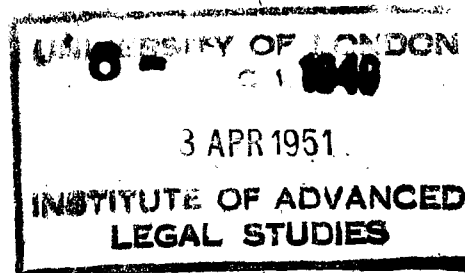


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36, 1949

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IN THE HIGH COURT OF BASUTOLAND.

CRIMINAL SESSIONS

2nd NOVEMBER 1948.

BEFORE:

Mr. Acting Justice Sutton.

ASSESSORS:

J. Elliot.
F. I. Parnell.

AFRICAN ASSESSORS:

George D. Makhehle.
Moramang Jonathan.

R E X vs. (1) Bereng Griffith Lerotholia.
(2) Gabashane Masupha.
(3) Mojautu Nonyana.
(4) Makione Mphiko.
(5) Sankatane Masupha.
(6) Mosiuoa Masupha.
(7) Kemaketse Masupha
(8) Fusi Rakakali.
(9) Saferi Ntsoso.
(10) Ramabanta Mahleke.
(11) Moloi Ntai.
(12) Titimus Ramashamole

VOLUME: 8.

Reported by:
A. Nass,
P.O. Box 2038
JOHANNESBURG.

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NINTH DAY.

THURSDAY, 11th NOVEMBER, 1948 JUL 1953

BERENG GRIFFITH LEROTHOLI (Under former title) **INSTITUTE OF ADVANCED
LEGAL STUDIES**
CROSS-EXAMINED BY MR. THOMPSON:

Chief Bereng, you told us at the beginning of your evidence yesterday that you are the eldest male descendant of Moshesh? -- You are quite right.

That gives you a very high standing and very great influence amongst the Basuto nation, does it not? -- Yes.

It would not be an exaggeration to say a large number of Basuto generally would be prepared to carry out your instructions almost without fail? -- They ought to do so, but they are no longer doing it these days.

Chief, I do not want to go into matters which are irrelevant or perhaps unpleasant, but your relationship with the Regent, the Paramount Chief, has not been very harmonious for some years, has it? -- How do you mean?

Well, you, in standing the principal Chief and one of the Ward Chiefs of Basutoland, have to work a lot with the Regent, haven't you? -- Yes.

You and she are more often disagreed than agreed on matters of policy and so forth? -- Such cases have been tried by the Court and they are now finished.

I am merely putting it to you as a fact, as I say I don't want to go into the matter too deeply. That is a fact - relations could have been happier? -- There were differences of opinion and the case was heard by the Court and it is now finished.

Yes, I think the case that you have in mind was a land dispute between you and her, last year. -- That has not yet been completed.

/And finally

And, finally, on this subject, Chief Bereng, you did lay claim to have the right by Basuto law and custom to the Regency, is that not right? -- Yes, that case was heard by the High Court.

And decided against you, in fact? -- You are quite right.

Some years ago? -- Yes.

Of course, you're bound by the legal decision, but you've never been content in your own mind because you think it was wrong? -- Well, you can see I did not appeal therefore I was satisfied with the decision of the High Court.

You didn't appeal, but do you feel that the decision of the High Court was correct or the Judge might have been mistaken? -- I was satisfied with the decision because otherwise I would have appealed.

Well, I think you must be the first unsuccessful litigant who is satisfied, Chief Bereng. -- You want me to tell you why I was satisfied with the decision?

No, I don't think we'll go into ancient history, I dare say it would be very interesting, Chief, but this is not the occasion for such a discussion. Now, do you know Teyateyaneng district very well? -- No.

Have you often visited No. 2 accused, Chief Gabashane? -- I visited him on two occasions.

Only on two occasions? -- On the third occasion I just slept there and I was with the interpreter - I was passing.

Just slept there the one night? -- Yes

When was the first occasion when you visited for more than one night, was that in 1946? -- Yes, he who told you that it was in 1946 is quite correct.

/As a

As a matter of fact, chief, no-one told me it was in 1946. I guessed it. However, the first occasion was in 1946 and you did not stay with him for more than one night again until 1948? -- No.

Now the nearest Free State towns to your home are Wepener and Zastron, are they not? -- Ladybrand, Zastron and Wepener.

They have good shops, those three places? -- They have shops.

Good shops? -- They have shops!

Why did you find it necessary to make arrangements to go all the way to Ficksburg to obtain this clothing? --- I am a free man under this Government therefore I am free to purchase whatever I may fancy and at any place that I choose. And the second reason, I would have done very foolishly, that when I happened to be here I should go from here back to Zastron and then to spend more than Ten pounds.

Now, nobody is denying your first portion ... nobody is denying you're a free man. It is because you are a free man I am trying to find why you came all this way to spend a matter of Ten pounds.-- Perhaps you did not understand or hear that I had been called by the Chieftainess at Matsieng, and therefore I was waiting for my children whom I wanted to send to school. Therefore I didn't think it necessary that as I was going to Roma here in this district that I should go back to Mohale's Hoek again.

Quite a long way from Matsieng to Maseru, isn't it? -- In my opinion it isn't a long distance. It is not as long as from there to Mohale's Hoek. It is 2 miles to Matsieng from here.

/How far

How far is it from Massieng to your own home? --
I think more than 100 miles.

Was the summons by the Paramount Chief to you an unexpected one? -- Yes.

What was it about, by the way? -- I don't know whether it is necessary that I should divulge the Paramount Chief's private matters.

I would like to know the subject matter, I don't want any details. -- It was a matter between the Paramount Chief and the Resident Commissioner.

So you are trying to say it was a State secret, are you? -- It was an affair between them so that I shouldn't mention it.

When were you summoned by the Paramount Chief? -- The telegram said that I should report myself on the 17th of February.

You had ample opportunity to start arranging for your children's clothing before you were summoned to the Paramount Chief, hadn't you? -- No, I hadn't had the opportunity.

Why not? -- I had prepared myself to buy them clothing when I sent them to school.

But you had plenty of time. You'd made up your mind sometime early in February, to send these children to school, had you not? -- You are quite right.

And you knew they would be going to school some time in March, wasn't it? -- No, they were to go to school in February.

In February? Well you had the whole of the first fortnight in February to make arrangements to buy the children their outfits. -- How do you know that I had the

/fortnight

fortnight?

You had made up your mind to send the children to Roma early in February? -- Yes.

You were not summoned to the Paramount Chief until the 17th? -- Yes.

You could have easily spared a day or two during that fortnight to do the shopping? -- No, I had fixed my own time in which I would go and fetch the clothes for them. There was nothing binding me, as soon as getting the telegram, to hurry up and fetch the clothes for them.

Yes, I am prepared to accept that answer Chief Bereng. I am going to suggest that you had fixed your own time and you made the buying of the children's clothing the outward excuse for this visit to Gabashane? -- You are quite wrong there. I can visit Chief Gabashane any time.

When did you first make up your mind that you were going to make these purchases in Ficksburg? -- While I was at Mamathe's.

You didn't make up your mind till you arrived there? -- No.

Why did you go there at all? -- Because the children were far away, I left Maseru in order to get out of food expenses.

Just a moment, Chief, please. You weren't at Matsieng, the Paramount Chief's place? -- Yes.

With what object did you leave Matsieng and come to Maseru? -- I came down here to send a message that the children should come down and I had the intention of passing on to Mamathe's.

You told me a few moments ago that you did not form the intention to go on this shopping expedition until
/after you

after you had arrived at Mamathe's. -- No, ^{you}/ have forgotten. Your question was when did I make up my mind to buy the clothes for the boys at Ficksburg.

What do you mean by that? You might have gone to Ladybrand? -- Yes, I could have gone to Ladybrand. Some of the clothes, even now, were purchased in Ladybrand.

Now you've produced some slips from shops which show that you made purchases in Ficksburg on the 6th and 7th or 7th and 8th March. What we are really interested in is what you were doing on the 3rd and 4th March? -- I was merely staying at Mamathe's.

We'll start with the 3rd March. Why did you come into Maseru during the course of that day? -- I didn't come to Maseru on the 3rd of March.

I thought you said you did, I may be mistaken. All right, I made a mistake. What did you do during the day of the 3rd March ? -- I did nothing at all - there was nothing I could do.

You just sat around all day? -- Yes.

On the evening of the 3rd March? -- There was nothing that I did, except to eat and to sleep.

Can't you remember what you did in the evening of the 3rd of March? -- I have already told you that there was no work that I could do at Mamathe's.

What did you do on the evening of the 3rd, do you remember? -- I remember that I had my meal, then went to bed.

What time did you go to bed? -- I can't say what time it was because I didn't look at the watch.

And the only persons you saw that evening were the three men who were with you? Ntoane, No. 3 and Titimus? -- And Chief Gabashane and Nosiua, No. 6 accused.

/Where did

Where did you see Chief Gabashane on that evening, March 3rd? -- At Makhato-oa-Mathe. Same house as Khohlong.

That is the same house mentioned by Mapeshoane? -- I understand it is the same house, but I heard that name for the first time in Court here.

So we get this far, at any rate. That Mapeshoane is correct that you and Gabashane were together in that house some time that evening. -- He has guessed quite correctly that I and Gabashane were in that house.

Well, perhaps it is a guess - a very lucky guess. And Mapeshoane is correct in saying that No. 6 was also present? -- Yes, Mosiuoa slept in the same hut with me.

But you say that Mapeshoane is incorrect when he says that a number of other men were there as well? -- Which men?

He gave a long list of names of men, including those that you have mentioned. -- No, I only know these that I have mentioned.

He mentioned those that you agree with - yourself, Gabashane, Ntoane, No. 3 and No. 6. He gives five other names -- He never saw them in that house because he has never been in that house.

Has he never been there? -- No.

Never in his life? -- Not during my stay in Mamathe's.

That's a different matter. You deny that Mapeshoane was in that house on the evening of Wednesday March 3rd? -- It is merely a lie, a fabrication.

Well, now, on the night of March 4th what did you do? -- That was the same as the previous night - I had my

/meal and

meal and went to bed.

The same hut? -- There was no hut in which I slept except that one.

Mapeshoane is again correct in that you were in that hut that evening. -- He knows that that is the house in which I was welcome.

Was Gabashane with you in that hut on Thursday evening? -- Even if he was busy with some other work, he would not go to bed until he came in to see me.

That is the etiquette, is it, that he had to see you safe and comfortable before he went to bed himself? -- Yes.

All Mapeshoane's story about the events of that evening are also damnable lies? -- It is a lie, truly a lie.

Of course, Mapeshoane has no reason for trying to get you into mysterious trouble, has he? -- That may be known to him because here it is now he has helped me into this trouble.

Not known to you anyway. The same applies to the other three, Sothi, Sepalami and Molemohi? -- Those, I have seen their faces for the first time in this Court.

And Mapeshoane of course is supposed to be distantly related to you? -- Yes.

And the other three you never saw until you saw them at the Preparatory Examination? -- That is true.

Now about your state of health, is it true you suffer from piles? -- Yes.

Very badly? -- Yes, I was even operated on for them.

You have my sympathy. How long have you suffered from gout? -- For more than five years.

Who has been treating it for you? -- The first

/Doctor who

Doctor who treated me was Dr. Hodgkinson.

And when he left? -- Doctor Jacobson, on three occasions.

The Medical Officer at Mohale's Hoek? -- Yes.

Now you say you don't know the "TY" district at all? -- Yes, I don't know it well.

Chief Bereng, I may be wrong in this, correct me if I am. Do you have to keep your District Commissioner at Mohale's Hoek in touch with your movements? -- Yes, that is what his order is.

Did you report to the District Commissioner at Mohale's Hoek before you started, that you were going to "TY"? -- I don't report to the District Commissioner if I am wanted by the Paramount Chief. I do so if I merely go on my own private business. Therefore, I availed myself of the opportunity of having been called here I thought I might just as well finish my own business.

Of course, when you left the Paramount Chief's you were on your own business? -- Yes.

And strictly speaking, you should have reported to the District Commissioner of Mohale's Hoek as soon as you had finished at Matsieng, that you were intending to go to Teyateyaneng? -- No.

Why not? You admitted to me that when you are on your own business you have to keep the District Commissioner in touch with your movements? -- When I leave my home and having to be away for many days, then I have to notify the Paramount Chief.

That was exactly what you were doing afterwards ... you also have to notify the Paramount Chief? -- Paramount Chief.

/You also

You also have to notify the District Commissioner you told me? -- If I said the District Commissioner, well that must have been a mistake.

You definitely said District Commissioner, there is no mistake. Well now, you don't know the district of Teyateyaneng very well and you certainly don't know the area around Fusi's? -- Yes, I knew the area only the other day when the Court went out there.

So far as you know, neither No. 3 accused, nor No. 12 know the area round Fusi's, and you heard that area described to some extent, for the first time at the Preparatory Examination? -- Yes.

There is one point on which I would like my curiosity satisfied please Chief Bereng. Since you didn't know the place, how was it possible for your counsel to have an inspection in loco before he was in possession of a plan and before this trial opened? -- (No reply)

HIS LORDSHIP: I don't know if we ought to go into that until we investigate what knowledge Counsel has.

MR. THOMPSON: If Mr. Grobelaar can give an answer to the question, I naturally prefer to accept his explanation. On the face of it, it's peculiar. If Mr. Grobelaar is prepared to say where he got the information from, I will accept it.

MR. GROBELAAR: My attorney went there, according to his record here, on the 6th August - that was after the Preparatory, and before that time neither I nor he knew anything about this place, but this is his record on the 6th: 108 miles trip. The Preparatory closed on the 3rd August. This is a note on my Attorney's record and this is after the evidence read in Court.

MR. THOMPSON: I am not querying Mr. Grobelaar's conduct. The

/only point

only point is this, m'lord. The man doesn't know the district yet he is able to direct somebody to more or less the precise spot where something is supposed to have happened and on the face of it, it is peculiar. However, my learned friend now tells me that his attorney went there on the 6th, so that disposes of that. I am accepting Mr. Grobelaar's explanation and not blaming him in any way.

Why didn't you bring your children up from your home as soon as you arrived at Mamathe's? -- I sent a message while I was in Maseru, before passing on to Mamathe's.

How long does it take to get from your home to Mamathe's? -- By car it is one day.

How long did it, in fact, take your children to reach Mamathe's? -- They took a long time. I don't really know where the delay came from but I know that when they got to ing camp they discovered that they had left their blankets at the barber's shop. That is what I was told, I wasn't there.

When did you send for them, on what date? -- I sent a telegram on Saturday.

What date? -- I think it was on the 21st February.

21st February? -- Yes.

And they didn't arrive till when? -- 6th of March.

And the only reason it took them 13 days to obey your telegram was that they had to go back and fetch their blankets? -- I don't know, I was not there.

Are your children always as dilatory in carrying out your orders? -- No.

You can't give any reason. I suggest you didn't send for them until the day before. -- That is a wrong thought

/And you

And you were there for a fortnight for some other purpose, nothing to do with your children at all? -- That is a wrong view.

You heard about the death of Meleke before you left, I suppose? -- Yes.

RE-EXAMINED BY MR. GROBELAAR:

Now, was it unusual for you and Chief Gabashane to see each other in the evening during your stay with him that has been described in Court? -- No.

Did he see you only at the quarters where you slept or did you see each other at some other place at night? -- Sometimes I visited him in his quarters in the evening.

Was it strange that Mosiuoa should have been with you on the evening of the 3rd of March? -- It was not only on that evening. Since my arrival at Mamathe's he was given to me to sleep with me so that he could assist me with whatever things I may require. And also to protect the people who were with me from being, perhaps, worried by dogs, whenever they go outside at night.

Now you've been asked why there should be a desire to trump up stories against Chiefs in Basutoland, do you know if there IS any such political movement afoot which is directed against Chiefs? -- What is known as true is that the Nation/^{no}longer loves their chiefs. They speak and they write to the Press.

What writings in the Press are you referring to now? What is the object of those articles? What is suggested? -- They suggest that the Chieftainships should be got rid of. It may be perhaps this is one matter of getting rid of chiefs.

/In regard

In regard to your children, did you have a motor car of your own at your disposal in February of this year?

-- My motorcar was in the service garage, that was why I had to use Mr. Russ' car to Matsieng.

It is suggested that your children could have come to you at once with the greatest ease after having received your telegram on about the 21st February. What arrangements had to be made for their transport? -- The first thing is, if I send a telegram there on Saturday, if the telegram arrives after the post has gone, the telegram will remain in the post office until the following Tuesday and then it would be received on the Wednesday, and then arrangements would have to be made for the children to get them cleaned up and also give them some provisions.

How old are these children? -- The elder of the two is sixteen years and the younger is twelve years.

Yes, and you were explaining that arrangements would have to be made ...? -- When arrangements have been made, then they perhaps catch the Thursday or Friday lorry in order to get to Mohale's Hoek.

How far is it from Phamong to Mohale's Hoek? -- It may be 50 miles or more.

And that is where the children were, at Phamong? -- Yes.

And then they have to take the lorry to Mohale's Hoek. What is the next step? -- And then another lorry from Mohale's Hoek to Maseru. Then another lorry from there to Mamathe's.

Was it at all strange that it should have taken such a long time for the children to get to you? -- No, it wasn't strange.

/And you've

And you've already explained about blankets which were accidentally left behind, was that also a factor which made for delay? -- Yes.

Is it at all strange for Chiefs to visit each other? -- No.

HIS LORDSHIP: You got to Maseru on the 19th of February? -- Yes.

When did you leave Matsieng? -- On the 19th of February.

When did you get to Maseru? -- The same day.

Whose car did you come in? -- I came in on Mohethla's bus.

Before you left Matsieng, did you let Chief Gabashane know that you were coming down to Maseru? -- I told him at Matsieng that I would come down to Maseru for a short while.

When was that? -- It was on the 18th.

Was Gabashane at Matsieng? -- Yes.

What else did you tell him? -- That was all I told him.

You didn't tell him you might come and stay with him? -- No.

Well then, you got to Maseru on February 19th? -- Yes.

What were you doing in Maseru between February 19th and February 23rd? -- There was nothing I was doing.

Then you didn't tell him, when you got to Maseru, on the 19th, that you were there? -- No, I did not

Then you sent a telegram to him on the 23rd didn't you? -- I think it was on the 21st when I sent him a telegram.

/He has not

He has not produced that telegram, he must have got it, but he hasn't produced it. -- No, I don't know what he did with it.

You see, he hasn't said what he did with it and even if he hasn't got it, you could have got evidence from the post office to say whether you sent such a telegram. You said you think you sent it on February 21st? -- Yes.

And then, what did you ask him to do? -- I asked him to meet me in Maseru.

When? -- On the 23rd.

He didn't come? -- It was not yet late when I left here thinking that if he is coming direct, I might meet him on the way. It was Steven Pholo's taxi.

You didn't wait for him? -- No.

Why not? -- Well I thought I might meet him on the way even if he did come.

Then you went in Steven Pholo's car? -- Yes.

How far did you get in that car? -- I went as far as Mamathe's in that car, but I had met Chief Gabashane on the way.

So you arrived at your destination, at Mamathe's? -- Yes.

Then did Pholo's car go back to Maseru? -- I think it went back to Teyateyaneng, because Pholo lives at Teyateyaneng.

Well that was February 23rd? -- Yes.

When did you next use a motorcar while you were at Mamathe's? -- I think on the 24th or the 25th.

Whose car? -- Chief Gabashane's car.

Where did you go to ? -- We went to Teyateyaneng.

And What to do? -- Chief Gabashane went there on his

/own matters

own matters so I didn't know about it.

That was either February 24th or 25th. Was the car in good order then? -- No, it didn't pull properly.

Did you return to Mamathe's in that car that day?

-- Yes.

When did you next make any journey in a motorcar?

-- On the 26th.

Whose car was it? -- Chief Gabashane's motorcar.

Where did you go to? -- I came to Maseru.

For what? -- I had come here to receive my monthly salary.

Did you go back in that car? -- Yes.

Did you get back to Mamathe's? -- But not in that car.

How far did you get? -- As far as Teyateyaneng.

And then? -- Then we didn't use it further on.

What did you do? What happened to the car then? -- I then passed on in Pholo's car.

What happened to Chief Gabashane's car at Teyateyaneng? -- I last saw it there at Steven Pholo's on that day.

You went back in one of his cars? -- Yes.

Why had Chief Gabashane's car been left behind at Teyateyaneng? -- It was not pulling properly, so we saw that we could not negotiate these steep inclines.

Was that the last you saw of that car? -- After that I saw the car on the 8th and the 9th at Mr. Dere's shop.

You don't know what happened to it after you left it at Pholo's on the 26th? -- No.

How many journeys did you make to Ficksburg?

-- On three occasions.

When was the first? -- The first journey was either
/on the

on the 24th or 25th.

What did you go for? -- The journey was that of Chief Gabashane who was the man I visited and he asked me to accompany him.

In whose car? -- In his own car.

And the second journey? -- The second journey was on the 8th and 9th of March when I went to buy clothes for the boys.

Whose car? -- Mr. Pholo's motor car on the two last occasions.

Your children were not there on this occasion, your children hadn't come yet? -- They had come.

The witness Titimus spoke about the journey you made to Ficksburg when you didn't buy clothes because your children had not yet come? -- He is quite right, that was on the 24th or 25th of February.

But Titimus led us to believe that on that occasion you went to do shopping, not that you went as a friend of Gabashane's.-- Your Lordship will remember that he said that I saw the goods but did not buy them as the boys were not there.

So you went partly on your own business too? -- I did not go there on my own business, but as I happened to be there then I thought I might as well look round.

and the third time you went there? -- On the 9th.

In Pholo's car again? -- Yes.

When did your children arrive? -- You mean at Mamathe's?

Yes. -- On the 6th.

When did you first send for them? What date in February? -- It was on the 21st I think.

/They took

• They took all that time to get there? -- Yes.

ASSESSOR MAKHEHELE:

Mapeshoane, did he ever go into that hut which you occupied? -- Not for oneday.

When did you first know Mapeshoane? -- I forget what year it was when I first saw him. He was at Mohale's Hoek.

Since your arrival at Mamathe's, did you ever meet him? -- Yes.

Where - what part of the village? -- Between the two huts - the Khohlong^{hut} and the other hut of Chief Gabashane's. Khohlong is the hut which I occupied.

You said that Basuto desire that the chieftainship should be destroyed and that they speak verbally and also have spread their views in the Press. Why do they want to get rid of the chieftainship? -- Nowadays they say that the chieftainship should be got rid of because the Chiefs can't commit ritual murders, but before the ritual murders, they complained that the Chiefs gave them too much hard labour.

Now they say that the chieftainship should be got rid of, whose place will this be? -- There are different views expressed. Other people say all the junior chiefs should be got rid of and only the Paramount Chief should remain. And others suggest that any chief that is got rid of an ordinary person should be appointed to look after the area. That is any Chief who is found to be guilty of a crime should be got rid of.

MR. THOMPSON: Might I clear up something? There may be a misunderstanding arising out of Your Lordship's questions. I want to know where Chief Bereng went on the 25th of February - the 24th and 25th of February.

/HIS LORDSHIP:

HIS LORDSHIP: Yes, you can ask that question.

MR. THOMPSON: Where did you go on the 24th and 25th of February, Chief Bereng? -- I came with Chief Gabashane to Teyateyaneng, then passed on to Ficksburg.

The reason why I asked, m'lord, is that the first only mentioned Teyateyaneng, only later answering Your Lordship did he mention Ficksburg.

MR. GROBELAAR: In view of the questions of one of the Native Assessors, I propose, with your permission, just to put in a newspaper. M'lord this is a newspaper circulating in Basutoland where a letter is written and where views are expressed to the effect, I am given to understand, m'lord, that there should be only one Paramount Chief and that the others should be got rid of and I propose to refer to this and to put this to the witness and to hand in ...

HIS LORDSHIP: Does anyone object to that?

MR. THOMPSON: I do not think news of a political dispute inside Basutoland has any bearing whatsoever on this case, save, possibly, to give a motive to Chief Bereng.

HIS LORDSHIP: He said so, they do want to get rid of the Paramount Chief. He said there have been letters of that effect - isn't that sufficient that you've got that for the record than to have the letters to that effect?

MR. GROBELAAR: M'lord, the question was stressed by the Assessor, my learned friend refers to it, and this is a newspaper which has circulated and I want to put this to the witness and find out if this is the nature of the argument and the kind of letters he refers to.

HIS LORDSHIP: You've got it already. I can't allow you to put in newspapers. Basuto express views in the Press about getting rid of the Chiefs because the Chiefs carry out ritual murders and before ritual murders they complain they have too much hard labour. There are different views expressed.
/Others say

Others say only Paramount Chiefs should remain. Any Chief found guilty of ritual murder should be deposed, isn't that sufficient? I don't see that you can put in the newspaper.

MR. GROBELAAR: Only to say this is the kind of argument referred to m'lord.

HIS LORDSHIP: Well, we've got it already.

MR. GROBELAAR: If Your Lordship is satisfied. That is my case, m'lord.

CASE FOR NOS. 1, 3 AND 12 ACCUSED.

TEA ADJOURNMENT.

ON RESUMING:

THE DEFENCE CALLS:

PETER WALTERS, sworn states,

EXAMINED BY MR. GORDON:

Mr. Walters, you are employed by the firm Dere and Glynn at Kolonyana. What is the nature of your employment?

-- Engineer and looking after the mills.

Do you know chief Gabashane, that is accused No. 2 in the box? -- I know him very well.

Do you know his motorcar? What kind of car is it?

-- Yes, a Buick.

Do you know the number of his car? -- BD2.

Have you had occasion, this year, to work with his car? -- Yes.

What was wrong with the car? -- The cluster gear and the gear box casing was cracked.

Where did you work with this car? -- In front of my room.

Is that at Kolonyana? -- It is at Kolonyana.

/How far

How far is that from Dere and Glynn? -- Just across the road.

That is at Dere and Glynn? -- Yes.

Can you tell His Lordship when you took this car away? -- I got a message from Steven Pholo.

As a result of that message where did you go to? -- I went in Pholo's lorry into Teyateyaneng and collected it at Pholo's place.

And where did you take the car to, that is, Chief Gabashane's car? -- Straight to Kolonyana, back to Dere and Glynn.

Now, Mr. Walters, can you fix the date on which you called for the car? -- I couldn't specify that very well. I started with Dere and Glynn ^{on} / the 23rd February, that was on a Monday. And then I got a message and I took Pholo's lorry on the Friday to Teyateyaneng and came back with the car.

That was on the Friday? -- Yes.

The Friday of the same week? -- Yes.

Can you tell the Court for how long the car was in your possession at Kolonyana? -- I couldn't very well specify that, but I think for about six weeks.

During this time was the car ever out of your possession? -- No.

Can you tell the Court any particular reason for the delay if there was one? -- Scarcity of cluster gears.

Did you have to get a new one? -- That's right.

Who called for this car? -- The Chief himself.

And you say that was approximately 6 weeks later? -- Yes.

CROSS-EXAMINED BY MR. THOMPSON:

Mr. Walters, where is this place, Kolonyana? --
/It is

It is on the main road from Teyateyaneng to Ficksburg.

You've got no documentary evidence about these dates, have you? -- I didn't take any interest of dates.

I suppose the first time you were asked to remember the dates was some time in August? When were you first approached to remember what dates you had this car in your possession? -- I can't specify the date, as I said, I started on ^{the} / 23rd February.

Somebody came sometime and asked you if you remembered having the car, is that right? -- From Ladybrand?

No. Mr. Walters, you made a statement to somebody or other before you came to give evidence today, didn't you? -- Yes.

When was that? -- I didn't make a statement.

Mr. Walters you must have told somebody what you knew or are supposed to know? -- Who is the somebody?

Didn't somebody come and ask you if you had ever had the car in your possession? -- The car was in my possession and the only people who came during that period would just go and come.

Did you sign a statement? -- Yes.

What date was that? -- (No reply)

You swore an affidavit on 8th November, that was on a Monday? -- Yes.

Prior to Monday you had not been asked for six months or so about these dates, had you? -- But I remembered.

Now what did you say happened on February 23rd? -- It was when I started with the firm.

Where had you been before that? -- I was in Durban.

So you only arrived in Basutoland on February 23rd? -- I started with the firm, my home is in Ficksburg.

/When did

When did you arrive from Durban? -- I arrived in January.

So you fixed the date by the fact that it happened soon after you took over this job at Kolonyana? -- That is what I remember.

NO RE-EXAMINATION.

ASSESSOR JONATHAN:

Was the car at Mr. Dere's shop? -- Yes.

Was the car repaired by you and kept until it was completed? -- Yes.

Do you usually repair cars? -- Yes.

ASSESSOR MAKHEHLE:

I heard you speak about an O:N car with Mr. Mathlosa, what did Mr. Mathlosa come there for? -- He came to see me but it was not about this car. He came to me about the motorcar of Chief Gabashane, but I refuse to give evidence.

Where does Mr. Mathlosa live? -- He lives in Maseru.

Did he tell you who had sent him so that you refuse to tell about the motorcar? -- No, he did not tell me that.

Do you mean to say that by the time he interviewed you you had not yet known that the car had been with you for six weeks? -- I didn't take a special note of the time.

MR. GORDON: Arising out of the questions of the Native Assessors, would Your Lordship permit me to put one or two questions to the witness?

HIS LORDSHIP: I have one or two questions then it would be better for you to do it after me.

Now, was this the first car that you repaired after you came there? -- Yes.

/Were you

Were you repairing it for this firm of Dere and Glynn or for yourself? Was it your own job or for the firm of Dere and Glynn? -- I did it as friendship, in my own time.

Then you would have to get a gear cluster from somewhere, wouldn't you? Where did you get it from? -- I got it at the Ladybrand Garage.

Then the Ladybrand Garage would know when they supplied it to you? -- Yes, my Lord.

What was the name of that Garage? -- Ladybrand Garage.

And they would know what date they supplied it? -- I suppose so, my Lord.

How much did it cost? -- Round about £7 - I'm not sure.

About £7? -- Round about that.

Did they send you an account? -- They did send me an account.

When? -- I can't remember.

Then they would have given you a receipt. Where's the receipt? -- It must be in my papers.

Can't you produce it? -- No, Your Lordship.

Why can't you produce it? -- I haven't got it on me.

Well, you could go and fetch it? Have you still got it? -- It would be much easier if you would find out from the Ladybrand Garage.

Did the account give the date on which they supplied it to you? -- The account would specify it, but I didn't take any notice then.

How far do you live from this Court? -- I live at Ficksburg.

Well, you ought to have that receipt. Where did

/you get

you get the money? -- I paid for it with my own money.

Were you reimbursed by Chief Gabashane? -- Yes.

How much did he pay? -- I m not actually sure,
My Lord, it might be round about £7.

But you said the cluster gear cost alone £7. Did
you only charge him for the material? -- Yes, he only
refunded my money.

Then you worked for him for nothing then? -- I
did it for friendship, my Lord.

Are you a friend of his? -- Yes, I ^{have} known him
for quite a time.

How much work did you put into it? -- About £15.

Is that besides the material? -- With the material.

And you only charged him for the cluster gear?
-- Yes.

Does this man, Steven Pholo, not undertake repair
work? -- Well he runs the bus between Teyateyaneng and
Ficksburg.

He is at Teyateyaneng, isn't he? -- Yes, he is.

Doesn't he do repair work? -- Well I don't know.

You don't know. When did you first arrive in
Basutoland? -- 1925 I think it was.

How long have you known Gabashane? -- I have known
him for many years.

Yes, now Mr. Gordon?

MR. THOMPSON: M'lord, might I suggest that I ask him one or
two questions first and then my ~~learned~~ friend can re-examine
him.

Did you say that you refused to give this man,
Mathlose, any information? -- I didn't actually, but I

/couldn't very

couldn't very well specify the date.

You couldn't specify the date when Mathlose spoke to you. When Mathlose asked you for this information you were unable to give it to him, is that it? -- I wasn't unable to give it, but I couldn't specify the date.

What happened since to enable you to specify the date? -- I remember through my employment.

What did you require to enable you to specify the date? -- I started with Dere and Glynn on Monday 23rd February.

When did you first find out that it was Monday, 23rd February you started with Dere and Glynn? -- Well, I found out later when I went through my papers.

Where did this man Mathlose see you, at your home? -- He saw me at Kolonyana, where I am employed.

Where are your papers? -- I haven't brought them.

Where do you keep your papers? -- I keep them at home.

Where is that? -- At Ficksburg.

You couldn't remember offhand what date it was you started with Dere and Glynn? -- No, I didn't take interest.

What was it you looked up to get the date of February 23rd? -- Well, it's on my cash slips and things like that.

So you have some documents at your home in Ficksburg which you could produce to show when you started with Dere and Glynn? -- Yes, I have documents at home or at Kolonyana showing the date when I started with the firm.

Where are these documents, are they at Kolonyana or are they at Ficksburg? -- I can't be too sure of that - maybe at Kolonyana and maybe at Ficksburg.

Well, somewhere or other you have got some

/documents which

documents which show when you started with Dere and Glynn, have you? -- Yes.

And you've got a receipted account from the Ladybrand Garage? -- Yes.

When Mathlose visited you at Kolonyana, even if you didn't have any papers, you could have gone to the firm's office and found out when you started, couldn't you? -- I didn't take any interest. I didn't know it would end up this way.

It amounts to this - you told him at the time you did not know and since you've discovered these dates.

RE-EXAMINED BY MR. GORDON:

In fact, Mr. Walters, you didn't want to give evidence? -- No, I didn't.

You had to be brought her by formal subpoena? -- Yes.

How long does it take to get to Kolonyana from here, Mr. Walters? -- It would take me about two hours roughly in a lorry.

Two hours to get there and two hours ^{get} to/back? -- Yes.

Whose transport are you here with? -- Dere and Glynn's transport.

Would you be authorised to use their transport to go there and back? -- If he is finished with his work.

You came in ^{with} a lorry with some other duties to perform? -- Yes.

If it's a question of transport for the witness the police are prepared to provide him with transport to get these documents.

/HIS LORDSHIP

HIS LORDSHIP: Mathlose, you said, came to see you on the matter of Chief Gabashane's motorcar, when is it that he came? -- My Lord I can't actually specify the date.

Did he give you a letter? -- No, my Lord.

You said he came with a letter from a solicitor of Ladybrand? -- No, that is wrong. I said he came with a lawyer of Ladybrand.

Did he come as an interpreter? -- He wanted to know about the car and Mathlose introduced him.

Who did the talking? -- Well they both were talking at the same time.

They wanted to know the time the car had been with you, didn't they? -- I think so.

What did you say? -- I said to them, "I don't know the date".

You were then with Dere and Glynn? -- Yes.

Did you say anything else? -- No, I didn't say anything else, my Lord.

Couldn't you have found out then, from Dere and Glynn what date you had entered their employ? -- I wasn't interested.

MR. GROBELAAR: M'lord I understood this witness to reply to my learned friend, in his first answer, "I said I could not specify the date, but I told him it was the first week that I came there." Is that what you said in Court this morning? -- I said the first week, when I started with Dere and Glynn on the 23rd February. And I said I couldn't specify the date when I went for the Chief's car at Teyateyaneng at Pholo's place.

And did you say in Court this morning, you told these people who enquired after the repairs of the car, did you say, "I could not specify the date, but I told him it was the first week that I started to work". Did you say that?
/-- Yes

-- Yes.

THE DEFENCE CALLS:

MAKIONE MPHIKO, Sworn states,

EXAMINED BY MR. GORDON:

Makione, you live at Mamathe's? -- Yes.

And you are a Headman? -- Yes.

Under Chief Gabashane? -- Yes.

Did you know the deceased, Meleke Ntai? -- Yes.

You've heard the evidence of ... do you know Mapeshoane? -- Yes, I know Mapeshoane.

Now you heard Mapeshoane's evidence to the effect that you all gathered together in the Chief's house on a certain night when you had this conspiracy in regard to killing a man? -- Yes, I heard it.

Is there any truth in it? -- He is a liar.

Have you ever attended a meeting where a discussion about the killing of a man took place? -- No, I have never attended such a meeting

It is alleged that you went to fetch Sothi Chela and Molemohi? -- No, I never fetched them.

You know nothing about it at all? -- No, I know nothing about it.

Now you've heard the further evidence that on the following night you went in groups to Fusi's village where you intercepted Meleke Ntai? -- Yes, I heard that evidence.

Is there any truth in it? -- It is a lie.

Do you know anything at all about how Meleke Ntai was killed? -- I know nothing at all.

Did you accompany any group on that night on the way to Fusi's? -- No, I did not.

Did you threaten to kill Sothi if he goes back?

/That's what

That's what Sothi said. -- No, I did not threaten Sothi.

You had nothing at all whatever to do with the murder of Meleke Ntai? -- Nothing at all.

That is, of course, if he was murdered. No further questions, m'lord.

CROSS-EXAMINED BY MR. THOMPSON:

Makione, do you remember what you were doing on the evening of March 3rd, that's the Wednesday evening? -- No.

Where were you on that Wednesday? -- I was in my own hut.

Whereabouts is your hut in the village? -- It is the hut next to Ntai's and if you enter Mamathe's Village you'll pass my hut on the left hand.

Did you stay in your hut all that night, Wednesday March 3rd? -- I spent the night in my house.

Anybody with you? -- Nobody was with me.

Absolutely alone? -- I was alone.

Haven't you a wife? -- I have a wife.

Where was your wife? -- She was in another hut.

Do you always sleep in that hut alone? -- Yes, I sleep in that hut alone.

But you can, in fact, get in and out and be out all night without anybody knowing anything about it? -- Do you mean in my hut?

Yes? -- Yes.

Have you got any children? -- I have children.

They also sleep in another hut, I suppose? -- I have a child who sleeps with my daughter-in-law.

Did you know that Chief Bereng was visiting your Chief Gabashane? -- Yes, I knew.

Was it your duty as headman to pay senior Chief

/Bereng any

Bereng any courtesies? -- Yes.

What sort of courtesies? -- By preparing his bed and by also giving him food.

Did you have to do these things yourself? -- Yes, I did that myself by order of Chief Gabashane.

How did you manage to prepare his bed and his food without leaving your hut ? -- I didn't say I actually spread his bed.

I asked you two questions a moment ago whether you did it yourself and you said, "Yes". -- You asked me what respect I had to pay to Chief Bereng and I said I had to pay respect to him myself.

By preparing his bed and his food? -- Yes.

And I then asked you the clear question, "did you have to prepare his bed and his food yourself" and your answer was, "yes"? -- No.

Well, it's on the record. -- Well it's a wrong record.

HIS LORDSHIP: That's what you said: "I did that myself by order of Chief Gabashane". -- It is a wrong record then.

MR. THOMPSON: It's what you said that is wrong, not the record? -- The record is wrong.

All right. Who, in fact, did prepare the bed and the food? -- I am told that Mosiuoa did that - No. 6 accused.

It was your duty to see these things were done? -- Yes.

Whom did you order to do them if you did not do them yourself? -- I ordered no person.

You ordered no person to do it? -- I ordered no person with regard to the preparing of the bed.

/No because

No, because you did it yourself. -- No, I didn't do it myself.

Now we've got to this position, Makione. It was your duty to prepare the bed. -- It would have been my duty to prepare the bed.

You did not do it yourself? -- Yes.

You did not tell anybody else to do it? -- Yes.

So that you ask us to believe for the whole of that fortnight's visit, you neglected your duty? -- Yes.

In respect of one of the most important Chiefs in Basutoland to whom you owed the greatest respect? -- Yes.

During the whole of that fortnight, did you ever go out of your hut in the evening ... during the whole of that fortnight of Chief Bereng's visit? -- No.

Did you ever visit Chief Bereng in the hut called Khohlong? -- No, I have never visited him.

Have you ever been in the hut called the Khohlong at all? -- No.

Never, in your life? -- No, I have been, but I was answering your question when you said, whether I had ever visited Bereng in that house.

And my next question was, "have you ever been in that house at all?" -- Yes, I always go in there.

During that fortnight you did not go in there? -- Yes, while Chief Bereng was there I did not.

Why did you keep away while Chief Bereng was there? -- I was sick.

What was the matter with you? -- I suffered from sore eyes.

Sore eyes. Is that the reason why you didn't go out? -- Yes.

/You had

You had to stay in your hut during the day as well' -- I stayed in the hut during the day and only went out to relieve nature.

Except for going out to relieve nature, you could not go out either day or night, is that it? -- I could not go out. I could go out just to have a short walk outside the hut.

Your state of health was such that you could only go out to have a short walk and then you had to go back inside again? -- I was able to reach the Courthouse.

In any case, when did this story about the state of your eyes preventing you from journeying about, first occur to you? -- I have all along said that I was sick. I have suffered from my eyes.

It is peculiar that you were entirely silent on the subject in your evidence in chief. All right, now you told me your reason for not visiting this hut Khohlong while Chief Bereng was there was your state of health? -- Yes.

No other reason whatsoever? -- No other reason.

If your state of health had not been what you say it was, not only would you have gone there but it would have been your duty to go there? -- Yes.

Now I'm coming to these people who gave evidence against you - very briefly. Mapeshoane, has he got any enmity against you? -- Yes.

What is it? -- He has enmity against me because of his own actions.

What actions? -- Because he goes about the Village with his friends - they go about in groups - and they used to fight.

And drink? -- Yes. That is the reason why he

/has enmity

has enmity against me.

And did you try and stop him? -- I have tried.

So in order that he can go about drinking and fighting without any interference, he has conspired to get you put out of the way? -- Yes; that is the reason.

Sepalami, what was his reason for trying to enter into a conspiracy against you? -- I shall start by saying that he is a brother of mine and I can see that he has enmity against me.

A brother of yours? -- Yes.

A full brother? -- No, he is a cousin. He is the son of my grand-uncle.

What is his reason? -- It is because of this trouble when he was to be arrested, I looked for him myself. I looked for him and could not find him. I ordered a man to go and search for him. He found him. I then brought him before my Chief, Chief Gabashane.

Yes? -- Chief Gabashane handed him over to the authorities.

To put it shortly then, you assisted in the search for and the arrest of Sepalami on this charge and in order to retaliate he is coming back on you? -- Yes.

By the way, I suppose if there is any truth in this story that you assisted in the arrest of Sepalami, it was your duty to do so as headman, wasn't it? -- Yes, I was bound.

Now we come to Sothi. What was his reason? -- Sothi is a member of that company. He also ... the same reason applies to him ... I sought for him and handed him over.

The same as Sepalami? -- Yes.

And Molemohi? -- When Molemohi was in the camp he

/ran away

ran away. When he ran away, he came to my home.

Molemohi was re-arrested in your hut - when he arrived there there was a policeman there? -- Yes, he found the police there.

Waiting for him? -- Yes.

NO RE-EXAMINATION.

HIS LORDSHIP: When Molemohi was arrested, he had already made a statement, hadn't he? He was in protective custody at this time, according to Mr. Castle. I don't want to say something that is incorrect, but that is what I understood from Mr. Castle's evidence that these men, after they had made their statement, were in protective custody. Molemohi had already made his statement when he escaped? -- On the first occasion Molemohi was not sought for from me.

I suppose there are others who would know whether you were sick at this time? -- Yes.

Your Chief would know, wouldn't he? -- Yes.

Were you able to do your duties as headman? -- No, I was not able to carry my duties out because of sickness.

Who did the work for you? -- Bowman.

That's rather interesting, because we have got it that when the saddle was found, Bowman was sent out, wasn't he? -- Fusi was sent.

We have it that Bowman was sent. Pheta gave that evidence. This is what Pheta Mosehle said, "I guarded the saddle till dusk Fusi did not return. Bowman came and said 'It is late'. He had been ordered to come up and see the saddle. He said I should continue to guard the saddle and gave me two men to help". Is that correct? -- Yes, I didn't give him the orders myself.

/Who gave

Who gave Bowman that order? -- I think it was the Chief.

If you had not been sick, would it have been your duty to go out to look at the saddle? -- Yes.

ASSESSOR JONATHAN:

How is it, Makione, when you were sick, that Mapeshoane speaks about you, whereas he knew that you were sick? -- I have already said that was very strange.

HIS LORDSHIP: Did Mapeshoane know you were sick? -- Yes.

ASSESSOR JONATHAN: I am asking this question because I know you brought up Mapeshoane and when you were sick he should know. -- It was because of the enmity.

Can he have such enmity as to involve you in such a terrible case? -- Yes, it is because of that enmity I am here.

When did you recover? -- I recovered afterwards.

When the police arrived, were you still in bed? -- What did they come for?

When they came to re-arrest the man who had run away? -- When they came I was better; I had just recovered and was moving about.

How long had they been arrested when the police came out to you? -- It was a long time.

ASSESSOR MAKHEHLE:

This night which is continually being mentioned here, do you know that night? The night that is referred to, you deny ever having been in Khohlong nor did you go with the groups to Fusi's. Do you know that night? -- Yes.

How do you know that night? -- I heard it specified here, when this case was being held.

/Did you

Did you then understand that you remembered that night? -- Yes.

How do you remember it? What makes you remember that night? -- I heard that when Mapeshoane gave his evidence that it was on such and such a night. I remembered the night when Mapeshoane spoke. Mapeshoane states that he was with me that night.

Did you then remember that it was true? -- I remembered that he was lying. I was not with him.

That same night which Mapeshoane has reminded you of, were you sick? -- Yes, I was sick.

After how many days did you then hear that Meleke was dead? -- Very few days. I heard that Meleke was dead on a Saturday.

Had you recovered from your eyes then? -- No, I had not yet recovered.

When Chief Gabashane says he sent you to go and see the dead body, is that not true? -- He sent me because the name that is used there is my name, but then my right-hand man, Bowman, was the man who actually went.

I don't understand it. -- He sent me there because my right-hand man went there to do the work for me.

Do you mean to say that when Bowman has been sent on a mission, that means you have been sent? -- Yes.

You mean to say that what Bowman saw with his eyes, he has seen those things for you? -- What I say is, what Bowman sees he is doing that on my behalf.

The Chief said that he sent you, could he send you when you were sick? -- Yes, I heard what the Chief said. I said that Bowman did the work and not myself.

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THE DEFENCE CALLS:

THE DEFENCE CALLS:

SANKATANA MASUPHA, Sworn states,

EXAMINED BY MR. GORDON:

Sankatana, you are related to accused No. 2, Chief Gabashane? -- Yes.

In the way described by Chief Gabashane? -- Yes.

Do you remember Chief Bereng's visit to Chief Gabashane? -- Yes.

You know Mapeshoane? -- I know him very well.

He is also a relation? -- Yes.

You heard his evidence to the effect that whilst Chief Bereng was there, a group of you met at the Khohlong one evening? -- Yes, I listened to his evidence with great care.

Where a plot was made to kill a certain person? -- Yes, I heard him say so.

Do you know anything about such a meeting? -- No.

Was such a kind of meeting ever held? -- No, I have never been present at such a meeting.

It is alleged that you were sent out by Chief Gabashane at this meeting to go and call Maloi, accused No. 11 -- It is a lie without any sense.

You also heard the evidence given by these Crown witnesses in relation to the following night? -- Yes, I listened.

It is alleged you all met outside Fusi's where Meleke Ntai had his lips cut? -- It is a lie.

Do you know anything at all about such an assault upon Meleke? -- I know nothing at all.

Do you know how Meleke Ntai met his death? -- No, I don't know.

/Were you

Were you in any kind of a party that evening who moved on foot, or by motorcar, from Chief Gabashane's Village to Fusi's Village? -- No, I have never been in such a party.

MR. GROBELAAR: No questions, m'lord.

CROSS-EXAMINED BY MR. THOMPSON:

Sankatana, whereabouts do you live in Mamathe's Village? -- I live in Chief Gabashane's own house.

In his own house? -- Yes, in his skerm.

Well, that's differet. Have you got your own hut?

-- Not my own house but Chief Gabashane's house.

Do you occupy a hut by yourself? -- Yes.

In Chief Gabashane's skerm? -- Yes.

Are you married? -- I am not married.

Do you occupy this hut all by yourself? -- Yes.

Nobody else ever shared it with you? -- Ramabanta sometimes sleeps in that hut if he visits Mamathe's, but this is very seldom.

Where do your two relatives, Mosiuoa and Kemaketse, sleep? -- They occupy another hut.

Together? -- Yes, they sleep together in that hut.

Are either of them married? -- Neither of them are married.

Now, do you remember the visit of Chief Bereng to Chief Gabashane's village? -- Yes, I remember that.

Did you call and pay your respects to Chief Bereng? -- Yes.

When? -- I don't remember the date.

The day or the night? -- I used to pay my respects to him in the morning.

In the morning. Every day? -- I didn't do so every day.

/Were you

Were you supposed to pay your respects to him more than once? -- I don't know that I was expected to.

You never visited him in the evening? -- Unless I was sent to him.

Were you sent to him on any occasion during that visit? -- I mean if I was sent into that hut which he occupied to take something, as the hut belongs to my father.

By your father you mean Chief Gabashane? -- Yes.

Were you, in fact, sent by Chief Gabashane to that hut at any time while Chief Bereng was there? -- I don't quite remember whether he did send me to that hut.

You don't remember what you were doing, I suppose, on the Wednesday evening when the meeting was supposed to have taken place? -- I know nothing of that day

Nor the following night when the murder is supposed to have taken place? -- I don't remember anything of that day.

Your defence is that all you know is that you used to go to bed like a good boy at night-time and not get up or go out until the following morning? -- Yes.

Has Mapeshoane any reason for trying to get you out of the way? -- He has a number of reasons which I cannot finish recounting.

I am going to ask you to recount them. Let's start with them anyway. -- I may perhaps forget some of the reasons.

Let us hear those that you remember. -- I remember Mapeshoane assaulting a young man called Moshe. He sent certain young men to attack him. I told Chief Gabashane that he should reprimand him, that that was a bad thing he was doing. I remember when Chief Gabashane gave us the work of looking after the Matsema labour and he did not go to

/that work

that work at all. He went to get beer drinks and when he came back he assaulted the people who were working.

Mapeshoane neglected his duties in connection with the Matsema labour, went to beer drinks and came back and committed assaults. Yes? -- I remember Mapeshoane being placed in charge of reserve pastures, and then he let cattle graze in the reserve pastures then afterwards denied that he didn't do it himself and that caused quite a lot of trouble and friction between Chief Gabashane and him.

Anything else? -- I can remember those.

I don't quite understand how the neglect of the Matsema labour and the neglect of his duties on reserve lands makes him have a grudge against you. -- Yes, he had a grudge against me because I reported to Chief Gabashane.

It comes to this, does it? You prevented Mapeshoane leading an idle and dissolute life, so he wants to get you out of the way so he can go on in his own way? -- I wanted him to leave his bad behaviour.

You wanted to reform his character? -- I objected when he behaved badly towards the people who were working for Chief Gabashane.

And that's why he wanted to remove you? -- Yes, so that he could do as he wished.

Now what about Sothi? -- Sothi is always in company with Mapeshoane and Sepalami, they do all these things together.

Sothi and Sepalami are under the bad influence of Mapeshoane and Molemohi? -- They are all one company.

NO RE-EXAMINATION.

LUNCHEON ADJOURNMENT.

-----oOo-----

/ON RESUMING

ON RESUMING:

THE DEFENCE CALLS:

MOSIUOA MASUPHA, Sworn states,

EXAMINED BY MR. GORDON:

Mosiua, you live at Mamathe's? -- Yes.

Under Chief Gabashane -- Yes.

You are related to Chief Gabashane? -- Yes.

In the way that Chief Gabashane describes? -- Yes.

Do you remember when Chief Bereng paid a visit to Chief Gabashane? -- Yes, I remember.

You know Mapeshoane? -- Yes, I know him.

He's also related to you? -- Yes.

You've heard the evidence of Mapeshoane? -- Yes.

Now you heard Mapeshoane say that one night when Chief Bereng was visiting Chief Gabashane, you all gathered together in the Khohlong where there was talk about killing a person? -- Yes, I heard him say so.

Do you know anything about such a meeting? -- No, I know nothing about such a meeting.

Were you ever at any meeting at which the killing of any person was discussd? -- No, I never attended such a meeting.

You heard Mapeshoane and the other witnesses describe what happened the following night? -- Yes, I heard them say so.

Did you know the deceased, Meleke Ntai? -- Yes, I knew him.

Do you know anything about the killing of Meleke Ntai and the cutting of his lips? -- No, I know nothing.

Have you any knowledge whatever of how Meleke Ntai met his death? -- I have no knowledge at all.

On that particular night, do you know anything
/about this

about this walk in groups from your village to Fusi's village? -- I know nothing about such groups.

CROSS-EXAMINED BY MR. THOMPSON:

Whilst Chief Bereng was visiting Chief Gabashane were you given any particular duty? -- I stayed with him in the hut which he was occupying.

That is Chief Bereng? -- Yes.

Mosiua, why should Mapeshoane invent this story against you? -- Yes, he invented that story because it is a lie.

Why? -- I don't know what he has in his mind.

Sothi? What has he got on his mind? -- I don't know what he has in his mind.

The other two? Sepalami and Molemohi? -- I don't know what they have in their minds.

You can't suggest any reason? -- No, I can't think of any.

All the time that Chief Bereng was staying with Chief Gabashane, were you in his company all the time? -- Yes, I occupied the same hut as Chief Bereng did.

And wherever Chief Bereng went you went too? -- No, not wherever he went, but when he was at the house, I was always with him.

What was your duty? -- I was acting as a waiter, getting food from the cook and then handing it over to the Chief. And I assisted Mojautu, No. 3.

During that time did you see No. 4 accused at all? -- At any time?

During that fortnight, did you see No. 4 accused? -- No, I did not see him.

Not at all? -- No, not at all.

Where does your brother, No. 7 accused, live?

/At least

At least, your relation? -- He also lives in Chief Gabashane's skerm.

NO RE-EXAMINATION.

-----oOo-----

THE DEFENCE CALLS:

KEMAKETSE MASUPHA, Sworn states,

EXAMINED BY MR. GORDON:

Kemaketse, you live at Mamathe's? -- Yes.

Under Chief Gabashane? --- Yes.

Are you related to him in the way in which he describes? -- Yes.

Do you remember when Chief Bereng visited Chief Gabashane? -- Yes.

Do you know Mapeshoane? -- Yes.

He is also related to you? -- Yes.

Now, you heard Mapeshoane's evidence to the effect that one night when Chief Bereng was there, there was a general meeting in the Khohlong at which the question of the killing of a person was discussed? -- Yes, I heard that.

Were you ever present at such a meeting? -- No. Nor did I ever enter that hut during Chief Bereng's visit.

Did you ever attend such a meeting? -- No.

You heard the evidence given on the events of the following night? -- Yes, I heard that.

Did you know Meleke Ntai? -- Yes.

Have you any knowledge of how he met his death?
-- Not at all.

Were you ever present at this assault as described when his lip was cut? -- No.

Do you know anything about the walk from your village to Fusi's? -- No, I know nothing.

/CROSS-EXAMINED BY

CROSS-EXAMINED BY MR. THOMPSON:

You say you never went into this hut while Bereng was there? -- It is so.

Why? -- I was sick.

What was the matter with you? -- I had a rash all over my body down to my feet.

How long did this rash all over your body down to your feet last? -- A long time.

Were you able to move? -- At the beginning of March I was not able to walk. I was laid up.

Confined to your hut? -- Yes.

Seems strange. The Crown witnesses say they saw you walking around quite hale and hearty. What witnesses have you got to say you were confined to your hut in the early part of March? -- A man who slept in the same hut as me.

What is his name? -- Matete.

Is he here in Maseru? -- He was here. I don't know if he is still here.

But he normally lives with you in your hut at Mamathe's does he? -- Yes, and we work together.

Have you got anyone else besides Matete who can speak of your grievous illness? -- The Chief knew about it and all the people of his skerm.

Chief Gabashane knew all about it, did he? -- Yes.

I suppose you cannot explain why he did not mention a word of it in his evidence? -- He was not asked where I was.

Did Nos. 5 and 6 know all about it? -- Very well.

Neither of them spoke about it? -- They could not speak because they were not asked.

Did this man Bowman know about it? -- I don't know

/he is a

he is a headman and not concerned with the Chief's skerm.

Any reason why Mapeshoane should invent this story about you? -- I don't know the reason why he invented the story, perhaps he knows the reason.

And the other three men, Sothi, Sepalami, Molemohi? -- Similarly with them, I know no reason.

NO RE-EXAMINATION.

HIS LORDSHIP: Where is your home - in the Chief's skerm? -- Yes, it is the Chief's hut.

-----oOo-----

THE DEFENCE CALLS:

FUSI RAKOKOLI, Sworn states,

EXAMINED BY MR. GORDON:

Fusi, do you live at Mamathe's? -- Yes.

Under Chief Gabashane? -- Yes.

Do you know Mapeshoane? -- Yes.

Do you know the other Crown witnesses? Molemohi, Sepalami, Sothi? -- Yes.

Did you know Meleke Ntai? -- Yes.

What is your business, your occupation? -- I am the doctor of lunatics.

Are you, yourself, sick? -- Well, I am also a lunatic.

Were you sick a little while ago, Fusi? -- Yes, I was very sick.

What happens to you when ^{you} / are sick? -- My head boils like water.

When does that happen? Does it still happen to you sometimes? -- Yes.

When does it happen particularly? On what occasions? -- Any time. No special time.

/You know

You know of the finding of the body of Meleke Ntai, down in the donga? -- Yes.

Were you present when Meleke Ntai was assaulted?
-- No.

Do you know anything at all about the assault on Meleke Ntai? -- No.

Now, Fusi, certain articles were found in your village. -- Away from my village.

Who made the report to you? -- The wife of Andrias Tote of Pheka.

Now, what was this report? What was it that she found? -- She had found a saddle, a sjambok and a handkerchief.

Did you report to anybody? -- I reported to the Chief.

Who did you go with? -- I went to the Chief with Meleke's wife.

Fusi, on the following morning, did you get another report? -- Yes.

What day did you receive the first report? --
On Friday.

Do you remember what time of the day it was? --
It was at sunset.

And the following morning, who made the report to you? -- Paulus.

And what did you do as a result of this report? --
I went to the Chief's place again.

Did you report to him? -- Yes.

Fusi, you know these witnesses, Mampane Mothobi and Mapoloko Mothobi. Now you heard their evidence that you knocked at their door late at night and told them that

/a certain

a certain person had been thrown from his horse. Is that true? -- No. I never go to their house, even during the day.

CROSS-EXAMINED BY MR. THOMPSON:

Fusi. no such incident as they speak of has ever occurred? -- No, it is all a lie.

And you say it is pure invention? -- Yes.

Can you suggest any reason why this man and wife should come here and lie against you? -- I do not know what they have in their minds.

You are a headman of your little village, are you not? -- I am the owner of the huts which are under the name of Fusi.

Are you responsible for the control of that group of huts? -- Yes.

To Chief Gabashane? -- Yes.

If anything unusual occurs there, it is your duty to report to Chief Gabashane? -- Yes, I am bound to report.

If you did not report - if, for instance, a body was found and you didn't report immediately, suspicion would fall on you, wouldn't it? -- Yes.

What about these people who give evidence that you were out on the hillside very early on the Saturday morning? Is it true that you were there? -- It is a lie.

Were you on the hillside on the Saturday morning?
-- No.

Were you on the hillside when the body was found?
-- No.

Do you know Paulus? -- Yes. He is the man who looks after the mental patients.

He is your assistant, is he? -- Yes.

/On the

On the Saturday when the body was found, did you tell Paulus to take the patients down to bathe or wash? -- Paulus has that order as his standing instructions.

Yes, he has told us that it was his habit to take those people down to wash, but on this particular Saturday morning you gave him the instruction, although it was a standing instruction. -- No, he lied.

He said that while they were washing down in the donga you were on the top of the hill. -- No, it is not so.

Why did he, for instance, make up the story that you were on the top of the hill? -- His own heart knows why he said that.

So that is somebody else who has elected to come along, for no reason whatsoever, and tell untruths about you? -- Yes, it is a definite lie. I do not drink beer so that I am not likely to forget things.

Does Paulus drink beer? -- No.

So he is not apt to forget things either? -- I do not know. Maybe perhaps he fears his arrest.

Now this man and wife, has Mampane - the man whose hut that you were supposed to have gone to in the middle of the night and tried to entice him out of - has he been a boyhood friend of yours? -- No, I only knew him when we were grown up men.

What about Malineo? -- Malineo belongs to Ficksburg.

Does that mean that she is necessarily an untruthful witness? -- I don't quite remember.

Is it true that she brought her daughter for treatment? -- Yes.

At the time that Meleke Ntai was missing and his body was found? -- Yes.

/Is it

Is it true that she slept in the same hut with you? -- I don't remember.

Might that possibly be true? -- I don't remember this - I have many huts there.

I thought because you don't drink you don't forget? -- I don't always forget, but this happened a long time ago.

Will you deny that Malineo's daughter was your patient and slept in the same hut as you did? -- I cannot deny it about Malineo's daughter.

Do you deny Malineo slept in the same hut and that one night, Thursday night, you went out and remained out for a long time and came back? -- I did not go out at night at all. I had not slept where Malineo had slept.

But you told me a few moments ago you didn't remember whether she slept in your hut or not? -- Yes.

Do you now deny that she slept in your hut? -- Although I was sick about that time, I don't remember sleeping in the same hut as Malineo.

Now, what about the other woman, Mathabo? She brought her husband for treatment. -- The same applies to Mathabo.

You don't remember whether she slept in the same hut as you and Malineo? -- No.

Are you prepared to deny her evidence that she did? -- Yes, I definitely deny that evidence. I deny all the evidence given by the other witnesses. No person can go to a group of people not knowing what the intention of the group is.

Mathabo's evidence in this Court was that you

/were specially

were specially called to sleep in the same hut as she and her husband, because previously, her husband had created some disturbance in the night. -- That was during the day.

What was during the day? -- When the husband had swooned.

And what did the wife do as a result of that? -- She went to call me.

So you deny her evidence that you specially went to sleep in the hut because of her husband's condition? -- Yes, I deny that.

And none of these witnesses have got anything to do with each other, have they? -- No, I don't know them.

Mampane and his wife for instance, are no relations or particular friends of Paulus'? -- No.

Malineo comes from Ficksburg, so she doesn't come from the district? -- Yes.

And the other woman, Mathabo, where does she come from? -- From Souru.

Where is that? -- That is ⁱⁿthe area of Chief Gabashane.

So all these people who come from different places are telling either similar or different lies about you? -- So it is.

What about Pheta? -- We live with Pheta. Although he says the area belongs to me, it is not true, it belongs to him. That is his caretaking.

Pheta has said that when the saddle was found you made ^aremark that it might cause suspicion that "we" had killed a person? -- Yes.

Did you use some such expression: "the saddle might draw suspicion that a person had been killed"? -- No.

/I said

I said that this saddle, Handkerchief, saddlecloth and sjambok are suspicious and therefore we should report them to the Chief.

You did not mention anything about a possibility of a person having been killed? -- No.

Coming to the other witnesses, have you much relationship with the people of Mamathe's? -- No.

Do you have much to do with the persons in Mamathe's village? -- No.

There is a matter of two miles between your two villages, is that right? -- Yes.

Do you see much of these four young men, Mapeshoane ...? -- I see them if I go to the Chief's place sometimes.

Which does not happen very often? -- No.

You have never had very much to do with Mapeshoane except you know he is the Chief's younger brother? -- Yes.

You've never had much to do with Sothi, Sepalami or Molemohi? -- Nothing to do with them.

You can think of no reason why they should drag you into this? -- I know of no small reason why they should do this. That is their own affair. I grieve very much because all these lies have been told. I look after the people more than the people behind me here.

Now, these accused persons. Have you ever had very much to do with any of these accused persons? -- Which accused?

Any of them? -- None of the accused have been treated at my place.

Have you ever had very much to do with them? -- No.

More particularly the people who live at No. 2's. No. 2 himself, No. 4, No. 5, No. 6 and No. 7? -- No nothing.

/I suppose

I suppose you don't remember what you were doing on the Thursday night before the body was found? -- I was there but I don't know where I slept, because of sickness.

Were you sick too? Do you mean the sickness in your head? -- Yes, I couldn't walk.

I don't follow why sickness in your head stops you walking. -- I do not walk about at night, not once. There was much rain that night.

. Have you a wife? -- Three wives.

Do they live with you in your village? -- At Pheka's, that's where I treat my patients. My home is further on.

What is that village just by the side of the road where we went the other day? Is that where your wives live? -- No. They stay at my own home.

Where is that? -- Beyond, down below the hill.

NO RE-EXAMINATION.

HIS LORDSHIP: You heard the evidence of these four people? -- Yes.

They all say you were there that night, didn't you hear that? -- I heard them say that.

There is only one who says you were doing anything? -- Yes.

And that one says you had this man on the ground by his arms. -- It is a lie. The man who would have seen that would have been Mapeshoane.

Well, Mapeshoane said you were there. -- Yes, I heard him say that but he said I wasn't holding anything.

Sepalami says you were holding the man by the hands. -- It is a wonderful lie.

/ASSESSOR JONATHAN

ASSESSOR JONATHAN:

On the other side of the Ward which we saw, is that your area? -- No, it is not my area. That belongs to Pheta.

That is at the place where the man was caught? -- That belongs to Pheta.

Is that the reason you went up to him when he raised the alarm, although the area does not belong to you? -- Yes.

Didn't you see Meleke that day? -- Not at all. On his forward journey and on his return journey, I didn't see him.

ASSESSOR MAKHEHLE:

At the time when your head boils, do you know what you are doing? -- No.

Are you able to walk or do you have to lie down? -- I have to lie down then.

Doesn't, perhaps, your head sometimes do as other lunatics do? When their heads boil they go about? -- No, not now, I used to walk about when first I got ill.

If a person brings a patient for treatment, do you have to report that patient to Chief Gabashane? -- Yes, I do

Doesn't that, therefore, necessitate your visiting Chief Gabashane always? -- No. Patients don't arrive every day, or very often. If the patients arrive in a group, I report them at that time.

Therefore you visit the Chief very often? -- Yes, I go there because of lunatics.

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/THE DEFENCE CALLS

THE DEFENCE CALLS:

SEFERI NTSOSO, Sworn states,

EXAMINED BY MR. GORDON:

Seferi, you live at Mamathe's? Under Chief Gabashane? -- Yes.

Did you know Meleke Ntai, the deceased? -- Yes.

You know Mapeshoane? -- Yes.

Also Sepalami, Molemohi, and Sothi? -- Yes, I know them.

Now, you've heard their evidence to the effect that you were concerned with the assault on Meleke Ntai? -- Yes, I heard that.

Is there any truth in it? -- There is no truth in it.

Do you know how Meleke Ntai met his death? -- I don't know.

And were you amongst the party that walked along in a group that night to meet Meleke Ntai? -- No.

Now Mapeshoane says that he actually called you on this particular evening. That he called you and Sepalami and came back with you? -- No, he did not call me.

That you joined a group behind Maklone's house? -- No.

Do you know anything about it? -- No, I don't know anything about it.

Now these four that I have mentioned, Mapeshoane, Sepalami, Molemohi and Sothi, were you friendly with them? -- Yes.

Did you go out together at night? -- Yes.

What were you accustomed to doing at night? -- We went about drinking beer.

Are you still friendly with them? -- No.

/What has

What has caused this? -- It is because when we were ploughing with the Chief's plough and the oxen, they used to plough other people's land and get payment which they used for their own purpose.

What did you do? -- I reported the matter to the Chief.

And what happened? -- After that then our friendship came to an end.

And you have not been friendly with them since?
-- No.

You know nothing at all about the killing of Meleke Ntai? --I don't know anything at all.

CROSS-EXAMINED BY MR. THOMPSON:

Seferi, whereabouts is your hut in Mamathe's village? -- It is in the middle of Mamathe's village.

It is not in the skerm of your chief, No. 2? --
Outside the Chief's skerm.

You are not a relation of the Chief, or Nos. 5
6 and 7? -- No. I am not a relation of Nos. 2, 5, 6, or 7,
or Mapeshoane.

Are you married? --Yes.

Where was your wife in March last? -- She was at
home.

Living with you? -- Yes.

In your hut? -- Yes.

She will be able to speak for your movements
during the visit of Chief Bereng to your Chief's village? --
It is so.

The only reason you can suggest why you were
dragged into this, is that you had some disagreement over
the use of the Chief's plough? - - Yes, that was where the
/quarrel arose.

quarrel arose.

You say that all this conspiracy against you arose out of this business with the plough, how long ago did the business with the plough happen? -- They used to plough people's land. Land which they had no right to plough.

These lies must have been invented about you, if they were invented, in the Autumn or early winter of this year. I want to know how long before last autumn this disagreement took place about the plough? -- It was during the ploughing season.

That's in the Spring isn't it? -- Yes.

About a year ago then? -- Yes, it may be about a year.

When the rains began last season? -- Yes, after the rain had fallen.

So for the last six months before the killing of Meleke, you and these four young men, led by Mapeshoane, were on bad terms? -- Yes, we were no longer on good terms.

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THE DEFENCE CALLS:

RAMABANTA MAHLEKE, Sworn states,

EXAMINED BY MR GORDON:

Ramabanta where do you live? -- Mahleke's.

Did you know Tlatsinyane? -- Yes.

Where is he now? -- He is dead.

Were you at his funeral? -- Yes.

When did you leave to go to his funeral? -- On the morning of the Thursday.

With whom did you go? -- I went there with Setotonayne.

Did you go on horseback? -- We went there on foot.

/Did you

Did you see any of the accused at the funeral? --
Maloi, No. 11.

Who was he with? -- He was with Makhetha, Ntsane
and the deceased, Meleke.

What time did you leave the funeral celebrations
that day? -- I left after the cattle had returned home.

Did you see Maloi leave? -- I saw him.

Did he leave before you or after you? -- He left
before me.

Did you see with whom he left? -- The four of
them.

Which four? -- Maloi, Meleke, Ntsane and Makhetha.

When you left, where did you go to ? -- I left
there with Mahlaha and Tsiu.

And where did you go to - you, yourself. -- I
was going to my home and Mahlaha was also going to his home.

You all went to your own homes? -- Yes.

And where is your home? -- It is at Mahleke's.

You know Mapeshoane? -- Yes.

Do you go to Mamathe's from time to time? --
Yes, I very often visit my Chief.

The night prior to the funeral, where did you
sleep? -- On what day?

The night previous to the funeral? -- I was at
the Chief's place.

At Mamathe's. Now, you've heard the evidence that
on Thursday night - that's the night of the funeral - that
you were at Mamathe's and that you were concerned in the
killing of Meleke Ntai. Do you know anything about it? --
I heard what Mapeshoane said, and it is a lie.

/Where were

Where were you that night? -- I was at Mahleke's in my own hut.

Do you know how Meleke met his death? Were you present when he was assaulted? -- No.

You know nothing about his death? -- No.

CROSS-EXAMINED BY MR. THOMPSON:

I understand you live at Mahleke's? -- Yes.

Don't you occasionally, in fact more than occasionally, visit Mamathe's? -- Yes.

And one of the other accused has told us today that when you spend a night at Mamathe's, you spend it in the hut of, I think it's No. 5 accused. -- That is true.

On the Wednesday night before the murder, you spent the night at Mamathe's? -- Yes.

And, as is your custom I take it, you slept with No. 5 accused? -- Yes.

So that on that Wednesday evening you were associating with the intimate family circle, Nos. 2, 5, 6, and -- Yes.

Why did you go to Mamathe's on the Wednesday? -- I did not arrive there on Wednesday.

When did you go there? -- I had been there for some time.

A week? -- No.

Two or three days? -- I had been there for nearly three months.

Three months? Sharing No. 5's hut? -- Yes.

Is this the position then? You went to your relative's funeral at Mahleke's on the Thursday but you always intended to return back to Mamathe's? -- No, I went there to inspect the land.

/You went

You went to Mamathe's to inspect the land? --
No, to Mahleke's.

What were you doing at Mamathe's for those three months? What was your job? -- Sometimes, the Chief sends for me to send me away on a mission. Sometimes I long for the Chief and wish to see him.

Are you sort of Chief's messenger? -- I go with him even when he comes down to the Council.

He uses you as a messenger and a confidant? --
Yes, In a private way, not in the public service.

You're a sort of confidential private secretary?
-- I think I'd better express myself as one who cleans his boots and cooks his food.

Is that what you had been doing during the three months prior to your relative's funeral? -- There were many things that I had to do; not only cleaning his boots, I had to cart sand to build the Chief's houses and so on.

On the Wednesday night, the night before the funeral, did you just remain in No. 5's hut as usual? --
Yes, definitely.

And did you go to sleep that night in No. 5's hut?
-- Yes.

And No. 5 slept there that night? -- Yes, the two of us slept there.

And nobody else? -- No.

While Chief Bereng was there on a visit did you have occasion to wait upon him at all, in the same way as you waited upon your own Chief? -- No.

You were not called in to assist in this house called Khohlong? -- I think there were sufficient servants.

/You deny

You deny being present at any meeting at that house on the Wednesday night? -- Yes, I have been sworn and I am certain I have never been.

What relation were you to this man, Tlatsinyane, whose funeral was being held on the Thursday? -- His elder brother, Kocha, is married to my niece.

So it was necessary for you to attend the funeral? -- I didn't even know that he was dead.

So it was just by chance that you happened to turn up at Mahleke's that day? -- I met a man called Moeti on the way and he told me that the boy was dead.

When you left Mamathe's, what was your object? -- I had gone to inspect my land.

Where is that situated? -- At Mahleke's where I plough.

How long was that going to take you, your inspection of your own lands? -- It would take as much time as I wished to spend.

How much time did you intend to spend on that inspection? -- You mean on the land?

Yes. -- I can't say how many days I was to spend there.

Well anyway you say it was just a coincidence that you happened to leave Mamathe's on the night on which it is alleged, Meleke was murdered? -- Yes, that is so.

Now you left the funeral on the Thursday with two people by the name of Mahlaha and Tsiu? -- Yes.

Where is Mahlaha now? -- He lives near where Tlatsinyane's grave is.

Still living there, so far as you know? -- Yes.

And Tsiu, where is he today? -- Tsiu lives near me

/Near Mahleke's

Near Mahleke's village? -- Yes.

Still living there today, so far as you know?

-- Yes.

These four young men, Mapeshoane and the rest, have they any reason to get you into trouble? -- I don't know, it is for them to say what they think in their own hearts.

But you, yourself, know of no reason why they should conspire against you? -- No, I would be telling lies if I said so.

NO RE-EXAMINATION.

ASSESSOR JONATHAN:

What time did you leave the funeral? -- I said that the cattle had returned home.

Maloi, Meleke and the others, did they leave before you? -- Yes, and I left after them. We were going into the village.

Didn't you go back to the Chief's place? -- No, I slept at Mahleke's.

Who are the people who saw you in that village? -- Mahlaha, Tsiu and Setotonyane, and all the people of Mahleke's are my witnesses.

ASSESSOR MAKHEHLE: When did you leave Mamathe's? -- It was after the offices had been opened.

What time did you reach your home? -- I got to my home after dinner time. This was on Thursday.

Didn't you go to some places on the way? -- There was rain there which caused me to go to Setotonyane's. HIS LORDSHIP: These four people who have given evidence, Mapeshoane, Molemohi, Sothi and Sepalami, all say that you were there, went there from Mamathe's village, and one of /them says

them says that you were the person who pulled the man off the horse? -- Yes, I heard that.

Now, tell me, where did you sleep on the Thursddy night? -- I slept in my own hut.

Who with? -- With Tsiu.

At Mahleke's? -- Yes.

Was there anybody else, besides Tisu? -- No there was no other person, there were only just the two of us.

How long did you continue staying in that hut after Thursday, did you go back on the Friday morning to Mamathe's or did you continue living at Mahleke's? -- I continued to stay there because children were sick, they had/^{stomach}ache and many children died at the time.

And when did you return to Mamathe's then? -- I returned to Mamathe's towards the end of the autumn.

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TEA ADJOURNMENT.

ON RESUMING:

THE DEFENCE CALLS:

MALOI NTAI, Sworn states

EXAMINED BY MR. GORDON:

You are resident at Phiri's under Chief Gabashane?
-- Yes.

Did you know Tlatsinyane? -- Yes, I knew him.

Did you go to his funeral? -- I was present at his funeral.

Now, the deceased in this case, Meleke Ntai, he was related to you? -- Yes, he was.

How is he related to you? -- He was my uncle's son

Two Crown witnesses, Ntsane and Makhetha, are they related to you? -- Yes, they are related.

How is Ntsane related to you? -- Ntsane is the

/son of

son of my younger brother.

And Makhetha? -- He is the son of my uncle.

Now, did you go to this funeral on foot, or on horseback? -- I went there on horseback.

The night before you went to the funeral, you heard the evidence of Mapeshoane that you were present at the Chief's house, the Khohlong? -- I heard him say so.

When a plot was arranged to kill a person. Were you present at such a meeting? -- I was not present.

Were you ever present at a meeting at which a plot was made to kill a person? -- I was never present at such a meeting.

Now it is alleged that you were offered a £100 for your brother, Meleke? -- It is a lie.

And it is further alleged that No. 5 accused, Sankatana, came to call you to this meeting? -- It is a lie.

And that you arrived at this meeting with Sankatana. -- It is not true.

On the other hand it is also, perhaps alternatively alleged that you arrived at this meeting with Ntsane and Makhetha, and that you left Ntsane and Makhetha outside the Court room and that you went in yourself. Is it correct that the night previous to your going to Tlatsinyane's funeral, that you called Ntsane and Makhetha in the middle of the night and went with them to the Chief's house, Khohlong? -- No, I never called there. It is a lie.

You said previously that your hut is at Phiri's village, is that correct? -- Yes, I live in Phiri's.

Did anybody accompany you to this funeral, to Tlatsinyane's funeral? -- Yes.

Who accompanied you? -- I went there with Makhetha and Ntsane.

/.../Were you

Were you all mounted? -- We found Meleke on the way.

Were you all mounted? Did you all go on horse-back ? -- Yes.

And you say that you met Meleke on the way, was he mounted? -- He was also mounted.

And did the four of you travel together? -- Yes.

Were the four of you together at the funeral? -- Yes, we were together at the funeral.

Did you have anything to eat after the funeral? -- Yes, we had something to eat after the funeral.

Can you tell the Court what time it was that you left the funeral party? -- I couldn't say where the sun was, because there was much rain and there were clouds also.

Who accompanied you when you left? -- Four of us left altogether.

The four all together - the others who came with you -- Meleke, Makhetha, Ntsane and myself.

Was it still light when you left? -- Yes, it was still during the day.

On the way back, what happened? -- When we were at the pass, Meleke said that he was not going to gallop his horse.

And what did you say? -- I said that I was going to gallop my horse to escape rain and also to go and see about my cattle as I had a very small child looking after the cattle.

HIS LORDSHIP: Would you put that question again, please.

MR. GORDON: When Meleke said that he couldn't gallop his horse, what did you say? -- I said that I shall gallop my horse, I was thinking of my cattle and there was rain also and I had only a small child looking after the cattle.

/What did

What did Makhetha and Ntsane say? -- Makhetha and Ntsane said that they were escaping the rain.

So who galloped off with you? -- Ntsane and Makhetha.

And you left Meleke behind? -- Yes.

Now you've heard the evidence of Makhetha and Ntsane? -- Yes.

They have told the Court that you refused - you warned them not to stay behind with Meleke, is that right? -- Yes, I heard them say so.

Is it true? -- They are lying.

You also heard the Crown witnesses say that you spoke to a group of persons on the way back, is that true? -- It is all a lie.

You remember whether you passed any groups of persons on the road? -- I had no time to look about to see what was beside the road. I was hurrying home and only looking in front of my horse.

When you got home, what time was it? -- (No reply)
HIS LORDSHIP: You were walking your horses at that time? -- It is a lie, we never walked our horses.

MR. GORDON: Did you arrive home, then, with Makhetha and Ntsane? -- Yes.

What time was it when you arrived home? -- It was just as it was beginning to get dark. The people outside their houses could see us.

Did you tend to your cattle? -- I dismounted and went to the cattle kraal.

And there you tended your cattle? -- Yes.

Was your wife at home then? -- I had left my wife at Mahleke's where we had been to the funeral.

/Did you

Did you hear about Meleke's death? -- Yes, I heard about it.

When was that? -- I heard on a Saturday.

Where did you go to on Saturday morning? -- I went to Mahleke's.

And did you see the witness Moliko there? -- No.

Did you see Kocha Kocha? -- Yes.

Did you speak to him? -- Yes.

What did you tell him? -- I told him that Meleke was dead.

And what did he say? -- He asked what had killed him.

What did you say? -- I said I didn't know.

Did he ask you more about it? -- He asked where we were.

What did you say? -- I said we were at home - he refused to gallop his horse.

What did he say to that? -- He said we did it deliberately so as to cause his death.

What did you say? -- I told him that he spoke badly.

And what happened between you? -- Then we fought.

Now, what time did you return from Mahleke's that day? -- I came back in the afternoon.

That Saturday? -- Yes.

Now, I'll ask you again - do you know Moliko? -- Yes, I know him.

Moliko says that he spoke to you on Saturday morning. Is that correct? -- He lies.

You had no conversation whatever with him on Saturday morning? -- I did not meet Moliko on that day.

/MR. GROBELAAR:

MR. GROBELAAR: No questions, m'lord.

CROSS-EXAMINED BY MR. THOMPSON:

In your case, Maloi, also I suppose, you can give no reason why Mapeshoane tried to involve you in this matter? -- I don't know what the intentions of his heart are.

Or while Molemohi should try and involve you? -- The same applies to him.

In your case, you have some other people. What about your two relatives, Ntsane and Makhetha? -- I don't know what their intentions are.

Sheer imagination on their part that you took them to Mamathe's on the Wednesday evening? -- Yes, I say so because that is fabrication.

And is it fabrication that on the way back from Mamathe's, you spoke to them about killing a person? -- There is no truth in all that.

Why should these two relatives of yours join this awful conspiracy involving all these other men as well as yourself? -- I don't know anything.

And we have the man Moliko. Moliko says he heard your voice on the Thursday night and then he had a conversation with you on the Saturday morning and asked you what you had been doing on the Thursday night. You first denied having been about at all, then you admitted it. Is all that, also, sheer imagination? -- I heard him say so. It is a lie. He took an oath here in the name of God but he tells those lies.

So far as Kocha Kocha is concerned, you more or less agree with him, but there is one thing I would like to know. Did you at some stage of your talk with Kocha

/Kocha on

Kocha on the Saturday morning, say that Meleke had been killed? -- I did not say Meleke had been killed - that is a lie.

All that you said was that he was dead? -- Yes.

Because you agree with me at the time you were talking to Kocha Kocha, unless you were involved in the killing, you had no reason to believe Meleke was killed? -- Yes, I didn't know what had killed him.

Or whether he had been killed? -- I did not know that he had been killed.

So that bit of the conversation ... Kocha Kocha is drawing on his imagination? -- It is a lie.

On the journey back from Mahleke's on the Thursday evening, did Meleke have any reason, that you know of, to leave the road and go over towards the donga when he reached Fusi's? -- I don't know because I was not there at that time.

No, but you knew what his habits were and what his intention was. You agree with me, there is no reason whatsoever why he should have left the road either mounted or dismounted, at Fusi's? -- I don't know because I wasn't there myself.

Coming back to Kocha Kocha, when did you hear about the discovery of Meleke's body on Saturday morning? -- I heard on Saturday while I was at the Chief's place.

What time on the Saturday morning would that be? -- I don't know what time it was. I don't even know the watch.

Was it very early in the morning, or midday, or what? -- It was not very early in the morning.

What time were you at Mahleke's talking to Kocha

/Kocha? Once

Kocha? Once again was it near midday or early in the day?

-- It was just before lunch time, when I spoke at Mahlêke's.

ASSESSOR JONATHAN:

Quite a lot of evidence concerns you. Makhetha says that you left with him and Meleke? -- Yes.

When you came to Ntsi's, you left Meleke at the pass? -- Yes, he says so.

They state that you said to them, "let us go fast". -- I say that is a lie.

And they go further and say that when they wanted to walk their horses, you said, "If you walk your horses, you'll see what will happen"? -- That is a lie. I don't know what they have in their hearts.

There is quite^{a lot}/of evidence about you. After they agreed and galloped their horses leaving him behind, then you met a group of people. That is what they say. And that you went to that group. When you came back they asked you who were the people to whom you spoke.-- That is what they say.

That evidence simply attaches upon you, alone. -- That is not true, they would have said so when they got home.

That is all, m'lord. I just wanted to draw your attention.

ASSESSOR MAKHEHLE:

After you left Meleke at the pass, did you afterwards hear that a search was being instituted for him? -- On Friday morning I went out with my cattle and when I returned in the afternoon I heard that Meleke had not yet returned.

/On Saturday

morning
On Saturday/did you assist in the search for him? Did you help in the search on Saturday morning? -- No, I did not help in the search. I was to assist on Saturday.

On Saturday did you go to search? -- Yes, I mounted to go and search.

At Mamathe's you heard that his body had been found? -- I heard at Mamathe's from my Chief, Mokhatla, who was with Fusi, about the death of Meleke.

Did you go to the spot where Meleke's body was? -- I did not go there because at that time, we were waiting for the Government people to come.

You have told the Court that Meleke was your relative? -- Yes.

And he got lost while he was with you and yet when his body is discovered you don't worry to go and see. -- No, I could not go there because the Government had been sent for.

HIS LORDSHIP: Do you remember that his wife came to see you? -- Yes.

Did she ask you about him? -- Yes.

And what did you say? -- I told her that he had refused to gallop his horse.

What else? -- I said that we last saw him while he was at Masoeling, with our eyes. I said I was hurrying to see my cattle because of the small boy tending them, and also escaping from the rain.

Did you know that that horse had come home riderless?-- At that time the horse had not yet reached home.

What time was this in the day? -- It was in the morning and she was going to Makhetha's.

/When did

When did you find out that the horse had returned?
-- I heard about that on my return with the cattle in the afternoon.

What did you do then? -- It was late. I did nothing. I went to bed.

You knew something had happened to him? -- I did not know.

But the horse had come back without him? -- Yes, the horse had come back without him, but I didn't know what had happened to him.

You must have known that something had happened to him? -- Yes, I thought something might have happened to him.

Something must have happened to him ... -- Yes, because he hadn't returned.

Did you see the horse had no saddle on? -- The horse arrived there while I was not there. I was told when I came back in the afternoon.

Told what? -- I heard from Makhetha's wife that Meleke had not yet returned but the horse had returned.

Did you see the horse? -- I did not see it.

Didn't she tell you it returned without a saddle?
-- She told me so.

And without a bridle? -- I heard as if she said there was a bridle.

And you did nothing? -- I went to bed. It was late

On Friday morning you went to look at your cattle?
-- Yes, I went to tend my cattle because I have no child to look after them.

What time? -- It was still early morning.

Didn't you have a child looking after the cattle

/when you

when you went to the funeral? -- I had a child, a very small child.

You had no herd boy? -- I have no herd boy except that one.

After you had looked at your cattle, did you then go and make enquiries about your brother? -- (No reply)

You took the cattle out? -- When?

In the early morning of Friday? -- Yes.

And after you had done that, what did you do? -- In the afternoon when I returned with the cattle, I heard that the horse had arrived, but not him.

Well, what did you do on the Saturday morning? -- On Saturday we got on to our horses to go and search.

Then who looked after the cattle? -- That same child because there was no rain then.

And where did you first go? And who is "we" - you say "we got on our horses"? -- I mounted my horse and accompanied my Chief, Mokhatla, although the Chief left the village before me.

Where to? -- We went in the direction where the saddle was found.

Had you heard about the saddle? -- Yes.

From whom? -- We heard about the saddle the previous day from the wife of the deceased and also the Chief's messenger who had escorted her.

On the Saturday morning, did you go up the Chief's house first? -- That is the day about which we are speaking.

But when you left Makhetha, did you go to Gabashane's? -- When I got there I found Mokhatla there.

Where? -- At Chief Gabashane's.

And what did you hear there? -- There I heard that

/Meleke had

Meleke had been found.

And was it after that that you saw Kocha Kocha?

-- Then I passed on to raise the alarm. That is all.

Did you see Kocha Kocha? -- Yes.

And the other man? So you knew then that Meleke was dead? -- Yes.

Was it raining on the Thursday when you went to the funeral? -- There was much rain on Thursday.

Why did you leave a small boy on Thursday to look after your cattle? -- It rained after I had left home and was on the way.

It began raining on the way. Did it rain on Saturday? -- No.

When you came back from the funeral on Thursday night, was it raining? -- It rained the whole night.

Whilst you were coming back was it raining? -- Yes, it was raining very heavily.

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THE DEFENCE CALLS:

AMELIA MAKIONE, Sworn states,

EXAMINED BY MR. MAISELS:

Amelia, you are the wife of No. 4 accused, Makione?

-- Yes.

Where do you live? -- Mamathe's.

Do you live in the same hut as your husband, Makione? -- Yes.

Did you live in the same hut as your husband, Makione, in autumn of this year? -- Yes, I lived with Makione in the same place, but not sleepingⁱⁿ the same hut.

Where did you sleep? -- I slept in another hut with my daughter-in-law who was confined.

Do you remember when Meleke Ntai died? -- Yes.

/Did you

Did you know him? -- Yes.

Can you remember when it was that he died? What time of the year? -- It was in autumn.

At the time when Meleke Ntai died, what was your husband's health like? -- He suffered from eyes.

Did you get him any medicine? -- Yes, from the shop.

At that time, as a result of his sore eyes, was he working? Was he able to work? -- No, he was not working because of his eyes.

And who acted as headman in his place? -- It was Bowman.

CROSS-EXAMINED BY MR. THOMPSON:

Amelia, of course, your husband could have gone in and out at any time of the night without your knowing anything about it? -- Yes, he would have done it without me knowing it because I was in another hut.

About this man, Bowman. If Bowman is called by His Lordship and says that your husband was actually out and about on the night of Thursday when Meleke met his death, what would you say to that? -- I don't know about that, because I was in another hut.

I put it to you, if he says so, because I don't know whether he will? -- Well, I can't say. I don't know because it was at night and not day time.

I'll put it this way Amelia. Your husband's health was not so bad that it would surprise you to hear that he had been out on the evening of Thursday, 4th March? -- I would be surprised because he was very sick.

COURT ADJOURNED.

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