms of the legislation existing at the time, although cases of revocation were rare. Thus, although in practical terms their confidence may have been well founded, the law that provided for government revocation left their bundle of rights thin. The situation is similar to that at Wupperthal, where no cases of revocation have been recorded over the past few years, although the rules provide for this.

A further similarity exists in the imprecision of boundary definition. Although Loan Farms were far more extensive than land parcels at Wupperthal, the vague boundary descriptions that led to encroachment were akin to those at Wupperthal today, although most boundaries at the mission village have become well-established. Also no formal contracts were drawn up under Loan tenure. Permits were merely registered in the *ordonnantie* book which, in the absence of the *boek van kaarte en transport* is now practised at Wupperthal.

A similarity to the Property or Freehold tenure exists in the fact that in the Property grants there were no rights of pasturage, but it was implicit in the existing government legislation that cattle could be grazed on government waste land outside the property limits. At Wupperthal much of the church-owned land is regarded as communal grazing pasture for sheep, goats and cattle.

One feature of early land tenure at the Cape under British occupation that is also a distinctive tenet of Wupperthal land law, is that under Perpetual Quitrent the holder of the grant paid a rent based on situation, fertility and other circumstance of the land, rather than the fixed sum of the Dutch tenure. At Wupperthal the discrepancy in the rent payable for the *erftuine*, *groentetuine* and the *saaituine* reflects this principle.

3.6.2 Similarities to Cognatic Tenure

It has been suggested (section 3.3) that isolation from cities and hence cultural norms has led to similar, less formal systems of land tenure at Wupperthal and in black rural regions in South Africa, and there is much common ground in the respective systems to substantiate that claim.

In traditional tribal tenure (see section 3.3.1) the rights in the land vest in the chief, who makes allotments to his subjects, who have rights of residency, arable land, grazing, water, firewood and the natural produce of the land. The first two rights are usually individual, while the others are communal. It can readily be seen that the bundle of rights held under this tenure is of similar thickness to that held by a resident of Wupperthal, except that the immoveable nature of the land at the mission village as opposed to the mobility of the tribal tenure has led to limitations being placed on the rights of grazing, water, firewood and natural produce.

The demarcation of individual land by a rock or furrow under tribal tenure is clearly similar to the general boundary system at Wupperthal. (See fig. 29) Also the division of the *groentetuine* and *saaituine* by Singkop could be seen as parallel to the tribal ward division.

Current black rural tenure (see section 3.3.2) surpasses that of Wupperthal in terms of security in certain areas. Amongst these are the fact that under this tenure the land is inalienable outside the family group, the fact that marriage is not a prerequisite for an adult male to hold land and the fact that the rights in the land pass on to the holder's successor (within his family) on his death.

The right of inheritance appears to be a source of some confusion at Wupperthal. Some family heads claimed that their house and land could be directly willed to their heir - usually the youngest son, while others held that there was no direct inheritance, and the land reverted to the church on their death.



Figure 29 *The system of general boundaries at Wuppertal is similar to the Cognatic tenure*

A survey carried out by Cadle (Cadle, 1981) reveals contradictory opinions concerning inheritance. There was one case of a youngest son who had inherited his father's house, and claimed that his father had made out a written will to that effect. A number of other interviewees supported the theory of the youngest son inheriting house and land, but another stressed that there is no direct inheritance of land, and that on the death of the family head, the land reverted to the *Opsienersraad*, who redistributed it.

The head of the Moravian Church in Cape Town, Rev Martin Wessels, agreed with the latter view, but it appears that although technically the land reverts back to the *Opsienersraad*, the youngest son has the first option on the land, and unless there is good reason, he will automatically take over his father's land. If he is unmarried, the land will be held under his mother's or another family member's name until his marriage. Dwellings, unlike land parcels, are directly inherited. The policy of the youngest son

inheriting the family dwelling and land is based on the assumption that when he has reached the age for marriage, his parents will be ready to retire from the task of working the lands.

Section 3.3.2 (v) closely resembles the situation at Wupperthal, where the land vests in the church, rather than the chief, and ownership is seen in terms of the dwellings, not the land.

The Tomlinson Commission Report (section 3.3.3) on black rural tenure, reflects many principles that are applicable in the land tenure system of Wupperthal. Points 2, 3, 6 and 10 of the Report could all be applied to the situation at Wupperthal.

Points 2 and 6 are self-explanatory, while under point 3 the 'Bantu Commissioners' are replaced by the *Opsienersraad*. The analogy is particularly apt, as the commissioners were subject to the government who owned the land, whereas at Wupperthal, the *Opsienersraad* is subject to the Moravian Church, the owner of the land. Point 10 highlights some of the reasons for expulsion from the land, the first three being true of Wupperthal as well.

3.6.3 Comparison with English Tenure

As in English land law, the internal system of land tenure at Wupperthal knows no concept of absolute ownership (*dominium*) in the land. Under the British system (the Doctrine of Tenures and Estates - see section 3.5) the monarch is "the ultimate possessor of all rights in the land", whereas at Wupperthal the church plays that role. The church may grant to the inhabitants of the village certain rights in the land, but there is no concept of absolute ownership of the land. For example, apart from the dwellings, there is no right to alienate the land, and, in general, the bundle of rights held by the occupier is far thinner than a bundle held under *dominium*. (See section 2.2.3)

The concept of general boundaries has been discussed under section 2.1.3.2 and the fact that the system of boundaries at Wupperthal follows this system has been alluded to in section 2.2.1.2 (a). It is probable that during the Rhenish period a more precise system of boundary control existed at Wupperthal, with diagrams and

descriptions of all parcels recorded in the book of deeds and diagrams (although it is unlikely that the system was ever of the standard required by the South African system of precise boundary demarcation). Now, however, there exists no such record; instead the boundaries "exist in the territorial concepts of contiguous neighbours ..." and are merely lines of occupation rather than exact demarcations. In this case, a holder may assert that his boundary "runs along this furrow or path," and this has been readily accepted by contiguous neighbours.

Broadly speaking, in Wupperthal, as under English land law, there is no precise measurement, demarcation or recording of land parcel boundaries or corner beacons. Boundary positions have become well established over many years, and land parcel shapes which may not be apparent to an alien, are readily conceived by the local inhabitants.

3.6.4 Informal Tenure within the Formal South African System

Because of the isolated nature of Wupperthal - both geographically and culturally - there is a temptation to ignore the fact that it is an integral part of the Cape Province of South Africa. South African law, however, compels the wider Wupperthal Mission (that is, all the farms that make up the mission) to be registered under title in the Deeds Registry Office in Cape Town, and as such Wupperthal is part of the system of Land tenure in South Africa.

The original deed for the farm "Whupperthal" was registered in 1832, having been granted to Rev Von Wurmb on behalf of the Rhenish Missionary Society, and is outlined in section 1.2.5.1 (see diagram, fig. 12 and deed, fig. 6). The other farms were registered in subsequent years (see fig. 13).

As has been seen under 3.4, the South African system is characterised by a rigid, formal approach based on a well developed cadastral survey network and a relatively complex, but complete deeds registry. Precise demarcation of boundaries with accurately placed, witnessed and recorded beacons and a thick bundle of rights representing the near absolute ownership of *dominium*

are essential facets of the system, and ensure a high degree of security of tenure.

Ironically, the internal system of land tenure at Wupperthal is the opposite of the formal, external system of which it is a part in almost every respect, there being no obvious similarities in the South African "white" system and the informal land tenure practised at Wupperthal.

3.7 SUMMARY

The internal system of land tenure at Wupperthal has been compared with a number of other independent and distinct systems. Similarities between these systems and that at Wupperthal have been highlighted in an attempt to reach a fuller understanding as to the nature of the system of land tenure at Wupperthal. The natural isolation of Wupperthal from outside civilization has led to a system of land tenure that is distinct and different from the system of tenure in the rest of South Africa. It has led to an informal system which functions more by verbal agreements and tradition than a reliance on laws and accurate measuring and recording.

Thus there are no formal contracts, and only the fact that the rights to a certain parcel of land are held by an individual is recorded in a book kept at the church office at Wupperthal. The boundaries of the individual land parcels are imprecise, sometimes marked by stones at the corner points, furrows, paths and fences and sometimes having no discernible demarcation.

Inhabitants hold a certain number of limited rights in the land. These include the rights to residency, arable land, grazing, water, firewood and the natural produce of the land. These rights are all subject to various restrictions imposed by the *Opsienersraad*. Land is held both individually and communally, the communal land being used for pasturage, paddocks, firewood, building material and other natural produce from the land.

The security in the land is limited by the fact that the Church has the right to revoke the land if certain conditions are not met. Personal property can be conceived only in terms of the buildings on the land and in the crops, not in the land itself, and only dwellings can be alienated for remuneration.

The inhabitants pay taxes on the land held as well as for their house, livestock, water and services. The levy on the land varies according to the size, situation and fertility of the land. The taxes are paid to the Church which owns all the land and in whom most of the rights in the land vest. (Rights such as the right to precious minerals vest in the South African Government.)

Only married men or widows are entitled to the rights in land, and there is no direct inheritance of the land, although houses may be inherited, usually by the youngest son. Usually, however, the youngest son will take over the rights in the land as well, once this has been acknowledged by the *Opsienersraad*.

CHAPTER FOUR

ENVIRONMENTAL ELEMENTS



Figure 30 The Tra-tra river - one of the most important environmental factors at Wuppenthal

The previous chapters have dealt with the system of land ownership at Wupperthal in the context of past and present systems of land tenure both within and outside South Africa. The central aspect in the preceding discussion has been the land itself, defined in its widest sense. (See section 2.1.2)

In the introductory chapter certain environmental criteria, such as climate, topography and vegetation, were examined within a broad perspective. It is necessary here to deal with each environmental aspect more specifically in an attempt to relate these issues to the land at Wupperthal, and, where possible, to show how the environment relates to the informal land tenure prevalent at Wupperthal.

4.1 PHYSICAL ASPECTS

4.1.1 Hydrological Factors

One of the most important environmental aspects to be considered at Wupperthal is that of the prevailing climate, and, more specifically, the rainfall. This has been recorded in more detail in section 1.2.4. The arid conditions have made necessary an extensive irrigation system. (See Fig. 12)

Wupperthal, although itself in a rain shadow, benefits from the higher rainfall of the elevated surrounding regions, in that the water drains off via a number of rivers into the Wupperthal valley, thus enabling a far greater productivity from the land than could be expected from the local rainfall data.

The perennial Tra-tra river (see fig. 30) yields a constant water supply to the mission village, and a furrow network has been developed in order to irrigate the lands efficiently. These furrows often demarcate the boundaries for the land parcels, and this is particularly noticeable in the relatively small *groentetuine*. (See figs. 7, 15 and 18)

The water run-off from Singkop affects the poorly drained soil of the *vleitaine*, the waterlogging of the arable land often delaying the ploughing and sowing of the land. One of the results of this is that the land in close proximity to Singkop can only be used for the cultivation of rye and barley, and has also led to some irregularly shaped plots.

The flooding of the Tra-tra river has proved a major environmental problem in the past, but the building of the dyke wall on the northern bank (see fig. 20) has alleviated this, and has enabled the fertile *erftuine* to be intensively cultivated. A negative side-effect - the erosion on the south bank - has been mentioned in section 2.2.1.2 (b).

As has been mentioned in section 2.2.1.2, the proximity of the Tra-tra and Koms rivers to the land parcels is an important factor in the demand for those parcels. Consequently the *erftuine*, situated within a few metres of the Tra-tra river are the most sought after, and most expensive parcels. The water from the Koms river is not as accessible nor as reliable and this reduces the value of the *vleitaine* which border on this river.

4.1.2 Pedological Factors

Although, as has been previously mentioned, the size of the larger Wupperthal Mission is extensive (38000 ha), only a relatively small percentage of land is suitable for agriculture. A larger area offers grazing to stock animals, but the majority of land consists of unproductive, rugged mountain slopes. It is only in the river valleys and on flood plains that crop farming is practised to any great extent.

Relatively little use is made of artificial fertilizers. These are expensive, and if used without the necessary expertise can prove wasteful. Organic fertilizer, largely in the form of goat and donkey manure, is used fairly extensively, but could yield improved results with a more scientific approach.

Although human ablution facilities are situated near the *erftuine*, it appears that little or no attempt has been made to appropriate

this form of readily available fertilizer.

Table 4.1 of soil fertility at Wupperthal is based on samples analysed by means of the Sudbury soil test kit. The letters A - P refer to the areas from which the samples were obtained and may be identified from the map. (Fig. 11)

Only the three most important growth nutrients, namely Nitrogen (N), Phosphorous (P) and Potassium (K) have been considered and analysed. It should be noted that this is not a detailed chemical analysis. The nature of the testing method (comparing the colour of a sample solution with a colour code) merely gives an approximate indication of the deficiencies of the above-mentioned nutrients.

The recommended fertilisers that can be used to correct the deficiencies are as follows:

| | | |
|--|---|---------------------|
| Nitrogen deficiency | — | Sulphate of Ammonia |
| Phosphorous deficiency | — | Super Phosphate |
| Potassium deficiency | — | Sulphate of Potash |
| Soil too acidic ($\text{pH} < 6\frac{1}{4}$) | — | Lime |
| Soil too alkaline ($\text{pH} > 6\frac{1}{4}$) | — | Sulphur |

It can be noted from the map that the soil is acidic on the southern side of the *groentetuine*, throughout the *erftuine*, and on the eastern side of the *vleituine*. The highest degree of alkalinity is found south east of the rugby field and at the base of the Eastern slope of Singkop. The soil most deficient in nutrients is found near the tannery, on the north eastern side of the *erftuine* and below the eastern slope of Singkop (*vleilande*).

This analysis is borne out by the views of the farmers who till the land. The soil from the *groentetuine* next to the water furrow, near the tannery, is regarded as "sick and unproductive". It is salty and poorly drained and has possibly been affected by the deposition of poisonous waste materials from the tannery on this soil. The *vleilande*, too, are not in popular demand because of their relative infertility.

TABLE 4.1 SOIL FERTILITY AT WUPPERTHAL

| AREA CODE | NUTRIENT + ACIDITY | % DEFICIENCY + ACIDITY VALUE | FERTILIZER PER 10m ² TO BE ADDED (grams) | AREA CODE | NUTRIENT + ACIDITY | % DEFICIENCY + ACIDITY VALUE | FERTILIZER PER 10m ² TO BE ADDED (grams) |
|-----------|--------------------|------------------------------|---|-----------|--------------------|------------------------------|---|
| A | N | 2 | 225 | J | N | 2½ | 290 |
| | P | 1 - 1½ | 170 | | P | 3 | 335 |
| | K | 3 | 135 | | K | 2 | 75 |
| | pH | 4½ | 6500 | | pH | 5 | 5000 |
| B | N | 0 - 1 | 70 | K | N | 2 | 225 |
| | P | 1 - 2 | 175 | | P | 2 | 225 |
| | K | 2 | 75 | | K | 8 | 370 |
| | pH | 4½ | 6500 | | pH | 7 | 500 |
| C | N | 0 - ½ | 50 | L | N | 2 | 225 |
| | P | 0 - ½ | 50 | | P | 2 | 225 |
| | K | 2 | 75 | | K | 6 | 285 |
| | pH | 4 ¾ | 6000 | | pH | 5 | 5000 |
| D | N | 2 | 225 | M | N | 1 - 2 | 150 |
| | P | 0 - 1 | 60 | | P | 3 | 335 |
| | K | 3 | 135 | | K | 12 | 500 |
| | pH | 7½ | 1000 | | pH | 6 ¼ | -- |
| E | N | 2½ | 285 | N | N | 2 | 225 |
| | P | 3 ¾ | 400 | | P | 6 | 750 |
| | K | 6 | 285 | | K | 8 | 370 |
| | pH | 5 | 5000 | | pH | 5 | 5000 |
| F | N | 0 - 1 | 70 | O | N | 2½ | 285 |
| | P | 1 - 1½ | 170 | | P | 2 - 3 | 280 |
| | K | 4 | 200 | | K | 4 | 200 |
| | pH | 4½ | 6500 | | pH | 6 | 2000 |
| G | N | 1 - 2 | 150 | P | N | 2 | 225 |
| | P | 1 - 2 | 175 | | P | 1 - 2 | 750 |
| | K | 3 | 140 | | K | 2 | 370 |
| | pH | 5 | 5000 | | pH | 5 | 5000 |
| H | N | 2 | 225 | | | | |
| | P | 4 | 450 | | | | |
| | K | 10 | 435 | | | | |
| | pH | 7 | 500 | | | | |

The *vleilande* on the eastern side of the valley are more fertile. This soil is better drained and relatively rich in nutrients, thus yielding a wider range of crops.

The most fertile soil is that of the *erftuine*. This soil is formed mostly from the Bokkeveld series, the shale of which is fine-textured and rich in nutrients. To add to the fertility of the soil

is the constant water supply from the perennial Tra-tra, which flows alongside the *erftuine*.

The *groentetuine* are less fertile, as the soil derives largely from the TMS, although, as this area is situated on the TMS/Bokkeveld interface, there is some influence from the latter soil series. Apart from the acidity, the soil is sandy, shallow, coarse-textured and leached.

The relatively high acidity of the soil can be the cause of a lack of the trace element molybdenum. This can have a marked effect on productivity, and a molybdenum application either to the soil or as a foliar spray, can improve plant growth.

As is the case with proximity to a constant water supply, the fertility of the soil influences the demand of the land parcels. The fertility of the *erftuine* which consist of the sweet Bokkeveld derived soils accentuates the demand for these land parcels, while the less fertile regions of the *groentetuine* and the badly drained *vleilande* are not as popular.

4.1.2.1 Crop Diseases

A number of diseases have affected crops at Wupperthal. It would be necessary for a qualified agriculturalist to identify the diseases accurately and suggest preventative measures. The names of the diseases given by the farmers are vernacular terms, which cannot be readily identified, and have been used untranslated in the text.

Swartbrak and *witbrak* are apparently soil deficiency diseases caused by a high soil acidity and have affected much of the maize crop in the past. Although now controlled to an extent, primarily with a lime/chalk solution, they are still responsible for crop losses. Late frost which sometimes occurs in October also has an adverse effect on crops. *Vrotkaal* is a bacterial disease which also takes a toll of the crops.

4.1.3 Biotic Factors

A detailed description of the natural vegetation has been given in section 1.2.2.3. This section will merely indicate the role played by the vegetation in the overall environment of Wupperthal, and will point to potential problem areas where this natural resource has been abused. The role of the fauna (both wild and domestic) will also be examined in the environmental context.

Firewood for fuel is a relatively scarce commodity at Wupperthal, and the excessive destruction of trees for this purpose would prove harmful to the environment. Apart from the obvious aesthetic value and the shade they afford, the trees and shrubs bind the soil and prevent soil erosion. Although measures have been taken to protect the trees (firewood may only be cut and sold under licence), they are being destroyed at a faster rate than replacement. This is particularly apparent in the wooded area just north of the village through which the tributary of the Tra-tra from Matjiesgoedkloof flows. (See fig. 2) One possible side-effect of the denudation of woody areas is that this could lead to fewer nutrients and less organic material in the soil, and thus the water system. (Southwood, 1981) This could have harmful consequences for the functioning of the local ecosystem, one possible example being the lack of nutrients in the soil of arable land affecting the crop production. The cutting of firewood is only allowed under licence (section 2.2.3.3), but it appears that this control may be insufficient. The fuel problem is one that bears further investigation, and alternative energy sources need to be sought. The importing of firewood or coal, solar energy and methane digesters are three possible energy sources that could be investigated.

Overgrazing is a major problem at Wupperthal, leading to loss of topsoil through soil erosion due to water and wind. The sweet vegetation of the Bokkeveld soils is particularly susceptible to overgrazing, and the southern slope of Grootkop is badly eroded in parts. The sourveld which comprises the arid fynbos on the TMS is less sought after for grazing, but it, too, has suffered as the preferred pasturage has been depleted.

Grazing rights are controlled by the *Opsienersraad* which controls the number of livestock on the land (section 2.2.3.3 (g)). It appears that here, too, control is not satisfactory. The veld is badly overgrazed in certain areas, and a full study of this problem is urgently required. The grazing in the region surrounding Wupperthal is too localised, and shepherds need to guide their flocks farther afield.

Apart from the sheep and goats whose grazing is controlled to an extent, the semi-wild donkeys (estimated at over 2000) which roam unrestricted through the area wreak tremendous destruction on the vegetation cover and the soil that it holds. This constitutes one of the most serious threats to the environment, and it is important that the donkeys are restricted in number and controlled. They are used for a short period each year for ploughing, and to a small degree for transportation, but there are far more donkeys in the area than are required for these purposes. (See fig. 31)

Baboon raids on crops have been mentioned (section 2.2.1.2 (c)). The Cape Chacma Baboon (*Papio ursinus*) is responsible for the destruction of crops, particularly on the more distant *vleituine* and the southern section of the *groentetuine*. Hunting expeditions to exterminate this threat have only been partially successful. Most of the baboons' natural predators appear to have been eliminated from the area.

Birds are another source of crop destruction, with the fruit being particularly hard hit. Among the species responsible for this are the Red Winged Starling (*Onychognathus morio*), the Cape Sparrow (*Passer melanurus*) and the Cape Weaver (*Polceus capensis*). Scarecrows are used with limited success.

The *handedopvlieg* has provided a major problem for fruit growers. Peaches are the worst hit, and are sucked dry by vast numbers of these pests. The *Rooiluis* beetle also destroys fruit and vegetables by eating into the crop and dehydrating it. Relatively large sums of money have been spent in an attempt to combat these diseases and pests. Bexadust has proved effective as a poison.

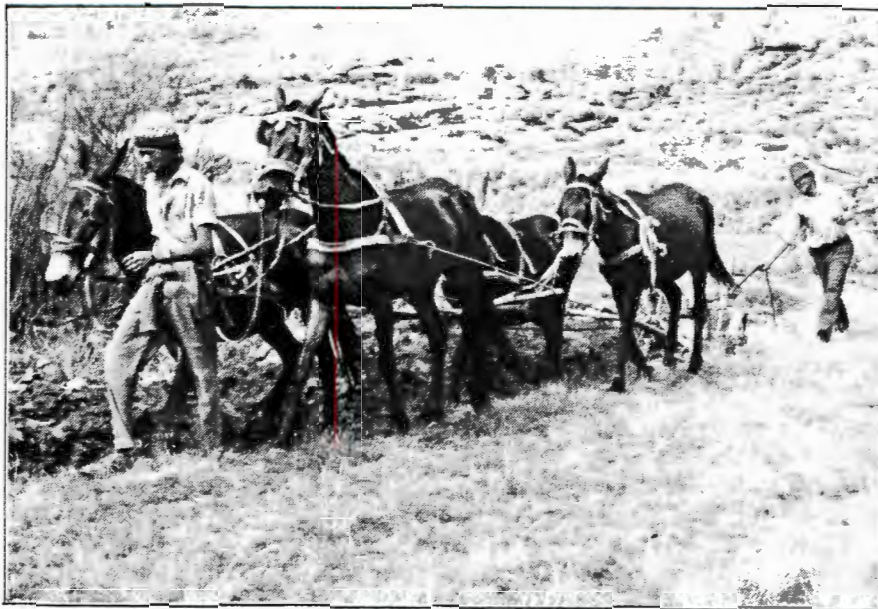


Figure 31 Donkeys are used for a short period during the year for ploughing

4.2 CULTURAL ASPECTS

4.2.1 Social Factors

The population structure of Wupperthal was detailed in section 1.2.6.1. The figures and graphs in that section point to a serious problem, namely that of a population in decline, and possibly the ultimate loss of productivity in the village.

Over the past five years the average birth rate has been 7.6 births per year (approximately 15 per 1000), as opposed to the average of 16.4 per year for the previous 5 years (approximately 30 per 1000).

Two causes for this decline in births are apparent. Firstly, the family planning campaign has had a marked influence. The expense of raising a child, the desire to give their children a good education and the aim for a higher standard of living have all had their effect. The relatively recent advent of television at Wupperthal has added weight to birth-control advertising already reaching the mission via radio and the press. Secondly, the fact that the number of people of child-bearing age at Wupperthal is decreasing has also been a factor in the birth decline.

Over 12% of the resident population of Wupperthal is over the age of 60, an unusually high figure for the elderly part of the non-

productive sector. This distortion from the normal pattern can be attributed to the healthy climate, the peaceful way of life, which is a mark of the people at Wupperthal, and the close, supportive nature of the community in caring for the aged.

In the 1950's, when tuberculosis was wide-spread, the incidence of the disease at Wupperthal was lower than that of the surrounding area, according to Pastor Esslinger. He claims that the invigorating climate kept the people healthy, and doctors were seldom required.

According to a survey, many people retire to Wupperthal, having previously left the mission for many years to work in the city. (Cadle, 1981) Many have relatives in Wupperthal, and the tranquillity of the village appears to attract the elderly in their retirement. Most are able to obtain a parcel of land on which they can subsist, using their monthly pension to supplement their diet.

A third distortion in the population structure at Wupperthal alluded to in section 1.2.6.1 is the great reduction in the working group. The main factor here is the limited employment opportunities offered in Wupperthal. The employment available - that of agriculture or work in the glove factory - lacks appeal to those school leavers who have been relatively well educated. Hence the migration to Cape Town or nearby towns such as Clanwilliam or Malmesbury in search of more attractive employment.

The decline in the population of Wupperthal is a possible explanation for the question: Why is the informal system of land tenure at Wupperthal reasonably successful? The pressures on the limited amount of arable land that would have inevitably arisen had the population increased substantially could have caused the collapse of the system, and forced the Moravian Church into a more structured tenure. As it is, land disputes do not arise as there is sufficient for each person's needs. This is further discussed in chapter five.

4.2.2 Economic Factors

Environmental problems relating to the economy of Wupperthal can be summarised in one word - isolation. The three main problems that have affected the economy of Wupperthal in the past and still prevail today are the result of the isolated nature of Wupperthal, situated in a valley, surrounded by mountains, and a substantial distance from any sizeable market.

Matters related to the economy of Wupperthal have already been mentioned under sections 1.2.5, 2.2.2.2 and 2.2.2.3. The three factors mitigating against the Wupperthal economy in the Schmolke era (section 1.2.5.3), namely the high transport costs involved, competition with mass production and the lack of raw material (much of it had to be brought from Cape Town) are still applicable today, and were the main causes of the closure of the shoe factory. They also act as a deterrent to the expansion of the existing industries, and the creation of new, productive industries. It is evident that these problems will have to be overcome before any headway is made in rekindling the productivity at Wupperthal. This is further discussed in section 5.2.

The internal economy of the wider Wupperthal mission appears to be on a reasonably stable foundation. Although the amount of money in circulation within the mission is limited (pensions totalling R20 000 per month account for a substantial percentage thereof) the system of internal product sales has kept costs down. Farmers at a number of the outstations, for example at Eselbank, have relatively large parcels of land, and grow more substantial crops, which they bring to the main mission village to be sold. Obviously the problems of transport costs and distance to markets are not as important in this instance. (See fig. 32)

Thus in general, where the needs are small, so are the demands, and the community can survive operating on a low key economy based on internal exchange. This is not, however, meeting the needs of a growing number of working-age people who are not satisfied with what is little more than a subsistence economy, and have left the village in search of greener pastures.

4.3 SUMMARY OF ENVIRONMENTAL FACTORS

The environmental factors that have influenced and shaped Wupperthal into the village that it is today, and which have hence played a part in the formation of the land tenure system practised in the village, are listed numerically below. Most have these have been mentioned in the text; they are merely included here to provide a complete summary.

4.3.1 Physical Factors

- 1) Arid climate: The low rainfall makes a good irrigation system obligatory. The water furrows used for irrigation are used to indicate the boundaries for land parcels. The aridity is partly offset by the perennial Tra-tra river.
- 2) Healthy climate: A low incidence of diseases has always been a characteristic of Wupperthal.
- 3) Geological interface: The interface between the TMS and the Bokkeveld series, both members of the Cape super-group, occurs along the north-south axis of Wupperthal. This accounts for the two vegetation types readily discernable at Wupperthal, and also the differences in soil fertility in the various land parcels. The interface between the Bokkeveld and Witteberg series occurs to the west of Wupperthal at a higher altitude.
- 4) Overgrazing: Overgrazing of the natural vegetation, and, in particular, the vegetation on the Bokkeveld soils, has led to increased soil erosion. Apart from the sheep and goats, the semi-wild donkeys play a big role in the destruction of the natural vegetation. Where the soil is more vulnerable to erosion, larger amounts of top soil are washed into rivers, affecting the quality of the water.
- 5) Denudation of woody areas: The destruction of trees for firewood has also increased erosion and led to a decrease of nutrients in the water system.
- 6) Erftuin dyke: The wall that has been built on the northern bank of the Tra-tra in order to prevent the river from flooding and dis-

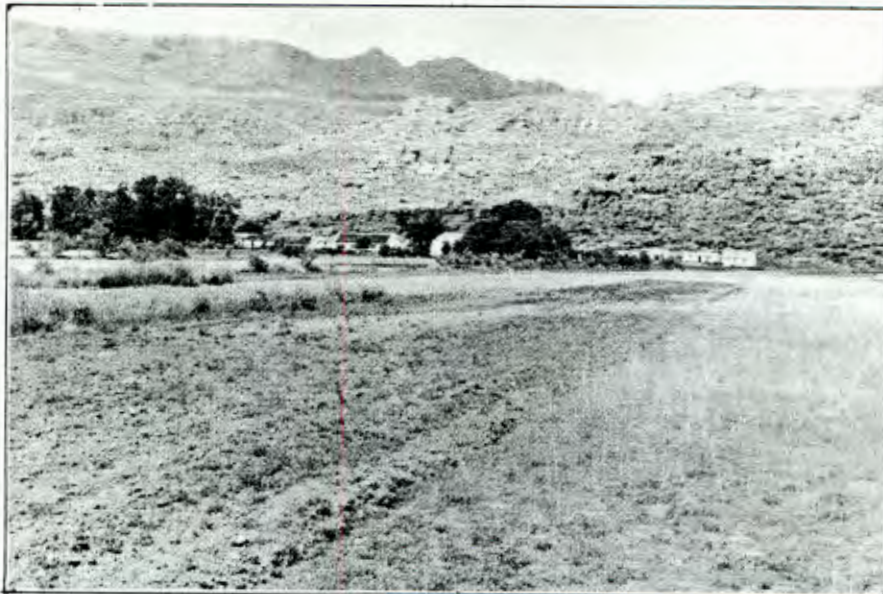


Figure 32 Some of the relatively large land parcels at Eselbank

rupting agricultural activity, has provided excellent land for cultivation (*erftuine*), but has led to erosion of the southern bank where the river is making inroads into the *saaituine*. The situation is not critical at present, but could deteriorate if unchecked.

7) Soil fertility: Generally the soil in the Wupperthal valley is fertile, and conducive to intense cultivation. The exceptions are the section of the *groentetuine* near the tannery (salty and unproductive) and the *vleilande* which are poorly drained and are waterlogged at times, in spite of the aridity.

8) Crop diseases: *Swartbnak*, *witbnak*, *vrotkaal*, and the insects, the *handedopvlieg* and the *rooileus* beetle have all taken their toll of crops at Wupperthal.

9) Animal pests: Baboons and birds cause extensive damage to crops, and more stringent protective measures need to be taken.

10) Isolation: The isolation of Wupperthal by the surrounding mountains, and the distance to commercial centres has a detrimental effect on the economy, although positive traits such as the preservation of a tranquil, relatively crime-free existence can also be attributed to the isolation.

4.3.2 Cultural Factors

- 1) Population decline: The urban migration caused primarily by a lack of employment opportunities at Wupperthal, together with the effects of the family planning campaign, incorporating with it the desire for a higher standard of living, has caused the resident population of Wupperthal to decline by some 40% over the last 20 years. The non-productive sector constitutes an abnormally high percentage of the total population.

- 2) Modern influences: The recent introduction of television and improved transport links have brought Wupperthal in closer contact with the outside world, and have had an influence on the community. There appears to have been an increase in alcohol consumption, and citizens have recently complained of the lack of discipline amongst the children.

- 3) Craft versus commerce: The fading of craftsmanship is a serious environmental problem at Wupperthal. (Kaplan, 1981) The merchant has taken over and the increasing pre-occupation with making money has affected the attitude to craft and could lead to a lack of sensitivity towards the environment.

4.4 CONCLUSION

This chapter has examined various aspects of the environment that have influenced the mission village, Wupperthal, and its immediate surroundings. All thirteen factors mentioned in the summary have affected the land (in its widest sense) (see section 2.1.2), either directly (e.g. overgrazing) or indirectly (craft versus commerce). Thus these environmental factors have played, and continue to play, an important role in the system of land tenure practised at Wupperthal, insofar as they have affected, either directly or indirectly, the *solum*, the physical unit of the Proprietary Land Unit (see section 2.1.3.1), which may be either individually or communally held.

It is more difficult, however, to detect a direct interrelationship between the informal land tenure and the aspects of the environment. There are some environmental aspects that have clearly influenced

the system of land tenure. These are the arid climate (leading to the water furrow complex), the declining population (easing pressure on the land), the TMS/Bokkeveld interface (leading to a difference in soil fertility in different sections) and animal pests.

Two elements of the land tenure system have manifestly affected the environment. The dyke that was built to create the land parcels that comprise the *erftuine* has led to erosion on the opposite bank, and the erection of fences and the building restrictions leading to houses uniform in style have had a visual impact on the landscape. It could be argued that the lack of security in the land has been a cause of the decline in the population, but there is no foundation for this suggestion. It is more likely the ~~urban~~urban migration that has allowed a system of land tenure which lacks security to prevail.

CHAPTER FIVE

WUPPERTHAL : QUO VADIS ?



Figure 33 What of the future?

In the light of the previous chapters which examined the informal land tenure and the prevailing environmental conditions at Wupperthal, an assessment is now made as to what of the present system should be maintained and what changes made in order to ensure a viable, productive Wupperthal that will best satisfy the needs and aspirations of the inhabitants, as well as facilitate the overall aims of the mission.

5.1 CONSEQUENCES OF MAINTAINING THE *STATUS QUO*

For the purposes of this study, the *status quo* is taken to be the existing situation at Wupperthal, up to the end of 1981.

This may be briefly summarised as follows:

Most of the population of about 500 practises subsistence farming. The resident population is marked by a relatively small productive sector. This is owing, to a large extent, to the lack of stimulating employment opportunities, employment being confined to factory work, a few posts at the school, and a few work positions in the shop, cafe and on the farm. No well-documented, accurate record of land holdings is kept, reliance being rather on a well established informal system of land tenure.

The trend to urban migration is likely to continue and possibly increase. As the children continue to receive good education and are drawn to the attractions of the city, so the population of Wupperthal is likely to decrease further, probably until a steady-state number of 200 to 250 is reached. Two possibilities need to be considered.

- 1) The Moravian Church might decide to withdraw from the Wupperthal Mission, concentrating their efforts elsewhere, or
- 2) the Church might decide to remain, operating on a smaller scale, or possibly on a non-residential basis.

5.1.1 Moravian Withdrawal

If this were to occur, the land is likely to be sold on the open market, possibly leading to the reversion of the wider mission station of Wupperthal to individually owned farms. Under this scenario,-- there are also two possibilities - either the village would exist as a separate entity, or it would become absorbed into a larger farm. Under either system it would be important that certain rights of the inhabitants of Wupperthal - and the other outstations - be entrenched, or their land might fall prey to some wealthy entrepreneur or farmer, wishing to develop the land. These rights would include the option of long term land occupation and access to the natural resources of the region, such as water from the Tra-tra river. (See also further on in this section.)

a) Wupperthal as a separate entity:

The village would fall under the jurisdiction of the Clanwilliam Divisional Council. It is unlikely that the system of informal land tenure would continue and an accurate survey of all land parcels would be undertaken to enable Wupperthal to become part of the South African system of deeds registration.

It is probable that the land on which the houses stand would be given to the house occupiers, as houses are regarded the property of the inhabitants. The heads of the families are likely to be given the option of purchasing the land parcels they cultivate, or continue to pay rent for them to the Clanwilliam municipality.

Well established boundaries are likely to be recognised in the survey, but corner beacons would be placed, accurately surveyed and recorded.

The shoe and glove factories might close down, although it is more probable that they would operate on a small scale. The rights to the shop and cafe (if it remains) would be sold. Most of the inhabitants would be subsistence farmers, a high percentage being pensioners, with a few employed at the school or in the factories. Some might seek work on nearby farms. It is possible that a few enterprising persons might attempt to obtain consolidated parcels

of land in order to farm more productively (see fig. 34). The size of Wupperthal would restrict the number of such farmers to about ten, and this would markedly change the nature of the village. Wupperthal would thus exist as a small village (200 to 250 inhabitants), with a few making a living through industry, the school or business, but most merely subsisting on the land.

b) Wupperthal as part of a larger farm:

It is possible that the original farm Wupperthal (see fig. 12) will be sold as a consolidated land parcel. The farm is reasonably extensive (2600 ha), and with the irrigation scheme and other improvements has a high market value. Mr Hanekom, who currently holds the rights in the main farm at Wupperthal may be given an option on the larger farm, or may assume a position of farm manager to the new owner. This would radically alter the whole nature of Wupperthal, although some protection would undoubtedly be afforded to those inhabitants wishing to remain on the farm. Possibly they would be able to work on the farm as employees. The buildings would be altered to best serve the farmer's needs, although the church would remain. Protection for the buildings by the National Monuments Council could be obtained to preserve their historic character. Although subsistence farming would still be practised by those inhabitants who remained, the majority of the land parcels would be consolidated to provide maximum productivity.

5.1.2 Moravian Church Remains

Even if the church maintains an interest at Wupperthal, the population is likely to continue to decrease over the next decade if the *status quo* is maintained. The population will consist largely of pensioners and schoolchildren (mostly boarders) with the few productive workers involved in industry (the glove factory and tannery would probably continue operating, but on a reduced scale; the fate of the shoe factory is uncertain, and low key production might be continued) and teaching in the school. A few might attempt commercial farming on consolidated land parcels.



*Figure 34 A healthy crop of maize and beans.
The small land parcels prevent
economic farming.*

The future of the Wupperthal Institute would be uncertain under this system. With Mr Stopka's departure it would be unlikely that a single person, particularly an alien, would hold the monopoly of the business interests in the village. Either the church would resume control of the Institute, or various persons within the village would buy the leases to the factories, shop and farm.

The informal internal land tenure system would continue and should operate successfully as the pressure on the land would decrease. Land disputes would be unlikely to arise, unless there were attempts to consolidate some of the existing land parcels.

The peaceful, tranquil atmosphere of Wupperthal would be maintained, but the viability, both as a mission station which seeks to convert non-believers to the Christian faith and as a village which can offer a satisfying lifestyle in terms of education, vocation and stimulation, will be lost.

5.2 SUGGESTIONS FOR CHANGE

The schism between the spiritual and the material at Wupperthal has been the cause of many of the problems that have occurred at the mission village in recent years. It is essential that an attempt be made to rediscover something of the unity which was

Leipoldt's vision in the early years. Section 1.2.5.2 relates the early, largely successful efforts to establish craft industries at Wupperthal.



Figure 35 Johann Leipoldt's grave at Wupperthal

The situation where an alien holds the monopoly of the business sector at Wupperthal is untenable. The Moravian Church must, as a priority, become involved with the everyday life of the people on its mission field. There are signs that the church is moving in this direction. With the departure of Mr Stopka, the opportunity is there to begin a new era at Wupperthal, and to establish again the village as a viable and thriving mission, which could be a model to mission stations elsewhere.

Suitable employment is needed to occupy the productive sector of the population in a satisfying and constructive way. The aspect of craft is important and needs to be rediscovered. This will be

fully covered by A Kaplan in a study which is currently underway. A government subsidy would be valuable in attempting to preserve this rich heritage.

In addition, there needs to be a diversification of industry. A full scale industrialization process cannot be advocated - this could destroy much of the traditional character of Wupperthal - but it is important to develop an economy that can be equal to the needs of the inhabitants.

Rooibos tea is currently grown at Wupperthal, and then transported to Clanwilliam for processing and packaging. If the latter processes could be accomplished at Wupperthal, it would offer further employment and increase the profits that would accrue to Wupperthal from this industry. The demand for Rooibos tea is such that the plantations could be greatly expanded.

Other agricultural crops that could be farmed productively are beans, potatoes, maize, citrus and nuts, although the nature of the tenure at Wupperthal is likely to restrict the success of any major farming enterprise. Isolation and distance from markets are other factors that suggest that, with the exception of Rooibos tea, Wupperthal should see agriculture primarily in terms of subsistence.

Wupperthal enjoys relatively fertile arable land (see Fig. 36). Nevertheless, productivity could be increased by the application of artificial fertilizers as recommended in table 4.1, but more appropriately and economically by the use of organic fertilizers such as manure and compost. Use is made of animal manure, but human waste is a resource that has not yet been exploited.

It could be argued that the informal tenure at Wupperthal is likely to break down as the proposed changes bring about a larger population (about 800 to 1000 optimum). Hence there would be greater pressure on the land, and the system would need to be replaced with one akin to the rigid, accurate South African system of deeds registry.



Figure 36 "Wuppenthal enjoys relatively fertile arable land."

There is, however, no evidence for this, and case studies elsewhere (e.g. in Great Britain) point to the contrary. Rather than change the basic structure of tenure at Wuppenthal, the informal nature should be maintained (in keeping with the character of Wuppenthal), but various aspects should be modified. The records system is grossly inadequate and the minimum requirements are a description of each land parcel held by an inhabitant, with an estimation of the area of the land. In addition a sketch map of each land parcel, indicating the general boundaries and contiguous plots would be helpful. Accurate surveyed diagrams of each land parcel are not necessary, and would be wasteful in terms of time and money, but a plan of the *groentetuine*, *erftuine* and *saaituine* showing the approximate divisions would be appropriate.

Direct inheritance of land within the family should be incorporated into the *Ordeninge*. Although this does occur in practice on most occasions, the extra security of tenure that the written rules would provide would be beneficial.

It is important to unite the community. The friction caused by various factions working independently of, and even in opposition to, each other (discussed in section 2.2.2) has had a harmful effect. There are signs that the Moravian Church is taking steps to counter-balance this, and it could be that a convention of all the parties concerned to constitute a viable blueprint for the future of Wuppertal would have the desired effect.

5.3 GOVERNMENT LEGISLATION AFFECTING WUPPERTHAL

Prior to 1978, legislation existed through which the inhabitants of Wuppertal were entitled to have the land which they occupied registered under individual title by means of Government proclamation.

In 1909 the Mission Stations and Communal Reserves Act was passed by the Cape government and later incorporated into the legislation of the Union of South Africa. The crux of the Act is covered in sections 3 to 9 (see Addendum 6) and enables land within a mission station that is not specifically allocated for use by the Society (section 4 (1)) to be "demarcated and reserved for the use and occupation of the registered occupiers" (section 4 (5)) and a register of all such lots to be taken (section 4 (6)).

The Act makes provision for a Board of Management, consisting of six registered occupiers, one member from the Society, the Resident Magistrate of the District and one other appointed by the Government to "exercise powers and duties over the entire section of the mission station" excluding those portions set apart for the Society (sections 5 (1) and 6 (1)).

Thus although there were restrictions to land rights vested in the occupiers (section 9), it was possible for the inhabitants of a rural mission settlement such as Wuppertal, to achieve a measure of independence from the Society on whose mission they lived.

The inhabitants of the Moravian mission village at Genadendal have availed themselves of the opportunities afforded them by this and subsequent Acts, apparently not without regrets on the part of some of the inhabitants, whereas the land occupiers at

Wuppertal, whether through contentment or ignorance, have chosen to remain under the control of the Moravian church.

In 1949 the Coloured Mission Stations and Communal Reserves Act (12/1949) was passed which repealed the 1909 Act. The Act was, however, similar to the earlier Act, with only minor changes being made which did not alter the basic provisions of the 1909 Act.

Further minor amendments were made in 1955 and 1959 before the Rural Coloured Areas Act was passed in 1963 (24/1963). This repealed the Act of 1949, but again the content of the Act was not markedly different from the previous Acts, with the exception of section 4, which is the enabling legislation setting aside specific land for occupation and ownership of Coloured persons. (See Addendum 7.)

Amendments to this Act were made in 1967, 1969, 1975 and 1976, before the Rural Coloured Areas Amendment Act (No. 31 of 1978) repealed the entire Act of 1963 with the exception of section 4. Thus it is no longer possible for the inhabitants of Wuppertal to avail themselves of the provisions set out in the Acts of 1909, 1949 and 1963.

5.4 CONCLUSION

It has been written of Wuppertal:

Wuppertal stands as an example of a healthier and saner way of life than we have at present It is a source of inspiration for anyone seeking alternatives to our present social and environmental impasse Wuppertal has protection from the inroads of civilisation and ensures the preservation of the integrity of the community.

(Kaplan, 1981)

News coverage, through the commercial press and recently through television, has given credence to the romantic idea that to live at Wuppertal is to enjoy a utopian existence in an evergreen oasis, far removed from the political and social trauma that characterise the world outside. The reality is, however, that

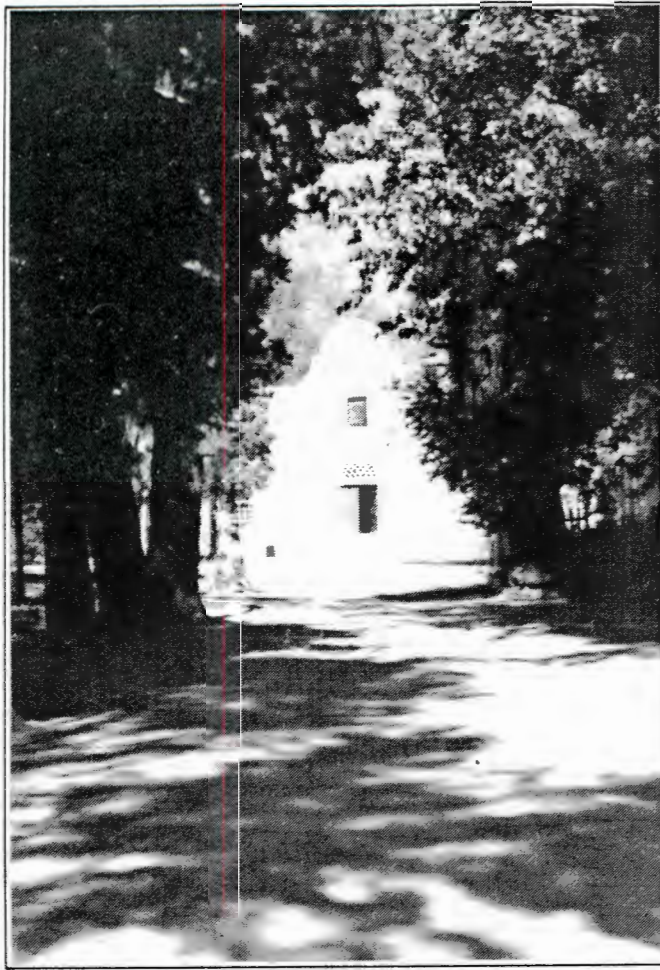


Figure 37 *"Wuppertal remains an oasis of tranquility..."*

Wuppertal is today a community fighting for its survival and fraught with problems both natural and man-induced. Certainly behind the facade of the famous, hand-sewn tyre-sole boots and Wuppertal Rooibos tea, there exists an institution of surprising physical and social complexity

Nevertheless, in spite of these imperfections, Wuppertal remains, for many, an oasis of tranquillity and sanity in a desert of tension and distorted values, a sanctity of spirituality in a world that has lost contact both with God and his creation.

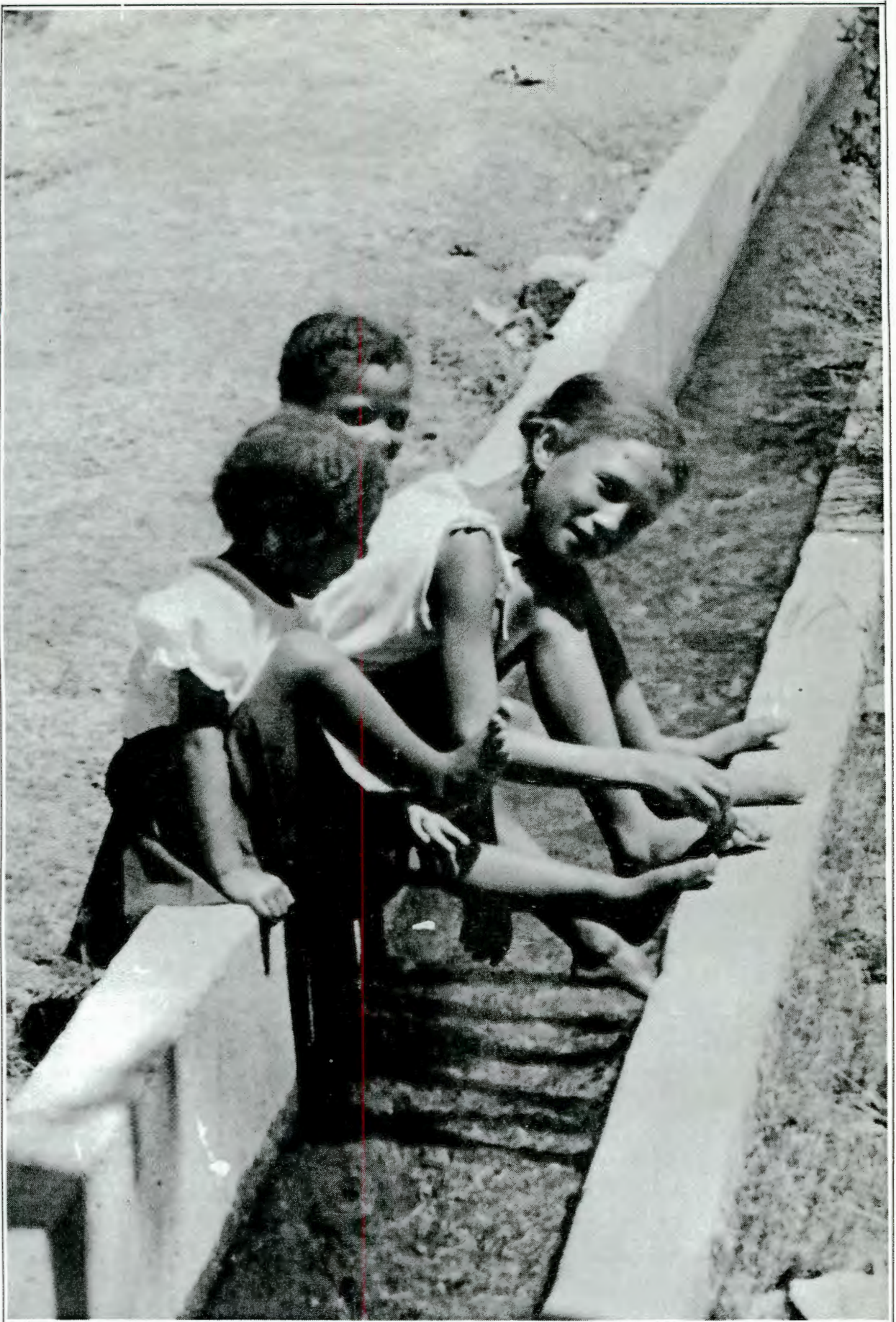


Figure 38 Have they a future at Wuppenthal?

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REËLS EN WETTE

van die

RYNSE SENDINGSTASIE WUPPERTHAL

- 1) Elke bewoner van die Rynse Sendingstasie/Wupperthal en sy onderhorige plekke staan met sy gesin onder alle reëls en wette van hierdie stasie, wat deur die leraar en bestuurder namens die Rynse Sending-gemeenskap gehandhaaf word.
- 2) Omdat die Woord van God die enigste fondament is waarop die uiterlike en geestelike bestaan van Wupperthal rus, is elke bewoner van die Stasie met sy hele gesin verplig om die Godsdienste en Sondae of die in die week getrou en gereeld by te woon en sy kinders na die skool te stuur.
- 3) Elke bewoner is verplig om hom hier en orals ordentlik te gedra en om hom te ophou van onsedelikeid, dronkenskap, vloek, laster, sabatskending en ander aanstootlike dinge. Ook dans en dansmusiek in die huise en op vloere is nie toegelaat nie.
- 4) Derhalwe mag ook niemand sterke drank of wyn inbring of laat inbring nie, biermaak van enige soort en dagga is nie toegelaat nie.
- 5) Niemand mag onder toestemming van die Bestuurder vreemde mense in Wupperthal herberg nie. Daarom moet alle gaste aangemeld word.
- 6) Geen ander geloofstelsel as die wat op die Sendingssta is deur die Bestuurder aanerken en geleer word, is op Wupperthal se gronde toegelaat nie. Inwoners wat by sektes aansluit, verloor hulle inwoningsreg.
- 7) Net so sal op Wupperthal niemand inwoningsreg kan kry wat met 'n Slamse of 'n persoon uit 'n sekte getrou is nie.
- 8) Stigting van enige soort verenigings, klubs ens. eis die voorafgaande goedkeuring van die Bestuurder. Vergaderings van enige soort is sonder toestemming van die Bestuurder nie toegelaat nie.
- 9) Die huurjaar eindig op 31 Mei. Elke huurder is verplig om voor of op 31 Mei sy huur te betaal.
- 10) Huise, krale ens. mag net met verlof en toestemming van die Bestuurder op die manier soos dit goedkeur is, opgerig word.
- 11) Geboue wat deur die huurder opgerig is, kan, as hy om enige rede die Stasie wil of moet verlaat, of afgebreek word of na valuasie van lede van die Gemeenteraad aan 'n ander bewoner, wat deur die Bestuurder goedgekeur is, aan die Gemeenskap self verkoop word. Vir krale, pondokke, vee, heinings of enige verbeterings van gehuurde gronde kan geen vergoeding toegetaan word nie.
- 12) Die huurder mag 10 stuk Kleinvee n 1 melkkoei en 4 werkdonkies vry aanhou. Vir die wat by oor b genoemde getalle kleinvee, beesie of donkies aanhou moet y weigeld teen die volgende tarief betaal:

Vir kleinvee 1 - per jaar vir elke stuk oor die getal 10
Vir beesie 4 - per jaar vir een elk oor die getal 1
Vir donkies 1 - per jaar vir een elk oor die getal 4

- Groot- en kleinvee van ander mense mag nie aangehou word nie.
- 13) In geval 'n huurder sonder kennisgewing langer as 6 maande van sy huis afwesig is, verloor hy sy inwoningsreg.
 - 14) Die huur kan deur huurder of verhuurder gestaak word en wel deur een maand tevore kennis te gee.
 - 15) Elke bewoner van die Stasie is verplig om aan alle noodsaaklike publieke werke deel te neem en sy huus, werf, tuin en eif in beste orde te hou.
 - 16) Van elke huurder wat sy erf, tuine en lande ens. nie op bevreëdigende wyse bewerk nie, sal die gronde weer algemeen word.
 - 17) Niemand is toegelaat om enige besigheid sonder uitdruklike toestemming van die Bestuurder op te rig of bak, besessies of enige soort hout nie ontvuldig uitgehaal word nie.
 - 18) Die wette en produkte word net aan die sending-ete winkels op Sendingstermde verkoop.
 - 19) Vanke mag nie op straat of in tuine en ewe rondloop nie, maar moet op bak gehou word. Oortreders van hierdie bepaling loop gevaar om belooft te word of hul huurgroond te verloor.
 - 20) Hierdie wat skade doen moet gekut word met kennisgewing aan die skutmeester. Veroorsaakte skade moet deur die opsiener getakseer word.
 - 21) Alle geskille en twisake, met uitsondering van kriminele sake, moet deur die Bestuurder, bygestaan deur die Keik- en Gemeenteraad beslis word. Elke party moet hom aan die uitspraak van die Raad onderwerp. Krimineel veroordeeldes verloor outomaties hul inwoningsreg.
 - 22) Elke bewoner wat sy verpligting in die uiterlike of kerklike lewe nie nakom nie en reëls, wette en bepalinge van die Stasie oortree, sal inwoningsreg verloor en sal die Gemeenskapgronde saam met sy gesin moet ontruim en wel binne 30 dae na kennisgewing deur die Bestuurder.
 - 23) Die Bestuurder wens om met elke bewoner van die Stasie in rus en vrede te lewe en derhalwe word verwag dat elkeen die reëls en wette van die Stasie getrou nakom en voldoende rus en vrede en die nodige orde op Wupperthal en sy onderhorige plekke bestendig.

Die Bestuurder van die
Rynse Sendingstasie Wupperthal
namens die Rynse Sending-Gemeenskap.

New title farm
 Naam van Plaas VOGEL-VALLE
 Name of Farm

No. 297

Registrasie-afdeling LANWIL-LIAN
 Registration Division

Folio 297
 Follo
 Vervolg-folios 1
 Continuation Folios

* 17056.6972 Morgan
 Grondte in 482 No 13 opfl
 Area Where Diagram Filled

Clanwilliam Dist. Vol. 3 Fol. 29de. 1, 11, 1938
 Substitusie dgm. N^o 404/1901 aangesoek

Vervysing na ou register—
 Reference to old Register—

Administratiewe distrik X. Nede heropnemting na Indrywing N^o 2.
 Administrative District

Distrik Clanwilliam Small Farms
 District

Besit 1
 Tenure

Folio 322
 Follo

| In-Entry No. | No. van Akte, No. of Entry | Datump. Date. | Hoewe. Holding. | Van In-skr. From Entry | Grootte. Area. | Transferor. | Transporener en Identifikasie. Transferee and Identical on. | Verbande, Laste, Bonds, Charges. | Servituute, ens. Servitudes, etc. | Min s- in-skr. Minus Entry. | Restant. Remainder. |
|--------------|----------------------------|---------------|-----------------|------------------------|---------------------|--|--|----------------------------------|-----------------------------------|-----------------------------|---------------------|
| 1 | Vol. 3 26.29 | 1.11.1838 | Whole | | 10,782 m 73 opfl | Grant | Johan Leipold George Schroder Frederick Heiple | | | 2 | |
| 2 | 30059 | 20.1.1951 | Skabbes | | 16,782 m 73 opfl | Almuntse Nomin Society of Barmen Germany | Almuntse Nomin Society of Barmen Germany | | S.G. CAVEAT 926/54 | 3 1/2 | |
| | | | | | | | Beperk | 1039/233 | | 6 | |
| | | | | | | | Die hele nuw bogenode landom is heropnemmet en in verovringsoord. | | | | |
| | | | | | | | N ^o 404/1954 opgestel en by Clanwilliam Erfregte Vol. 3 Byg 29 ged. 1/11/1838 | | | | |
| | | | | | | | aangeleg. AT N ^o 20059 ged. 20/11/1951 is geindoseer | | | | |
| | | | | | | | van Wet 47 van 1937. Die landom staan bekend as die plaas VOGEL-VAL | | | | |
| | | | | | | | aan S.G. CAVEAT N ^o 926/54 reguleer met AT N ^o 15346/56 | | | | |

ADDENDUM 2

Handwritten notes at the bottom of the page, including a signature and date.

Naam van Plaas
Name of Farm

Nogelvalley.

No. 297

Registrasie-afdeling
Registration Division

Chamwilliam

Folio
Folio

| In- skry- wing no. Entry No. | No. van Akte, No. of Deed. | Datum, Date. | Hoewe, Holding. | Van in- skry- wing, From Entry. | Grootte, Area. | Transportgewer, Transferor. | Transportnemer en Identifikasie, Transferee and Identification. | Verbande, Laste, Bonds, Charges. | Serwitute, ens. Servitudes, etc. | Minus- insky- wing. Minus Entry. | Restant- Reinstate 297/2 |
|---|-------------------------------------|-----------------|--------------------|--|-------------------|-----------------------------------|--|---|-------------------------------------|--|--------------------------------|
| 7 | 4052 | 7/1959 | Gedult 2 | 4192 | 4192 | Wippenhal Nieuwoudt (Edms) | Johannes Nicolaas van der Weghuizen 28.2.1914 - Blanke groep | 046/00 | Milk/100 | 100 | 297/2 |
| 8 | 21490 | 16-6-82 | Restant 2 | 3663 | 3663 | Langbesigpunt Nieuwoudt (Edms) | Philip Santilhana Nieuwoudt. (gebore 26/1/1959) | 14530/82 | | 4277.52 | new |
| | | | | | 8586 | pa Plaas (Edms) | Blanke groep. | 14531/82 | | | |
| | | | | | | Bpk. | | 14532/82 | | | |

| SYE Kampse Voet | LIGTINGS- HOEKE | STIELSPL 19 19 KO-ORDINATE | |
|--------------------|--------------------|-------------------------------|-------------|
| | | y | x |
| | Konstante | -80000.0 | +11347000.0 |
| AB | 22171.1 46.16.53 | A -52526.6 | + 805.3 |
| BC | 1624.5 113.41.49 | B -16502.6 | + 16128.1 |
| CD | 5113.7 159.56.13 | C -14960.1 | + 15451.1 |
| DE | 6339.9 77.10.33 | D -13205.8 | + 10647.7 |
| EF | 12374.3 146.41.54 | E - 7024.0 | + 12054.9 |
| FA | 32309.4 268.23.28 | F - 229.9 | + 1712.5 |
| | Tra-Tra. Δ | -14351.6 | + 2629.6 |
| GA | 2617.7 326.41.54 | G - 2161.2 | + 14242.7 |

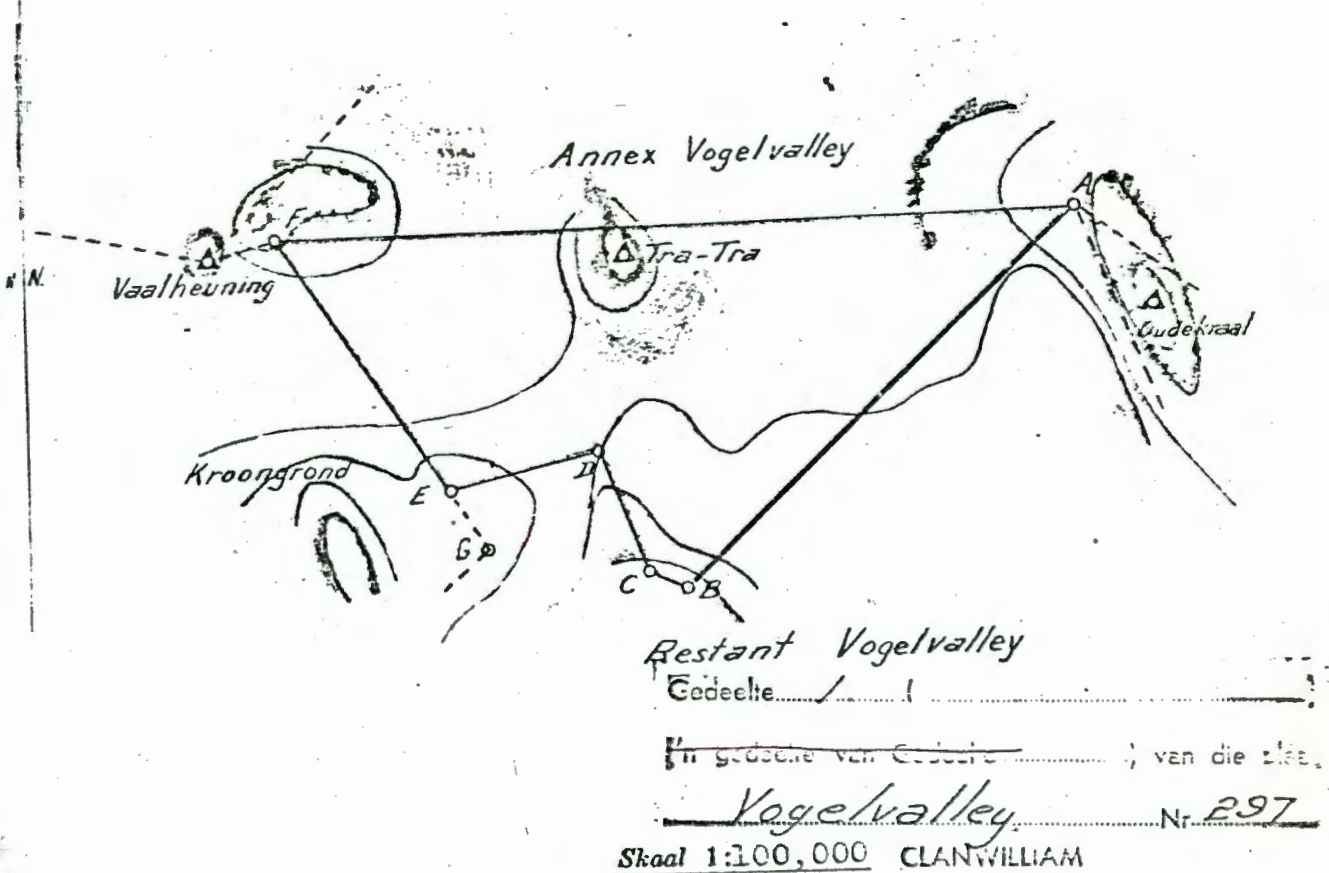
No. 8749/55

Goedgekeur.

E. S. ...
Landmeter-generaal.

23 12 1955

Bakens: A.D.G 1/2" ronde ysterpen onder klipstapel
 B.E.F. 1" boorgat onder klipstapel
 C. 1" boorgat onder klipstapel op groot
 alleenstaande klip.



Die figuur

A B C D E F

stel voor

3000.0000 Morge

grond, synde

Gedeelte 1 van die plaas VOGELVALLEY

geleë in die Afdeling

Clanwilliam

Provinsie Kaap die Gocie Hoop

Opgemeet in September 1955 deur my ons

F. de S. ...
[Signature]
Landmeter

Hierdie kaart is GEHEG AAN
 TRANSPORTAKIE No 15346
 GEDEELTE 20 000 1955

Die oorspronklike kaart is
 No. 404/54 geheg aan
 T.A. ...

L.G. Lter No. 75007

M.S. No. E. ...
 CI - 3

EVANGELIESE BROEDERKERK IN S.A. (W.K.P)ORDENINGE VAN SENDINGSTASIEREÛLS EN WETTE AANGAANDE DIE PLAASLIKE ORDEI. DIE BESTUURa) Algemeen

Art. 1: WUPPERTHAL is 'n gemeente van die Evangeliese Broederkerk in die Westelike Kaapprovinsie. Elke inwoner van die nedersetting, hierna genoem Sendingstasie, is 'n lid van 'n gemeente van die Broederkerk. Alle lede van die gemeente soos alle gemeentes van die Broederkerk is lede van die een liggaam waarvan Jesus Christus die Hoof is. Die orde van die Sendingstasie is dus 'n deel van die orde van die Kerk, soos neergelê in die Kerkorde van die Evangeliese Broederkerk.

Die lede van die gemeente staan onder die belofte en vermaning van ons Here Jesus: "Kyk, Ek is met julle al die dae tot aan die voleinding van die wêreld". Die lewe in die gemeente, die orde en toesig, die betrekking tot die Kerk as 'n geheel en tot die owerheid sowel as die Here, staan onder Sy oë.

b) Die Voorstaander

Art. 2: Die plaaslike bestuur berus by die Evangeliese Broederkerk in die Westelike Kaapprovinsie, en wel sy Sinode of Streekbestuur. Die bestuur word in opdrag van die Broederkerk deur die verantwoordelike leraar of ander amptenaar deur die S.B. aangestel as Voorstaander waargeneem. Hy tree in belang van die sendingstasie op, in die geval van onderhandeling met Regerings departemente, openbare liggame en bure na voorafgaande konsultasie met die Streek Bestuur.

c) Die Opsienersraad

Art. 3: Die Voorstaander word in die bestuur van die sendingstasie deur die Opsienersraad (O.R.) bygestaan. Hy is die voorsitter van die Raad en belê die vergaderinge.

Art. 4:

4. 1. Die ledetal van die Opsienersraad word deur die Streekbestuur bepaal.

4. 2. Die ampstyd van elke Opsienersraad duur 3 jaar. Elke jaar tree een derde van die goedgekeurde ledetal af. Aftredende lede kan weer as kandidate dien.

4. 3. VERKIESING

4.3.1 Die verkiesing vind nie later as 31 Mei van elke kalender jaar plaas nie.

Stemregtig is elker inwoner aan wie inwonerreg toegeken.

4.3.2. As lid van die Opsienersraad kan elke inwoner aan wie 'n beboude woonperseel toegeken is, wat sy volle kerklike en plaaslike regte besit en sy kerklike en plaaslike pligte vir die voorafgaande boekjaar nagekom het, wat oor 21 jaar oud is, en bereid is om sy werk in geestelike verantwoordelikheid te doen, gekies word.

- 4.3.4. Die lys van die kandidate vir die Opsienersraad verkiesing word deur die Opsienersraad opgestel. Hierdie lys moet twee name meer as die aantal vakatures wat gevul moet word, bevat.
 - 4.3.5. Die lys van kandidate, die plek en datum van die verkiesing soos deur die Opsienersraad besluit, moet by die erediens op drie agtereenvolgende Sondae voor die datum van verkiesing, bekend gemaak word.
 - 4.3.6. Die Voorstaander is die Verkiesingsbeampte.
 - 4.3.7. Oor die verrigtings van die kiesvergadering word notule gehou. Die notule word deur die voorsitter en twee stemopnemers onderteken.
 - 4.3.8. Alleen kiesers wat teenwoordig is, mag stem.
 - 4.3.9. Die stemming geskied skriftelik.
 - 4.3.10. Die stemme word getel deur twee stemopnemers wat deur die Opsienersraad benoem is. Indien die stemme gelykop is, moet weer gestem word.
 - 4.3.11. Na afloop van die verkiesing word die name van die kandidate gerangskik volgens die aantal stemme wat elke kandidaat verwerf het. Indien slegs een lid gekies moet word, word die een met die meeste stemme verkose verklaar. Indien daar twee gekies moet word, word die twee met die meeste stemme verkose verklaar, ens.
 - 4.3.12. Die uitslag van die verkiesing word dadelik aan die kiesvergadering bekend gemaak en daarna aan die gemeente by die eerste moontlike geleentheid.
 - 4.3.13. Die nuutgekose lede word aan die begin van hulle dienstryd in 'n kerkdiens aan die gemeentes voorgestel en die aftredende lede bedank.
 - 4.4. Vakatures word deur tussen-verkiesings gevul. Die proseduur van tussen-verkiesing sal geskied volgens Art. 4.3.
 - 4.5. Indien 'n Opsiener sonder skriftelike verskonings drie agtereenvolgende sittings afwesig is, verbeur hy die setel op die Opsienersraad.
- Art. 5: Die O.R. sal ten minste een keer elke twee maande ontmoet. Buitegewone sittings kan na gelang van behoefte te eniger tyd deur die Voorstaander byeengeroep word. Buitegewone vergaderinge kan ook deur skriftelike aansoek deur 2/3 van Raad aangevra word. Kworum is 1 meer as die helfte.

Art. 6:

6. 1. Die Opsienersraad kies uit haar geledere een as Sekretaris. Hy is verantwoordelik vir die notule van vergaderinge, uitstuur van kennisgewings en alle take soos opgedra deur die Voorstaande of Opsienersraad.
6. 4. Die Opsienersraad kies uit haar geledere een as Kassier. Hy is verantwoordelik, onder leiding en opdrag van die Voorstaander, vir die boekhouding en verslaggewings van finansiële sake sook opstel van begroting vir oorweging van die Opsienersraad, soos vervat in Art. 7 (6)
6. 3. Die finansiële jaar eindig op die laaste dag van Februarie elke jaar.

6. 4. Elke jaar nie later as 90 dae na die laaste dag van Februarie word aan die inwoners tydens 'n openbare vergadering 'n skriftelike verslag van die plaaslike kas soos deur die Opsienersraad goedgekeur en lê terselfdertyd die begroting vir die volgende jaar, soos deur die Streekbestuur goedgekeur, aan die vergadering voor.

Art. 7: Aan die O.R. is o.a. opgedra.

7. 1. Toesig oor die uiterlike orde van die plaas.
7. 2. Goedkeuring en herroeping van woonreg.
7. 3. Indeling van erwe, kampe, saailande en tuine
7. 4. Toesig oor algemene werk, en/of insameling van vergoeding daarvoor.
7. 5. In standhouding van "algemene" heinings en paaie.
7. 6. Toesig oor die water, leivore, bos, veld en grense.
7. 7. Bestuur van plaaslike kas.
7. 8. Plaaslike regulasies in verband met water., landbou bv. (Weiregte) en gesondheidsaangeleenthede bv. (sanitasie) op te stel.
7. 9. Die voorstaander in kennis te stel van enige onreëlmatighede of gevaar wat die Sendingstasie en sy bewoners benadeel.
7. 10. Om die voorstaander by te staan deur advies en die uitvoering van opdragte.
7. 11. Aanbevelings aan die Streekbestuur vir die kort termyn of langtermyn beplanning vir ontwikkeling voor te lê.

Art. 8: Die plaaslike kas ontvang alle heffings vir plaaslike regte van die inwoners en ander plaaslike inkomste en betaal alle plaaslike uitgawes, 'n bedrag aan A.K.K. volgens begroting. Alle uitbetalings geskied sover moontlik per tjek.

Art. 9: Die Opsienersraad behou die reg om sub-komitees (of Kommissies) aan te stel om spesifieke take namens die Opsienersraad of wanneer versoek

Art 10: OPENBARE VERGADERING

Die O.R. kan vergaderinge van volwasse inwoners byeenroep, om publiek aangeleenthede te bespreek. Die O.R. bepaal wie dit mag bywoon. Die Voorsitter van die O.R. tree op as Voorsitter en die Sekretaris van die O.R. neem notule en gee verslag van die besprekings aan 'n daaropvolgende vergadering van die O.R.

Art. 11: DIE GRONDBESIT

11. 1. Die grondbesit is op die Evangeliese Broederkerk in die Westelike Kaapprovinsie getranspoteer. Die transportakte word deur die Streekbestuur bewaar.
11. 2. Die grond is ingedeel in erwe (wvwonreg), kampe, weivelde, tuine.
11. 3. Die werf, die pastorie, die winkels, slaghuis, tuin en bos van die werf asook enige grond en/of gebou (bv Polisie, Poskantoor) wat volgens 'n ooreenkoms deur die Streekbestuur verhuur word (Sien K.O. art 77 (6) (4) staan direk onder die toesig van die Streekbestuur (Kerk, skool en begrafplaas staan onder toesig van Kerkraad).

Art. 12: Die Kerkraad en Streekbestuur betaal geen belasting vir eiendom wat deur die Kerkraad of Streekbestuur bestuur word en waarvoor die Afdelingsraad of ander owerheid geen belasting van die O.R. invorder nie.

Art. 13: Die Opsienersraad hersien jaarliks die heffings betaal moet word in die lig van die waarde van die erwe (wwoonreg) tuine, lande, kampe, weiveld soos bepaal deur die plaaslik owerheid (Afdelingsraad) en in die lig van ontwikkelings-behoeftes.

INWONERS: REGTE EN PLIGTE

a) INWONER

Art. 14: 'n Inwoner is 'n persoon oor 21 jaar aan wie die Opsieners-deur 'n formele besluit in 'n Opsienersvergadering, inwoon-reg toegestaan is en wie die Ooreenkoms (Sien Art.44) onderteken het.

b) INWOONREG

Die O.R. bepaal die voorwaardes vir woonreg/inwoonreg met dien verstande dat slegs lidmate van die Evangeliese Broederkerk woonreg en inwoonreg toegestaan mag word.

Kinders van inwoners het aanspraak op die inwoonreg deur geboorte. Hulle aanvaar die regte en pligte wat daarmee verbonde is, deurdat hulle na hulle 21ste verjaarsdag die ordeninge onderteken. Hulle verbeur dit as hulle nie binne 1 jaar na bereiking van die 21ste ve verjaarsdag aansoek doen nie, of as dit vir hulle weens oortreding van die ordeninge deur O.R. ontsê word.

Minderjariges is onder die sorg en toesig van die ouers wat woonreg het, en woon op die sendingstasie onder die voorregte en verpligtinge van hul ouers slegs tot hul 21ste verjaarsdag. Indien minderjariges deur die O.R. van wangedrag beskuldig word, kan O.R. na waarskuwing aan ouers en minderjariges, dissiplinêre stappe teen ouers en/of minderjariges neem.

Inwoners wat voor 21ste lewensjaar in die huwelik tree, mag inwoonreg toegestaan word.

Die Opsienersraad behou die reg om tuine, lande, kampe, en of wiedzingsregte toe te ken aan persone be 18 jaar ook as nog geen huisperseel vir woonreg toegeken is teen 'n heffing soos van tyd tot tyd bepaal.

* Sulke persone of gesinne moet vooraf van 'n woning verseker wees.

Persone van elders aan wie inwoonreg toegestaan word, betaal 'n inkomregfooi soos deur die Opsienersraad vas-gestel waar van toepassing.

Art. 15: 'n Persoon van elders wat met 'n inwoner in die huwelik tree nadat hy/sy lid van die gemeente geword het, mag inwoonreg verkry indien sy/haar aansoek deur die O.R. toegestaan word, en die ordeninge onderteken is.

Art. 16: Persone en families van elders kan op dieselfde manier (sien Artiekl 15) inwoners word. Hulle onmondige kinders verkry daarmee aanspraak op die inwoonreg. Mondige persone moet apart daarvoor aansoek doen.

Art. 17: Die erwe vir woonhuise word deur O.R. aangewys. Slegs sulke huise wat deur die plaaslike owerheid (Afdelingsraad) goedgekeur is, word toegelaat. Bouplanne moet deur die inwoner voordat hy begin bou in drievoud aan die Voorstaander oorhandig word. Hy dien die planne by die plaaslike owerheid in. Binne 3 jaar toekenning van 'n erf moet 'n woonhuis daarop gebou word., anders vervall die toekenning. Inwoners aan wie 'n woonperseel toegeken is, betaal heffing soos deur Opsienersraad bepaal.

Art. 18:

18. 1. Elke huisgesin moet 'n afsonderlike woning bewoon.
18. 2. In uitsonderlike gevalle kan skriftelike toestemming vir 'n bepaalde tyd deur die O.R. of deur die Voorstaander toegestaan word.

Art. 19:

19. 1. Wie permanent die sendingstasie verlaat, verkoop sy huis met toestemming van O.R. aan 'n inwoner mits hy die Ordeninge onderteken het en inwonreg deur die O.R. toegeken is.
19. 2. 'n Inwoner aan wie wwonreg met huis toegeken is, en tydelik elders woon, stel 'n goedgekeurde inwoner voorlopig as opsigter daarvoor aan wat in sy plek verantwoordelik is.

Art. 20: As 'n huisvader sterf, neem sy weduwee die regte en die pligte van die erf oor. Ouers kan die geboue aan een van hul kinders wat inwoning het, deur skriftelike testament bemaak.

Art. 21: Die huise en omheining van persele moet deur die eienaars in 'n goeie toestand van reparasie tot tevredenheid van die O.R. instand gebou word. Rondom die huise moet skoon gehou word.

Art. 22: TYDELIKE VERBLYFREG

22. 1. Die Voorstaander van O.R. mag 'n tydelike verblyfreg uitreik. Sulke toestemming word aan 'n volgende O.R. vergadering voorgelê vir goedkeuring, kanselering of verlenging. Die O.R. bepaal watter geldelike verpligtinge hulle het.
22. 2. Geen inwoner mag vreemdelinge (nie-inwoners) huisves sonder toestemming van die O.R. of Voorstaander nie.
22. 3. Hierdie Sendingstasie is nie 'n skuilplek vir wetsoortreders, leegleërs en werkskuwes nie.

Art. 23: KAMPE

23. 1. Kampe, tuine en saailande word deur die O.R. aan inwoners op jaarlikse basis verhuur.
23. 2. Landbougrond mag egter vir langer as 'n jaar op 'n kontrak verhuur word. 'n Huurder wat sy verpligtinge tot tevredenheid van die Opsienersraad nakom mag vernuwing of verlenging vir 'n verdere termyn verkry.

Art. 23 4. Inwoners moet hulle kampe omhein en die omheining tot tevredenheid van die O.R. in stand hou. Wie sy kamp se slote nie tot tevredenheid van die O.R. behou nie, verbeur sy reg daarvoor

Art. 24: TUINE

24. 1. Slote van tuine moet skoongemaak word tot tevredenheid van die O.R. Huurders van tuine wat 2 jaar die tuin onbewerk laat, verbeur dit. Die O.R. kan deur die Voorstaander huurders kennis gee om binne bepaalde tyd heinings, walle en slote in orde te bring. By versuim verbeur hul dit.

Art. 25: WEIVELDE

25. 1. Die O.R. bepaal in samewerking met die Departement van Landbou en Tegniiese Dienste watter vee en hoeveel stuk op die algemene weiveld toegelaat word, asook watter dele van die veld daarvoor oopgestel word (wisselweiding)
25. 2. Elkeen moet sorg dat hekke behoorlik toegemaak word, en dat sy vee onder toesig is. Elkeen wat skuldig is om hek oop te laat mag beboet word. Elkeen is vir skade wat deur sy vee ontstaan, verantwoordelik. Skadevergoeding word deur die O.R. bepaal.
25. 3. Die vee word snags in veilige stalle, krale of kampe gehou. Varke word altyd ophok gehou. Huurders wat vee nie tot tevredenheid van die O.T. oppas nie, kan kort kennis gegee word om vee van grond te verwyder of kan weireg ontsê word.
25. 4. Niemand mag vreemde vee op die sendingstasie aanhou sonder toestemming van die O.R. nie.
25. 5. Die veld mag net met toestemming en onder toesig van die O.R. gebrand word.

Art. 26. DIERE, PLUIMVLEE EN VOËLS

26. 1. Honde mag net met 'n permit aangehou word. Hierdie permit kan deur die voorstaande met kennisgewing van 24 uur gekanselleer word.
26. 2. Die O.R. behou die mag om pluimvlee en duiwe te beperk.

Art. 27. BOME

27. 1. Die bos is 'n waardevolle aanwinst van die plaas. Dit is in die belang van almal dat dit bewaar en uitgebrei word. Droë vuurhout (op onverhuurder grond) is tot vrye gebruik vir almal, maar die kap of breek van groen hout word deur die O.R. kontroleer.
27. 2. Die reg om te jag en die aanhou van byeneste vereis die toestemming van O.R.
27. 3. Die liefde vir die natuur word aangemoedig.
27. 4. Veldblomme mag net met permit van die Voorstaander gepluk word.

Art. 28 WATER

28. 1. Die voorsiening van drinkwater en leiwatervoorraad word deur die O.R. beheer en gereël. Dit is in die besondere belang van die sendingstasie dat voorskrifte in verband daarmee deur almal stiptelik nagekom word. (sien regulasie oor landbou).

Art. 29: HEFFINGS

O.R. bepaal hoeveel vir die woonreg, die erf, die water, die huur van landbougrond, weiregte, die kap van hout, sanitasie-dienste ens. betaal word. Hierdie heffings moet stiptelik jaarliks betaal word voor 28 Februarie van die jaar tensy O.R. anders bepaal. Wie daarmee agter raak, kan sy regte as inwoner gedeeltelik of geheel deur O.R. ontnem word. Die O.R. behou die reg om rente te vra vir egterstallige bedrae.

Art. 30: HANDELSREGTE

30. 1. Slegs die Streekbestuur het die reg om handelsregte van enige soort toe te ken.

Art. 31: VOORSKRIFTE VAN STAATSDEPARTEMENTE

Elke huurde van grond is vir sy deel verantwoordelik om voorskrifte van staatsdepartemente, soos bv. aangaande sanitêre maatreëls, onkruidbestryding en grondbewaring na te kom.

Art. 32: ALGEMENE WERKE

Sekere werke van algemene belang mag deur 'n gemeenskaplike poging van alle volwasse manlike inwoners verrig soos deur O.R. bepaal. Die O.R. behou die reg om heffings te maak vir die bevordering van die bestaan van die hele gemeenskap.

Art. 33: DIE SAMELWEING

Dit word van elkeen wat op die sendingstasie woon, verwag dat hy of sy na die woord van God lewe. Alle inwoners staan onder herderlike sorg van die Broederkerk en het hulle deur hulle handtekening vrywillig verplig om die plaaslike en kerklike orde na te kom.

Art. 34: DIE SONDAG

Die Sondag word as die dag van die Here, van die verkondiging van sy woord, en van rus, heilig gehou. Dit word van elke inwoner en sy/haar gesin verwag om die erediensste op Sondae, en sover moontlik die ander dienste by te woon.

Art. 35: DIE GEDRAG

35. 1. Elke inwoner is verplig om hom/haar ordelik te gedra en hom/haar van onsedelikheid, dronkenskap, vloek, laster, bygeloof, towery en ander aanstootlike gedrag te onthou.
35. 2. Die maak van enige sterk drank, en die verkoop van sterk drank op die nedersetting en dwelmiddels inbring na die nedersetting is ten minste belet. Daar sal beslag op gelê word sonder dat vergoeding geëis kan word

Art. 36: KINDERS

36. 1. Elke hoof van 'n huisgesin is verantwoordelik vir die orde in sy/haar huis. Hy/sy dra sorg dat die kinders in die tug en vermaning van die Here opgevoed word en tot volwaardige lede van die samelewing ontwikkel.

36. 2. Kinders van skoolgaande ouerdom is verplig om die skool by te woon totdat hul die staatsvoorgeskrewe ouerdom vir skoolplig bereik het of minstens die hoogste standerd in die plaaslike skool geslaag het.
36. 3. Jongmanne en jongdogters word aangemoedig om goeie geselskap en werksaamhede op te soek en slegte gesleskap en rondlopery te vermy. Onberhoorlike gedrag op die sendingstasie word bestraf.

Art. 37: GASTE

37. 1. Gaste wat oornag of vir 'n naweek bly, word by 'n Opsieners aangemeld.
37. 2. Inwoners wat gaste vir langer as 'n naweek huisves, moet van die Voorstaander 'n skriftelike toestemming verkry.

Art. 38: GESKILLE

Geskille tussen inwoners oor publieke sake word voor een of meer opsieners gebring en as hulle nie tot 'n vergelyk kom nie, voor die Voorstaander of O.R. Elkeen wat na die Voorstaander of 'n sitting van O.R. geroep word, moet verakyn. Sulke kennisgewings geskied skriftelik deur die Voorstaander. Indien 'n persoon versuim om op skriftelike kennisgewing te kom, word tot 'n maksimum drie maal skriftelik gegee, en by versuim van opdaging, kan O.R. besluit om sekere regte tydelik of permanent in te trek.

Art. 39: VERENIGINGS

39. 1. Verenigings wat die samelewing bevorder, word aangemoed. Hul stigting en bestaan is egter van die goedkeuring deur die Kerkraad afhanklik..
39. 2. SPORT FASILITEITE: Die O.R. mag voorsiening maak vir sport fasiliteite en sal voorwaardes vir die gebruik daarvan skriftelik bepaal.

Art. 40: VERGADERINGS

'n Publieke vergadering kan slegs met toestemming van die O.R. plaasvind. In noodgevalle mag die Voorstaander toestemming daartoe verleen.

Art. 41: DIE LANDSWET

42. 1. Elke inwoner is verplig om die landswet te gehoorsaam. Die polisie het die plig om oortreders van die landswet te vervolg. Vir sekere oortredings sal die polisie deur die Bestuurder of sy gevolgmagtigde ingeroep word.
42. 2. Die uitspraak van die Streekbestuur is finaal en elke inwoner verplighom/haar om die Streekbestuur as hoogste gesag van Appel oor sake rakende die orde en bestuur van die Sendingstasie, te aanvaar.

Art. 43. UITVOERINGSBEPALINGS

43. 1. Hierdie ordening is deur die O.R. van alle Sendingstasies aangeneem en deur die Streekbestuur van die Evangeliese Broederkerk in die Westelike Kaapprovinsie goedgekeur, Enige wysigings daarvan moet deur die Streekbestuur goedgekeur word.
43. 2. Wanneer 'n inwoner sy/haar woonreg verloor en weie om di stasie te verlaat, kan na goedkeuring van die Streekbestuur wetlike stappe geneem word om hom/haar te verwyder.

Art. 44: OOREENKOMS

Elke inwoner is verplig om 'n OOREENKOMS te onderteken,
(vir voorbeeld sien aangehegte vorm) om sodoende
voorregte en soos vervat in hierdie Ordeninge te mag
geniet.

OOREENKOMS

Die Evangeliese Broederkerk in die Westelike Kaapprovinsie, wettige eienaar van hierdie Sendingstasie en daarby behorende buiteplekke en gronde verteenwoordig deur die Voorstaander as Uitvoerende Amptenaar van die Evangeliese Broederkerk, van hierdie Sendingstasie en opwie die take van Administrasie opgelê is, en deur die Opsienersraad bygestaan word, en behoorlik hiertoe gemagtig, kragtens 'n aanstelling gegee deur die Streekbestuur van die Evangeliese Broederkerk.

"Aangesien aan my as inwoner van hierdie Sendingstasie, die reg toegestaan word om in hierdie gemeente van die Evangeliese Broederkerk te lewe en nadat die ordeninge deeglik aan my verduidelik is, belowe ek deur my handtekening voor die Here om hierdie ordeninge stiptelik na te kom. Ek is bewus daarvan dat ek my regte op hierdie Sendingstasie en behorende buite-plekke, of my onbehoorlik gedra, of my aan die plaaslike gesag onderwerp nie, en dat ek dan geen reg het om enige vergoeding te eis nie, maar indien so versoek deur die eienaar die gronde moet verlaat.

Huurder: _____

Plek: _____

(Voorstaander (Namens Streekbestuur))

Getuies: 1. _____

2. _____

Datum: _____

WHUPPERTHAL QUESTIONNAIRE

1. How long have you lived in Whupperthal?
Hoe lank het jy in Whupperthal gebly?

2. Have you always lived in this house?
Het jy die hele tyd in hierdie huis gewoon?

.....
3. Can you show me the boundaries of your property ? (How precisely)
Do you have anything with which to mark the boundaries?
Kan jy die grense van jou eiendom vir my wys?
Het jy enigiets waarmee jy jou grense merk?

.....
4. Do you have employment in Whupperthal? Of what nature?
Het jy werk hier in Whupperthal? Watter soort werk is dit?

.....
5. Do you farm at all? Describe the land on which you farm? Do you own this
land? (OR DOES IT BELONG TO THE COMMUNITY?)
Boer jy enigiets? (Soos goente, skaape, beeste) Vertel my van die land
waarop jy boer. Is dit jou eie land of behoort dit aan die gemeenskap?
.....

.....
6. What are the worst problems that you experience in farming? The soil, the
climate, land ownership ?
Wat is die ergste probleme wat jy met jou boerdery ondervind? Die grond,
die klimaat, die feit dat die land miskien nie jou eie is nie ?
.....

.....
7. Is there anything else that you can tell me about your land/property?
Is daar enigiets anders dat jy vir my van jou land kan vertel?

SPECIAL REPORT - CHURCH AND STATE UNITED

It is the last day in April and outside the church's back entrance are about 15 male elders from Wuppertal and its neighbouring settlements. The larger settlements have two representatives present while the smaller ones have one and they have all gathered on this fine morning in order to hold council and court in the church vestry. There are also three or four 'representatives' from the Geography Department hovering around the scene and hoping for action. In the background, leaning against an old wooden trailer, are four men and woman. They are to be brought to trial before the elders.

These people have all offended certain members of the community through not conforming to the constraints placed on them by the hierachical social structure. They have not been arrested or detained but social pressure has forced them to put on their best clothes and come meekly and timidly to court.

At 10 am on this tri-annual Day of Judgement the elders enter the vestry and take their seats around three of the walls. At the head sits the double figurehead, Pastor Kronenberg, who is both church minister and village magistrate. On his left sits his deputy, Mr Jansen, the school-master.

Firstly, general matters are discussed - money, building dams, hiring labour - until a general consensus is reached. The new policies are recorded in a large book by the pastor.

Now the court opens and an elder introduces the first case. There was a quarrel in his settlement which he feels can only be resolved by discussing it publically before the court. He tells us about the guilty party who is a man aged forty-six and who has been in the settlement for no longer than a couple of years. He is described as being like a serpent come into the Garden of Eden bringing evil city attitudes with him. He has been drunk and abused someone nearly twenty years his senior. This is all recorded and the accuser and the accused are summoned from outside. The younger pleads guilty of having slapped the older man "because I was angry" but also insists that he was not very drunk. The judge points out that one must always respect one's elders regardless of the latter's behaviour and that anger is no excuse for violence. Matters of disagreement must be discussed, not fought over. The discussion is open to the floor and the elders state their disapproval for the ears of the offender. Kronenberg closes with a final warning - any more drink

and he will have to leave. This is threat enough to stir anyone into a speech, pleading for forgiveness and promising to be a good law-abiding citizen in the future. The case is completed, more things are written down and we are ready for the next trial.

A women and her adolescent son enter the vestry. The head of the house is working away from the village and the son must therefore obey the other elders. Now each family has a garden alongside the river on which he grows fruit and vegetables. The son is accused of being a water hog who insists on wallowing in glorious mud despite the water restrictions. His mother denies this (our guilty adolescent is too shaken to speak) saying that her son was merely following his father's instructions as any law-abiding son should. But in such a community one must primarily be a law-abiding citizen and the family should adapt its laws to comply with those of its surrounding society.

Exit mother and son and enter an aging man. His beard is turning white in patches and he is walking awkwardly in his battered velskoen. His back is bent and he is supporting himself on a carefully carved 'stok'. This is a pitiful sight indeed and even more pitiful when you realize that all this "stooping business" is a preference in order to enlist sympathy. The accuser, who is an elder, tells the judge that a certain gentleman named Jacobus had been drinking that satanic beer which is made from fermented pig fodder. This beverage is brought into the settlement from outside on carts by that anonymous and unidentified 'They'. Jacobus had got drunk and had said some harsh things (none of which were repeatable in the church) to the accuser.

Now he is called upon to confess and say that he is sorry. In the slight altercation that ensued between Jacobus and his Senior, Jacobus tried to explain that his words had been partly justified. But this fact is apparently irrelevant and, on realising that his battle is already lost, Jacobus offers his hand to his accuser in a humble and apologetic manner. A bigger hand I have never seen and I imagined that it was well accustomed to strangling goats. At first it was refused, his accuser saying that he would have to prove that he was sorry by respecting him more in the future. A dramatic pause. Our victim's act here is more convincing than his one as a weak and crippled old man. The two men then link hands with elbows fervently bent as though in prayer. "As we forgive those that trespass

against us." The confession is witnessed solemnly by all, hence consolidating the pact which is finally recorded in the Minister of Justice's Book.

As a form of enforcing law and order I found this community system to be essentially constructive and obviously efficient.

'WUPPERTHAL PARTICIPANT'

connection with the said land prior to the date of transfer to the said Trustees: And provided further that if the said land or any portion thereof be no longer required by the said Board for school purposes, the Governor may, with the authority of Parliament, direct that the said land or any portion thereof, together with any buildings thereon, shall be used for public or charitable purposes in such manner as may seem fit, anything in Act No. 28 of 1906, notwithstanding.

2. The said School Board shall within five years of the promulgation of this Act apply such land to school purposes, failing which the land shall revert back to the Municipality for the purpose of sub-section (b) of section one of Act No. 28 of 1906.

3. Notwithstanding anything contained in the "Disused Cemeteries Appropriation Act, 1906," the land mentioned in Schedules may be dis- A, B, C, D, E, H, I, of the said Act, and appropriated by the original owners in terms of the provisions of the said Act, may be disposed of, either as a whole or in portions by private treaty by the said owners, for purposes similar to those mentioned in sub-section (a) of section one of the said Act, subject to the consent of the Governor in writing being had and obtained and subject to the consent of Parliament; provided that the proceeds of such sale shall be used and applied to religious, charitable, or educational purposes in Cape Town; and provided further that the provisions of section three of Act No. 28 of 1906, shall apply to all land so disposed of.

4. This Act may be cited as "The Disused Cemeteries Appropriation Act Amendment Act, 1909."

No. 29—1909.]

[December 7, 1909.

ACT

To Provide for the better management and control of certain Mission Stations and certain Lands reserved for the occupation of certain Tribes or Communities, and for the granting of titles to the Inhabitants of such Stations and Reserves.

[Assented to 3rd December, 1909.]

Preamble. Be it enacted by the Governor of the Colony of the Cape of Good Hope with the advice and consent of the Legislative Council and the House of Assembly thereof as follows:

INTRODUCTORY.

Short Title. 1. This Act may be cited as the "Mission Stations and Communal Reserves Act, 1909."
Definitions. 2. For the purposes of this Act except where the context otherwise indicates.

No. 29—1909.

"Mission station" shall mean any land held by a missionary society or religious body as a grant in trust for the natives or coloured persons in occupation of such land;

"Communal reserve" shall mean any Crown land in the Division of Namaqualand reserved or set apart otherwise than by formal grant for the occupation of native or other communities;

"Prescribed" shall mean prescribed by this Act or by any regulation promulgated under and by virtue of the powers and authorities conferred by the provisions of this Act;

"Society" shall mean any Missionary Society or religious body holding any land as a grant in trust for the natives or coloured persons in occupation of such land;

"Registered occupier" shall mean any person whose name is included in a register of occupiers of land within a mission station or communal reserve framed in the manner prescribed;

"Board of Management" shall mean the body established under this Act for the administration and control of the local secular affairs of any mission station or portion thereof or of any communal reserve.

PART I.—MISSION STATIONS.

3. The Governor may by proclamation apply the provisions of this Act to any mission station, the limits of which shall be in such proclamation described: provided that no such proclamation shall be issued unless and until the previous consent in writing of the trustees of the mission station has been furnished and the people affected thereby have been consulted in the manner prescribed.

4. Upon promulgation of any proclamation as aforesaid it shall be lawful for the Governor, after inquiry by the Resident Magistrate, or a Commissioner duly appointed for the purpose, in the manner prescribed

(1) To fix and determine the area or areas of land in occupation by the Society for church, school, residential and other purposes, to cause a survey to be made of such land, and thereafter to grant to the Society title thereto: subject to a reservation of precious stones and minerals in favour of the Crown, and subject to the condition that no part of such land so granted shall be mortgaged, sold, or alienated without the previous consent of the Governor and in any case only in accordance with such conditions as the Governor may approve, including conditions as to the disposal of the proceeds of such mortgage, sale, or alienation.

(2) To fix and determine what rights, if any, as to grazing on the commonage and as to the use of fuel and water shall be held by the Society in respect of such land;

- (3) To fix and determine in respect of such grant an amount (not exceeding the amount of the rate paid to the Divisional Council) which shall be annually payable by the Society to the Board of Management as and for a local rate for the general purposes of the mission station;
- (4) To cancel and annul the existing title in respect of the mission station described in such proclamation;
- (5) To cause the remaining area of the mission station to be demarcated and reserved for the use and occupation of the registered occupiers;
- (6) To determine who are the persons entitled, at the date of the promulgation of such proclamation, to be occupiers of land within such portion of the mission station as has been demarcated and reserved in terms of sub-section (5) of this section; to direct that a register of such persons and of the number and extent of the separate lots or holdings respectively occupied by them be framed, and, upon completion of such register, that proceedings be taken for the election of the members of a Board of Management, as prescribed; and
- (7) To determine what extent of land shall be regarded as a separate lot or holding for the purposes of this section.

Board of Management. (1) The Board of Management shall consist of nine persons of whom six shall be elected by and from amongst the registered occupiers, and three shall be appointed by the Governor, one of whom shall be recommended by the Society, together with the Resident Magistrate of the District, or such other officer or person as the Governor may from time to time nominate and appoint for the purpose, who shall be an additional member of the Board and shall, when present, preside as Chairman at its meetings. The Chairman of any meeting of the Board shall have a deliberative as well as a casting vote.

(2) The provisions of sections five, seven, eight, nine, ten and eighteen of the "Villages Management Act, 1881," shall, so far as applicable and consistent with the terms of this Act, apply, in respect of the members of the Board of Management elected by the registered occupiers, to the manner of election of such members, their qualifications and disqualifications for membership, their tenure of office, and the filling of their seats when vacant.

(3) The tenure of office of any member of the Board of Management appointed by the Governor shall be for a period of twelve months: Provided that such member may be re-nominated at the expiration of his term of office. Provided further that any such member shall be disqualified from membership and his seat

occurrence of any event which, had such member been elected by the registered occupiers, would, under the provisions of this section, have disqualified him from membership and rendered his seat vacant.

6. (1) The Board of Management shall exercise its rights, powers and duties over the entire area of the mission station, exclusive of such portion or portions as may, in terms of sub-section (1) of section four of this Act, have been set apart for, or granted to, the Society. Provided that it shall be lawful for the Governor, after consultation with the Society and Board of Management, to direct that any land thus excluded which is locally separated from the main portion of the land set apart for, or granted to, the Society, shall come within the jurisdiction of the Board, and thereupon such locally separated land shall become subject to taxation by the Board, and the Society shall be entitled to nominate, in respect thereof, some person who shall be deemed, for the purposes of this Act, to be the occupier thereof, and entitled to registration as such.

(2) Every such Board shall have and exercise the rights, powers and duties exercisable by a Board of Management under sections fifteen, nineteen, twenty, twenty-two, twenty-three and twenty-four of the "Villages Management Act, 1881," and of a local authority established under the provisions of sections thirteen and fourteen of the "Public Health Amendment Act, 1897," and such other powers and duties as may be conferred and imposed upon it by this Act, or any regulations promulgated under or by virtue of section sixteen hereof:

(3) In each year the Board of Management shall levy a rate of not less than ten shillings to be paid by each registered occupier in respect of each separate lot or holding occupied by him and by all such adult male residents upon the mission station as may not be relieved from the obligation to make such payment by regulation framed by the Board of Management and approved by the Governor. The proceeds of such rates and all other revenues of the Board of Management shall, subject to such restrictions as may be imposed by the Governor by regulation promulgated under the provisions of section sixteen of this Act, be appropriated by the Board of Management solely to defray the cost of the exercise and performance of its rights, powers and duties: Provided that with the concurrence of the Resident Magistrate the Board may by special resolution grant a reduction, not exceeding one half, in the rate in respect of any lot or holding, if the Board shall consider that the improved value of such lot or holding is less than the average value of all the lots or holdings.

7. Upon it being shown to the satisfaction of the Governor that any Board of Management has failed to properly carry out of Board to any duty devolving upon it under the provisions of this Act perform any or any regulation promulgated hereunder, it shall be lawful for duty. Procedure upon failure of Board to perform any duty.

the Governor, after giving three weeks' notice thereof in the *Gazette* and any paper circulating in the district, to appoint some person to carry out the said duty, and such person shall thereupon become vested with all the powers of the Board in that behalf. The cost of carrying out such duty shall be borne by the funds of the Board, and, if there be no such funds or they be insufficient, then it shall be lawful for the Governor to levy for the purpose a special rate not exceeding ten shillings to be paid by all such persons as would be liable to the payment of an annual rate levied under the provisions of section six of this Act. Any such special rate shall be payable and recoverable as in same manner as the said annual rate.

Individual Tenure.

8. (1) As soon as any Board of Management shall adopt a resolution in favour of the survey, for the purpose of individual tenure, of the land reserved as provided in sub-section (5) of the fourth section of this Act for the use and occupation of the registered occupiers, it shall be lawful for the Governor to direct that a public meeting of registered occupiers be called for the purpose of considering the terms of such resolution after public notification of the date and purpose of such meeting for a period of not less than six weeks in such manner as may be prescribed; and if the resolution shall have been approved by a majority of the registered occupiers present at such a meeting the Governor may

- (a) Cause such land to be divided and surveyed.
 - (b) Allot to the occupiers of such land at the date of such division and survey such portions thereof as they may, in the opinion of the Governor, be respectively entitled to occupy at the time, and, in case of doubt or dispute, determine any question as to right of occupation or the area of land to be allotted;
 - (c) Cause to be demarcated and set apart sites for public buildings, and such areas as may be available for burial, market, recreation, or any other public purpose;
 - (d) Reserve, subject to the provisions of this Act, the remaining extent of such land for the use of the community as commonage;
 - (e) Grant to the registered occupiers, free of quitrent, but subject to the provisions of this Act and to all such reservations as are usual in quitrent grants of Crown land, such portions of the land as may have been respectively allotted to them;
 - (f) Direct that the cost of subdivision and survey shall, in the first instance, be borne out of public funds; and prescribe the manner in which such costs shall be allocated amongst the grantees, and the times and manner in which the said costs shall be paid.
- (2) Upon failure of any grantee, within six months of the date when same shall become due and payable, to pay the share of

costs allocated against him or any instalment thereof, notice of such failure and of the intention of the Governor to cancel the title deed in consequence thereof shall be posted by the Resident Magistrate of the District at the Court House and either at the Office of the Board of Management or at some other place within the mission station; and after such notice shall have remained so posted for six months it shall be lawful for the Governor, if the amount due together with an additional charge of two shillings and sixpence has not at such date been paid, to cancel the title deed and sell the land to some approved person upon such terms and at such price as he may think fit. Provided that the proceeds of any such sale, after deduction therefrom of the total sum due from the previous grantee together with the aforesaid charge of two shillings and sixpence, shall be paid over to such previous grantee.

9. (1) No land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof shall be alienated, transferred, leased, mortgaged or rendered liable to execution for debt without the previous consent of the Governor; nor shall any such land be capable of sub-division or of being held in joint occupation or ownership.

(2) (a) Whenever, by the terms of any will or other testamentary document, or as a consequence of succession upon intestacy to any deceased person, or by the dissolution of any community of property subsisting between spouses, any land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof, would ordinarily come into the occupation or ownership of more than one person or require to be sub-divided for the purpose of separate benefit, the Resident Magistrate of the district, after consultation with the Board of Management, shall determine the respective values of the shares of the persons beneficially interested in such land, and shall appoint from among such persons one person into whose occupation or ownership alone such land shall come. Provided, that no such appointment shall be made unless and until adequate arrangements to the satisfaction of the beneficiaries not so appointed, or their lawful representatives and of the Resident Magistrate shall have been made by the person proposed to be appointed for the payment to such beneficiaries of the value determined as hereinbefore provided of their respective benefits.

(b) Upon failure from any cause of the person so appointed to carry into effect the arrangements made for the satisfaction of the shares of such beneficiaries, notice of such failure and of the intention of the Governor in consequence to cancel the right of occupation or ownership, as the case may be, previously granted to such person in terms of sub-section two (a) of this section shall be posted by the Resident Magistrate at the Court

**RURAL COLOURED AREAS ACT
NO. 24 OF 1963**

[ASSENTED TO 23 MARCH, 1963]

[DATE OF COMMENCEMENT: 21 JUNE, 1963]

(English text signed by the State President)

as amended by

Rural Coloured Areas Amendment Act, No. 75 of 1967

General Law Amendment Act, No. 101 of 1969

[with effect from 21 June 1963—see title GENERAL LAW AMENDMENT ACTS]

Expropriation Act, No. 63 of 1975

[with effect from 1 January, 1977 — see title LAND]

Rural Coloured Areas Amendment Act, No. 28 of 1976

Rural Coloured Areas Amendment Act, No. 31 of 1978

GENERAL NOTE

The whole of this Act has been repealed by s. 1 of Act No. 31 of 1978, except section 4, which is reprinted below.

4. Reservation of land for occupation or ownership of Coloured persons.—(1) The State President may by proclamation in the *Gazette*, and subject to such reservations and conditions as he may deem fit, declare any rural area defined in the proclamation—

- (a) which consists of State land; or
- (b) which has at any time prior to the twenty-eighth day of April, 1961, been granted, transferred or set aside for occupation or ownership of Coloured persons or was on that date a traditional or locally recognized Coloured area, and which is occupied or owned mainly by Coloured persons; or
- (c) on which there is a mission station for Coloured persons or on which a community of Coloured persons in the nature of a mission station or settlement is resident,

to be reserved for occupation and ownership of Coloured persons.

(2) No area shall be declared to be reserved in terms of sub-section (1), except after consultation with the Administrator of the province concerned and with the lawful occupiers and owners of land in such area, and, in the case of any area referred to in paragraph (c) of that sub-section, on the written request or with the written consent of the owner of the land.

(3) If the majority of the persons present at a meeting of registered occupiers of any area convened for the purpose in the manner prescribed by regulation and (in the case of an area referred to in paragraph (c) of sub-section (1)) the owner concerned has agreed thereto, the State President may by proclamation in the *Gazette* amend or withdraw any reservation or condition imposed under sub-section (1) or any law hereby repealed.