

Ex parte BOSMAN AND THE CHURCH COUNCIL OF THE
DUTCH REFORMED CHURCH OF RUSTENBURG.

Auctorisatie de facto.

Where the minister of the Dutch Reformed Church of Rustenburg refused to quit the parsonage after having resigned and after having received due notice to quit, the Court granted an auctorisatie de facto ordering him to do so.

1886.
Sept. 3.
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Ex parte
Bosman and the
Church Council
of the Dutch
Reformed
Church of
Rustenburg.

The Rev. G. W. Smits resigned as minister of the Dutch Reformed Church (Nederduitsche Hervormde of Gereformeerde Kerk) of Rustenburg in January, 1886, and his resignation was accepted on the 1st April, 1886. On the 12th April he was told that he might remain in the parsonage for a further period of three months. On the 28th June he was given notice to leave on the 15th August. On the expiry of this time he refused to quit, whereupon the Acting Minister and Church Council applied to the Court for an order compelling him to do so.

Cooper, with him *Burgers*, for the applicants: The Church Council is entitled to an *auctorisatie de facto*. If the Rev. Smits is aggrieved at anything, he can institute an action for damages. Vide *Van der Linden*, 3, 4, 8.

KOTZÉ, C.J.: The Court will grant an *auctorisatie de facto* ordering the Rev. Smits to vacate the parsonage at Rustenburg, of which he is now in possession, and to give up possession of it to the Church Council of the Dutch Reformed Church of Rustenburg. The sheriff is ordered to see that this order is carried out. The Rev. Smits must pay the costs of this application.

BRAND and ESSELEN, JJ., concurred.
