

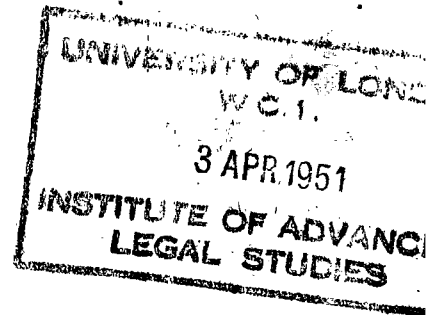
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1949



IN THE HIGH COURT OF BASUTOLAND.

CRIMINAL SESSIONS

2nd NOVEMBER 1948.

BEFORE:

Mr. Acting Justice Sutton.

ASSESSORS:

J. Elliot.
F. I. Parnell.

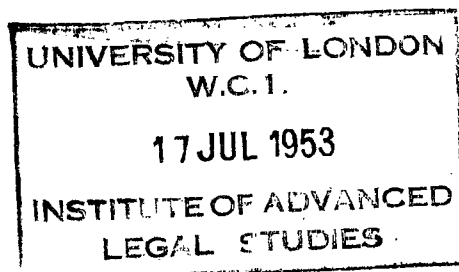
AFRICAN ASSESSORS:

George D. Makhehle.
Moramang Jonathan.

R E X vs. (1) Bereng Griffith Lerotholi
(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: 12.

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



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PREPARATORY EXAMINATION.

At Maseru in the District of Maseru on this 28th day of July 1948, and before Ernest Cecil Butler, Esquire, District Commissioner, appeared 1. Bereng Griffith Lerotholi, 2. Gabashane Masupha, 3. Mojautu, 4. Maklone Mphiko, 5. Sankatane Masupha, 6. Mosiuoa Masupha, 7. Kemaketse Masupha, 8. Fusi Rakokoli, 9. Saferi Ntsoso, 10. Ramabanta Mahleke, 11 Maloi Ntai, 12. Titimus Ramashamole, who are found to be in their sound and sober senses and are all and each or one or more of them charged with the crime of murder.

Accused In person (all)

Interpreter ... S. Mapetla and Long Mabathoana.

Prosecutor ... Lieut. M.C. van Straaten, B.M.
Police.

Paramount Chief's Rep. Chief Joel Molungoa.

The following evidence is adduced in the presence of the accused.

Advocate G. Gordon instructed by Basner and Jaffe of Johannesburg appears for Nos. 2, 4, 5, 6, 7,8, 9, 10 and 11. accused.

Advocate Grobbler of Bloemfontein appears for Nos. 1, 3, and 12 accused.

1st WITNESS, ROBERT CUTHBERT OGG, duly sworn states:

I am a Medical Officer in the Basutoland Government Service stationed at Teyateyaneng. On the 7th March, 1948, I conducted a post-mortem examination on the body of Meleke Ntai at Teyateyaneng. It was the body of an adult, African male, approximately age 48 - 50. According to my observations death occurred two and a half days previous to my examination. I prepared a Post-Mortem report which I now read out to the Court. (Done E.C.B.)

BY PROSECUTOR: It is possible for a man to breathe in water and sand if unconscious. When I examined the body I had had a report from the Police that foul play was suspected. The

/appearance

appearance of the wound on the lips looked like crab marks. If a knife or other sharp instrument had been used to cut the upper lip and crabs had subsequently nibbled at the cut portion it would be impossible for me to find that a knife had originally been used, such a theory that the lip had been first cut by a knife and afterwards nibbled by crabs is however possible. I have had previous experience where crabs have nibbled at a body, crabs would leave more or less irregular edges on a body after nibbling at it and as a rule they do leave irregular edges. The lower lip showed a cleaner line, not quite so irregular as the upper lip. I definitely formed the opinion that the injury on the lower lip was due to crabs but it is possible that the lip had first been cut and then eaten by crabs, but I cannot give a definite opinion on this. Crabs usually go for the softest portions of a body first. Crabs would naturally first go for any part of a body that had a wound on it. There was superficial skin removed from the eyelids and the injuries to the eyelids could only be ascribed by me to the action of crabs. The abrasions on the midsternum, on the left leg, right leg and the nose were caused by crabs in my opinion; in fact all the other abrasions on the body were in my opinion caused by crabs. I have used the word "probably" in my report regarding the crab injuries, but I can say that it is possible, however, that they were caused by some other means. I consider that the difference between the right and left lung is due to the fact that the body was found in the water lying on its right side. I found no evidence of throttling on the body. If the deceased had been throttled, as a rule, I would have expected marks on the throat. If a hand had been placed over the nose and mouth I would not have expected to find injuries. If a person was throttled or died as a result of drowning, in both instances death would be due to asphyxia. Assuming that deceased had been throttled but did not die as a result thereof /and was

and was subsequently placed in water and then died as a result of drowning, any signs of previous asphyxia would not be found. The brain was congested; this is a normal sign of asphyxia. The fact that I found a lot of meat in the stomach of the deceased shows that the deceased had had a big meal about a couple of hours before his death but I cannot be certain of how long before. The food in the stomach shows a very healthy appetite. I could find no signs of liquor in the stomach. If the deceased had taken Native Beer I think I would have seen some signs of this in the form of granular elements. In my opinion, the deceased was in a fairly healthy state of health. The deceased appeared to have a normal amount of blood in the body when I held the Post-Mortem examination.

BY ADV. GROBBLER: The condition of the body is consistent with no assault having been committed on the body.

BY ADV. GORDON. I definitely formed the opinion that the injuries I found on the body at the time of my post-mortem examination were caused by crabs.

PROSECUTOR ALLOWED TO LEAD THIS FURTHER EVIDENCE. On the 29th June, 1948, the body was exhumed and I again examined the body. Dr. Whitworth and I prepared a report which I will now read out to the Court. (Done E.C.B.) I hand in my post-mortem report. (Exhibit "A"), and report on the exhumation (Exhibit "B"). If a sharp umbrella stay had been thrust into the throat and nose, not too deeply, I would not expect to find such injuries either at my original post-mortem examination or at the subsequent examination after exhumation, owing to the fact that the body had been in water for a considerable time.

BY ADV. GORDON: The adhesions I found showed that the deceased had had an attack of pleurisy and it is possible that this left the lung in a slightly unhealthy condition. If there had been a determined and vicious assault with an umbrella stay I would

/have

have expected to find evidence of such assault in the mouth. I would expect to have found some evidence of the assault in the nostril if it had been a vicious assault.

BY ADV. GROBBLER. I found no signs of assault by human agency on the body. If the deceased had been assaulted as the Crown evidence will show, as stated by the Prosecutor, I would have expected to find some evidence of this on the body but it is just possible that I would not find such evidence. The information I received before my post-mortem examination was the usual form used that there was a body in the Mortuary and the Police suspected a foul play, would I perform a post-mortem examination.

RE-EXAMINATION BY PROSECUTOR. I opened up the throat but not the nose. I looked at the mouth.

BY COURT. Both Dr. Whitworth and I examined the body on the 29th June, 1948, and our report is a joint report. If there had been throttling it was half-hearted because if there had been determined throttling the Hyoid would have been fractured.

Sgd. R.C. Ogg.

Witness: S. Mapetla.

Read over, adhered to, and sworn to before me this 28th day of July, 1948.

Sgd. E.C. Butler
District Commissioner.

2nd WITNESS, PETER DAY WILLIAMS, duly sworn states:

I am a Superintendent of Police in charge of the Mohale's Hoek Division. I know Chief Bereng Griffith Lerotholi, accused No. 1. I arrested Accused No. 1 at Mohale's Hoek on the 13th July, 1948, and I duly cautioned him; he made no statement.

BY BOTH ADVOCATES. No questions.

BY COURT. I arrested Accused No. 1 on a charge of murder.

Sgd. P.D. Williams.

Witness, S. Mapetla.

/Read over

Read over, adhered to and sworn to before me this 28th day of July, 1948.

Sgd. E.C. Butler
District Commissioner.

3rd WITNESS, MAPESHOANE MASUPHA. I am Mapeshoane Masupha. I am related to Chief Gabashane Masupha, No. 2 accused, also to Nos. 6 and 7, also to No. 5 accused. I stay at Mamathe's in the village of No. 2 accused. I know all the other accused. They also stay in the same village, except No. 1 accused and his followers, i.e. No. 3 accused and No. 12 accused. All the other accused, except No. 1 are the followers, or people, of Chief Gabashane. I know the days of the week and I know the dates of the month. I remember the 3rd of March this year. On that date I was at Chief Gabashane's home, No. 2 accused. I was called by Ramabanta Mahleke, No. 10 accused. I was in my bedroom when he called me. I was not yet asleep, it was at 9 o'clock. He came and said that No. 2 accused wanted me; I was alone. I went along with him to the Chief who was in his house called "Khohlong", the Chief was there. He was not alone. The others present were No. 1 accused, Chief Ntoane, No. 6 accused, No. 7 accused, No. 5 accused, No. 4 accused, No. 10 accused, No. 3 accused, No. 12 accused and I was there. After I arrived No. 5 accused left, he was sent out by No. 2 accused, who sent him to call one Maloi Ntai, No. 11 accused. He returned with Maloi Ntai very shortly afterwards and when these men came in No. 2 accused spoke, saying there was something he wished to get and that something would be obtained from a person who would be killed. He told us that this was a secret and nobody should say anything about it. No. 2 then made a request to No. 1 accused. He asked him if he could help him by selling his brother, Meleke Ntai, in order to kill him. No. 2 said that if he would help him he would offer him £100. No, 11 accused did not reply to the offer but made an explanation that he was agreeable to this
/offer

offer. The explanation was that a death had occurred at the home of No. 10 accused and they would go there the following day with the deceased Meleke. We then dispersed and went to bed. I went to my bedroom. Next day, a Thursday, at 8 o'clock p.m. No. 10 accused again came to call me in my room before I was asleep. He said that all the people were waiting for me in connection with the previous day's plot. I went along with him to the same house we had all been at the previous evening, namely "Khohlong", all the same people who were there the previous evening in connection with this plot were again there that second evening except No. 11 accused; the names of the people who were there that second evening are accused Nos. 1 and 2, Chief Ntoane, Nos. 6, 7, 5, 4, 3, 12; 10, and myself. When we arrived Chief Gabashane, No. 2 accused, said that the time had arrived for us to depart to "Fusi's"; he said we should all meet at the place of Makione's, No. 4 accused. I was instructed to go and call No. 9 accused and Sepalami Mathibe. No. 2 accused gave me this special instruction. I call^{ed}/these two men and they came. When I returned with these two men the other accused were all standing behind the hut of No. 4 accused. When I got there I reported that the two men I had gone to fetch were there. No. 4 accused was sent to fetch two other men, one named Sothi Chela, and the other Molemohi Mphiko. He went to fetch these two men and returned with them. There was a vehicle, a Buick car, at the cross roads; this car belonged to No. 2 accused. We were then instructed to go along to Fusi's; we split up as soon as we started from Makione's, into two groups. I was in the bigger group; in the smaller group was No. 2 - 6 accused, the rest of us went in the bigger group headed by No. 1 accused. We went through the village from Makione's to Fusi's. When outside the village we stopped and were given an order. No. 2 and 6 accused took the road to Fusi's in a car. The big group stopped outside the village /and No. 4

and No. 4 accused then said this big group must split into two groups and he further said we were going to Fusi's where a person would be killed. We split into two groups, the first group then moved on to Fusi's; the people in the first group were No. 1 accused, Chief Ntoane, Accused Nos. 5, 4, 3, and one Molemohi and also No. 10 accused. This first group was followed by the motor car, the Buick car I have already referred to and the people in the car were Accused Nos. 2 and 6. Then the second group followed the car; the people in the second group were accused No. 7, one Sepalami Mathibe, No. 9 accused, also one Sothi Chela, and myself. When we got near Phetha's, behind Fusi's, the first group stopped and the car stopped. I was

quite close to them - 25 yards. As the second group approached we saw a horse come out from the first group. When we got there we found somebody had been put on the group and was being held down and as I got close I did not at first recognise this man, but later I recognised him as Meleke Ntai. He was lying on his back and being held by people; I did not recognise all the people but I did notice that No. 4 accused was throttling him, No. 3 accused was holding both his hands over the mouth and nose of Meleke. I then recognised No. 8 accused, i.e. Fusi was there. I did not see him arrive. At this time it was pitch dark, no moon and there were heavy clouds. No. 2 accused had a torch, which gave good light for the purpose of the job. I held the deceased by the legs and pressed him down. As there was great confusion I did not notice what the others were doing but I noticed some people had hold of the deceased's hands but I did not notice who they were.

Witness at this stage demonstrates to the Court how he, Witness, held the legs of the deceased by holding both legs with his hands and at the same time kneeling on the legs of the deceased; he then demonstrated how No. 4 accused throttled the

/deceased

deceased by standing on the left hand side of the deceased, placing all four fingers of his right hand on the left-hand side of the deceased's throat with his thumb on the right-hand side of the deceased's throat with the thumb and fingers pressed down at right angles, i.e. the fingers and thumb being on either side of the deceased's hyoid. The deceased's head was raised with the left hand of accused No. 4 by placing it round the back of the neck with the thumb of No. 4 on the right side of the deceased's neck. Witness then demonstrated how No. 2 accused held his two hands over the mouth and nose of the deceased.

The intention was to first kill the deceased and then get from him what was required. After the deceased was throttled etc. as already described by me, Chief Ntoane then took out a knife but I did not notice what sort of knife he held. Ntoane then cut from a point below the centre of the nose in a circular motion round towards the left of the mouth and back to a spot below the centre of the nose on the lower lip. The piece cut out was from half way between the end of the nose and the top lip in a circular movement to the end of the lips on the left side of the mouth and then back in a circular motion to a spot below the lower lip in line with the centre of the nose. No. 1 accused instructed Ntoane to cut this portion off the deceased's body. After cutting off the portion described Ntoane handed it to Accused No. 1. After taking the flesh, No. 1 accused said that this person has no blood and it seemed as if he was unhealthy. No. 5 accused held the second torch; there were two torches altogether, the two torches were held about 18 inches from the body as the work was done, the two torches were centred at the same spot, that is, the whole of the upper part of the body. After No. 1 had mentioned about the person being unhealthy we were instructed to take the body and deposit it at the place
/where

where it was found, this spot was right down below the cliffs. As it was dark I did not notice everything about this place, but there was water there; we threw it down on its face and it fell on its face, we threw the body from a height of about six feet into a donga. We heard a sound or splash as if the body had fallen into some water. The people who took the body from where it was cut to the donga were accused Nos. 7, 5, 6, 10, 9, one Sepalami Mothibe, Sothi Chela and Molemohi Mphiko and myself. When we took the deceased away he was dead, and he was very cold. At the time it became apparent that the deceased was expiring the lips were cut. When all this took place it was a cold night because it was raining. It started to drizzle before the deceased was caught hold of, but it had stopped when he was being held down. When the deceased was thrown down the donga he had trousers on (Exhibit 1). I see two blankets before the Court but on account of the darkness, I cannot say whether he was wearing either of these two blankets, but I did notice that deceased was wearing a blanket in the ordinary way and it was pinned in the usual way. I did not notice what happened to the blanket and trousers after the body was thrown down the cliff, but the trousers and the blanket were on the body when it was thrown down the cliff. We then returned to our Chiefs, who had remained where the deceased was killed and where the motor car was standing. The distance between where the deceased was killed and where the body was thrown is about 250 to 300 yards, this distance is downhill and stony, it took ^a us fairly long time to take the deceased to the cliff on account of the darkness and ruggedness of the road. As regards the horse I have referred to above, I did not notice whether it was saddled or not. I have not seen this saddle before the Court before today. I did not notice the colour of the horse as it was dark. When we got back to where the Chiefs were No. 2 accused spoke and said to us, "Your work is complete now you /can return

can return to your homes, I have already said that this is a secret, whoever discloses it, the responsibility will be on that person." No. 2 accused then ordered us to go to our homes and we all took the road to our homes, with the exception of the Doctor Fusi who went to his own home. Fusi practises as a Doctor at the area called "Fusi's". When we returned we went to the spot where the group originally split into two groups and we then went to our respective homes. We did not meet again; that is all. I returned with Chief Bereng while Chief Gabashane returned in his car with Mosiuoa, No. 6 accused. Fusi is a well known Doctor. I do not know what medicines he uses.

BY ADV. GROBBLER: Today is the 28th. We killed the deceased on the 3rd March, 1948. I am certain of that. The lip was cut as I have shown, not up to the nostril but about half way up to the tip of the nostril. It is not true that Meleke was dead when his lip was cut. He was dying, we were pressing him to the ground when his lip was being cut. Deceased could not struggle because he was a weak man, and we pressed him down hard. The deceased showed no resistance when we cut him. I have already stated that just as the spirit was leaving the deceased, he was cut, and immediately after he was cut I noticed he was dead. I seized deceased before his lips were cut, and immediately after the lips were cut, and when we noticed he was dead we let him alone. This was soon after he had been cut. I saw no sharp instrument being thrust into the nose or throat of the deceased. I would have seen if this had been done. I had a good view of the deceased's face from when the deceased was seized and until he was released and while there was torch light on the body. I would have seen and known almost any instrument being put into the throat, etc. No other part of the body was cut off other than what I have stated.

Case adjourned to 9:30 a.m. 29.7.48.

/Sgd.

Sgd. E.C. Butler
District Commissioner.

Case re-opened 29.7.48.

Sgd. E.C. Butler
District Commissioner.

BY ADV. GROEBLER. I caught hold of the legs of the deceased when he was already down. When I took hold of the legs of deceased No. 4 accused was throttling deceased. No. 3 accused also had hold of the deceased at this time. There was a lot of hustling at this time and I did not see exactly what each person was doing except the above-named. All the other accused were assisting in some way or other, the deceased did not struggle at all, he was ^aweak and sickly man and he had no chance of resisting. I do not know whether the two Chiefs divided the piece of meat cut off, it was one piece of meat that was cut off.

BY ADV. GORDON. I understand English. I am educated a little. I have one wife and I have a devoted wife, that is true. I am very devoted to my wife. I am as truthful about that statement as all the other statements I have made. I am under oath and I know the effect of an oath. I have had the usual domestic differences with my wife. There have never been any serious differences with my wife, except once when she ran away and I fetched her back. This was some years ago, she did not stay away very long, about two weeks, otherwise there has not been a separation. In March this year we were not separated and we lived together, we did not sleep in different huts. She was not present when I was called to the meeting as my wife had gone to Mahāle's Hoek to have a baby. I may not have understood the question correctly, but my wife was not at home in March. She returned in April. We were in good terms in March. I am a younger brother of Chief Gabashane who is a very big Christian. When I was summoned to the Chief on the first occasion the

/following

following people were present, accused Nos. 1, Chief Ntoane, No. 6, 7, 4, 3, 12, 10 and myself. I knew the deceased very well during his lifetime. Maloi Ntai, No. 11 accused was his only brother who was present at the time. I know No. 11 to be a brother of the deceased. I know that deceased has other brothers; there were no other brothers of the deceased present at the meeting except No. 11 accused. I was one of the persons who killed the deceased. I am not in the accused's box because when I was arrested I found I was compelled to tell the truth as I had now been caught. I do not know why I am not in the accused's box because I have told the truth. I was not told I would be separated from the rest of the accused. I do not know what may happen to me, but all I know is I have told the truth. I was arrested on Tuesday, the 13th July, 1948. I was never with the other accused. After I was arrested I signed my statement made to the Police. I made my statement to the Police but I cannot remember how many days it was after my arrest, but it was I think two days. I signed a sworn statement. I signed only one statement. Personally I say I signed my statement two days after my arrest. An African Policeman arrested me at my home; I do not see that man here in Court. He did not tell me, at the time, what he was arresting me for. Our names were called out in the village and we were then put into a car. I did not at that time know why I was being taken away, but at Teyateyaneng I was told by Lieut. Castle that he was arresting me for having killed Meleke. I then knew why I had been arrested and taken to Teyateyaneng. Lieut. Castle did not then ask me if I had anything to say, he said I should think over the matter about which I had been arrested, but Lieut. Castle did not force me to say what I knew about this matter. Next day, after thinking over the matter, I stated I had thought over the matter and was prepared to make a statement of what I know and

/on the

on the second day after my arrest I made my statement, not nine days. Since then I have been at a place where I was looked after. I am sharing a room with people from Peetes and a Policeman. Sothi Chela sleeps in another room. I do not know the names of the people from Peete's, they are not witnesses in this case. I slept with the witnesses in this case on the night before I came here. They were Sothi, Sepalami, Ntsane, Molemohi. We did not consult together about this case as we were being guarded by the Police; we did talk together but not about this case. We were not allowed to discuss this case, the Police told us not to discuss this case. We were told by the Police not to discuss this case. No. 2 accused has had occasion to reprimand me. I always carry out his instructions, but I may have erred sometimes. I once had a knife in a dispute with my wife but I did not use the knife. It was taken away by my elder brother, No. 2 accused; he took it away from me because he feared I might stab her if I became angry. I deny stabbing my wife on the wrist with a knife. I was at one time severely taken to task for fighting in Court. I was given a whipping by form of a judgment. I have not been resentful of this. I do not agree that my Chief has had a lot of trouble with me. I may have erred sometimes. My Chief would not be telling the truth if he said he had had a lot ^{of} / trouble with me.

RE-EXAMINED BY PROSECUTOR. This conspiracy was first arranged on the 3rd March, 1948; it was a Thursday when the assault took place, the 4th March, 1948. When Chief Ntoane cut the lips of the deceased it was my feeling that we had to kill the deceased. The time taken between when the deceased was put down and taken away to the donga and thrown here was about 1½ hours. The work was done very hurriedly and it took about 30 minutes from when deceased was held down until the operation /was over.

was over. The time taken was longer than the adjournment we have just had which was 20 minutes. My wife was away at Mohale's Hoek for nearly a year. When I made a statement to the Police they did not take it down in writing at once. The Police took my statement down in writing on the third day. After throwing the body in the donga and we had been told to keep this as a secret I went home with Sepalami. Sothi followed a group of other people. I admit that it was a mistake when I said I walked home with Chief Bereng No. 1 accused. By saying I found I was "compelled" to make a statement on this matter, I meant that I felt I was obliged to say what I knew about this case.

BY COURT: No. 11 accused was not present at the killing but he was at the first meeting when this killing was arranged. The order to first kill the deceased and then get from him what was required was given by No. 2 accused on the first evening that we met and arranged this. The orders to throw the body at the spot where we eventually threw it were given by accused No. 2. No. 12 accused was not present at the killing or at the meeting on the second occasion that we met.

Sgd. Mapeshoane Masupha.

Witness: L.S. Moletsane.

Read over, interpreted, adhered to, and sworn to before me this 29th day of July, 1948.

Sgd. E.C. Butler.
District Commissioner.

At this stage the provisions of Section 228 of Proclamation No. 59 of 1938 are explained to the above-named witness, and he is told that as he has answered all questions to the satisfaction of this Court, and provided he does the same at any time if he is re-called and at the trial or other hearing of this case, he will be absolutely freed and discharged from

/all liability

all liability to prosecution for the offence under investigation in this examination.

sgd. E.C. Butler.
District Commissioner.

4th WITNESS, SOTHI CHELA, duly sworn states;

I live at Mamathe's under No. 2 accused. I know all the accused. I am not related to any of the accused. I know the days of the week. I do not know the days of the month. I was called one day when I was at work, it was a Thursday. It was called by Accused No. 2; he sent Sankatana, accused No. 5 to call me. I was threshing wheat when I was called. No. 5 said the Chief was calling me. I went to the village where the Chief was, this was late in the afternoon, the sun was still up then. We went to the Chief who was sitting on the verandah of his house, he was not alone, the people with him were accused No. 4 and a Government policeman. I knew Meleke Ntai; he was killed on a Wednesday or a Thursday. When Meleke was killed I was present. Accused No. 4 called me that day. I was at the stable feeding a horse. I went along with No. 4 in the direction leading to Fusi's place. I and No. 4 went to Fusi's and we went over the plateau to a flat piece of ground where we met a group of people. The people in that group were accused No. 2 and No. 1, Chief Ntoane. No. 3 accused and Mapeshoane. No. 5 accused, Molemohi, accused No. 7, No. 6 accused, No. 10 accused, Sepalami and I was there too, also No. 4 accused. When we reached this group of people, I spoke after an announcement had been made by No. 4 accused who said that the deceased should be killed. No. 4 said, "A person was going to be killed at Fusi's". I then said, "I am afraid". No. 4 said, "In spite of what you say you must go." No. 4 said, "If you run away I will catch you." Nobody else said anything. We then divided into two groups; the order for this division came from accused No. 4 and No. 4 accused and others left in the first group.

/Others in

Others in that first group were Chief Ntoane, accused No. 10 and No. 1 accused, also accused No. 5, one Molemohi, No. 7 accused, No. 3 accused. I was in the second group, it was myself, Mapeshoane, Sepalami, No. 9 accused. Kemaketse was in the first group. The first group moved off followed by the second group, about 15 paces behind. We were going to Fusi's. We met a man on horseback on our way to Fusi's; it was Maloi, No. 11 accused. He came from the direction of Fusi's and was going to his own home at Lepai's. No. 4 accused spoke to him I did not hear what No. 4 said. I saw a vehicle there; it was a motor car. I did not know it. There were people in the motor car, namely No. 2 accused and No. 6 accused. The motor car went to the same place as we went, namely Fusi's. We arrived at Fusi's and when we got there we found a person had been caught. I knew the person who had been caught. It was Meleke; he was riding a horse. I saw No. 10 accused holding the horse, it had a saddle and bridle on it. I could not identify the saddle now as it was at night. It was a bay mare. The people who had hold of Meleke were Nos. 4 and 3 accused, No. 7 accused, No. 5 accused, also Molemohi; thereafter we all caught hold of Meleke. I did not see Meleke get off his horse. When we arrived we found No. 4 accused and others holding him. Meleke was lying on his back. No. 4 accused held his head and was throttling him with both hands; he had his hands round his neck. I was holding the deceased down by his legs, I was holding his right knee. No. 7 accused held the deceased on the left arm. Mapeshoane held him on the right hand. Sepalami held him by the leg below the knee. No. 6 accused held deceased by the belly. There were many people there and there was a lot of confusion. Chief Ntoane took out a knife. I did not see what kind of knife it was. He cut the deceased, he cut at the mouth. He started just below the left nostril, half way between the nose and upper lip going round in a semi-circle to the /left of

left of the mouth and then round to a spot about 1/2 an inch from the left-hand corner of the mouth. There was only one piece cut off. Chief Bereng, Accused No. 1, ordered Chief Ntoane to cut the deceased.

N.B. ADVOCATE GROBBLER wishes the Court to record his objection to the Prosecutor asking the question, "Did anybody suggest or order Ntoane to cut the deceased?" The Court allows the question to be put in that manner.

Sgd: E.C. Butler
District Commissioner.

I did not see what Chief Ntoane did with the piece of flesh he cut off. Meleke was dead when this was done. He died at the time when he was throttled by accused No. 4. I saw that Meleke was dead. This happened at night time; there was no moonlight and it was dark, it was overcast, it did rain that night, it stopped raining before we carried the deceased away. I do not know why No. 4 throttled the deceased; what killed Meleke was the throttling. I did not know that Meleke was going to be killed. I took part in this assault because I was told to take part and I had no means of refusing. I was frightened because I was told on the road that they would kill me if I refused. I believed that because it was dark and I was frightened. No. 2 accused held a torch. That was the only light there, the light was a bright light. After Ntoane cut off the piece of flesh, No. 4 accused told us to take the body away. This was on the instructions of No. 2 accused. He told us to take the body down below to the donga. We threw the body into the donga, i.e. myself, No. 4 accused, No. 6, No. 5, No. 7 accused, Molemohi, No. 3 accused, also Sepalami, and No. 9 accused. We threw the body into the donga face upwards. I did not see how the body came to rest in the donga as we just threw it into the donga and left it there. I did not hear any noise when we threw the body into the donga. We then went back
/to the

to the top where the motor car was near Fusi's. We went back to the spot where the assault had taken place; when we got there it was said that if we reported the matter that person would be held responsible. It was No. 4 accused who made this remark on the instructions of accused No. 2. I did not notice any objects at this place when we got back and received that order. There were clothes on the body when thrown into the donga; I noticed deceased was wearing a blanket. I cannot say if he had more than one as it was dark. The deceased was wearing it in the ordinary way; it was pinned. I do not know if it was loose. The blanket the deceased was wearing is Exhibit 2 before the Court. Deceased was wearing a pair of trousers, his trousers, the trousers before the Court, exhibit 1. Deceased was wearing a pair of boots; these are the boots before the Court. (Exhibit 3). The horse was left alone and it went away. After No. 4 told us to keep quiet about this No. 4 gave an order and said we could disperse and return to our homes. He spoke on the instructions of No. 2 accused. We then went home. I am married; when I got home my wife was there and she was asleep. She woke up and lit a lamp. The time between when the deceased was put on the ground and when his lips were cut was about the time it would take for a person to walk about 250 yards. It was about 416 yards from where the deceased was killed to the donga where he was thrown.

BY ADV. GROBBLER: The Policeman went along with me, he arrested me and took me to Gaol. This was after the death of Meleke and he charged me with the murder of Ntai. I did not deny to the Policeman that I was at this killing. It was raining when Meleke was on the ground, a nice rain. It was raining when Meleke was seized and it continued until after his lips were cut. They did not bleed much. It was dark, there was one torch only, not two. If anybody said there were two he would be lying. No. 2 held the torch. Deceased died after being /throttled

throttled and his lips were cut after he had died. I saw that he was dead when his lips were cut and the body was cold like that of a dead man. I had my eyes on the deceased all the time. I did not see anybody put a sharp instrument into the deceased's nose or throat. If anybody had done so, I would have seen that. The people taking part in the killing of the deceased were No. 4, myself, No. 5, No. 7, Mapeshoane, Molemohi, No. 3, No. 9, No. 6, these men were holding the deceased; there were others. The deceased did not put up a struggle as we were many he did not scream because someone was throttling him. I did not discuss the facts of this case with anybody, and not even with the Police. I did discuss this matter with the Police, they did not tell me that if I discussed the matter with them they would not prosecute me.

BY ADV. GORDON: It was a Thursday when I went to the Chief's house and found a Policeman, and the killing took place on a Thursday; that was another Thursday. I am certain it was a Thursday. I do not know how many days after the killing I was arrested, but it was a Thursday and I was on the verandah of the Chief's house. He the Policeman said I was being arrested for the death of Meleke. He said this in front of the Chief. I said nothing; I made my statement when I reached the office next day, that is after one day. I signed my statement just after I had made it. I made this statement because I had been arrested. I expected to get into trouble when I made my statement I am still in trouble, but if I make my statement well I will not be in trouble. I have not seen Mapeshoane since my arrest. I saw him for a few minutes, we sleep in the same room with a Policeman. Nobody told me if I made a statement I would not get into trouble. A European told me that if I made a statement I would not be in trouble. It was Lieut. Castle who told me this, he told me if I speak nicely I would not get into trouble. I then made my free and voluntary statement. I do not want to

/get into

get into trouble, it is a big trouble to be responsible for, the murder of a man.

RE-EXAMINATION BY PROSECUTOR. The District Commissioner told me today that I should tell the truth so that I should not get into trouble. He said that if I told the truth I would not get into trouble.

Sothi Chela His
 X
 Mark

Witnesses 1. L.S. Moletsane
 2. Joel Molungoa.

Read over, interpreted, adhered to, and sworn to, before me this 29th day of July, 1948.

Sgd. E.C. Butler
District Commissioner.

Witness is told of the provisions of Section 228 of Proclamation No. 59 of 1938 before giving his evidence, and Witness is now discharged from any liability to prosecution for this offence provided he complies with the conditions of the above-mentioned Section in any future hearing of this matter.

Sgd. E.C. Butler.
District Commissioner.

5th WITNESS, MOLEMOHI MPIKO, duly sworn states,

I live at Mamathe's in the Teyateyaneng District under Chief Gabashane. I am related to No. 4 accused; he is the uncle to my father. I live in his village. I know the days of the week, but not the days of the month, but I know the months of the year. I knew Meleke Ntai very well. I know what happened to him. He is dead. I was present when he died; it was a Thursday when he died, in March this year. I would say it was about the middle of March. Meleke died sometime in March but I cannot remember the date. I was at his death, because I was called by No. 4 accused. He called me at night, late at night, it was sleeping time. No. 4 called me himself; he said I should go to him as I was wanted by Chief Gabashane. He did not say what I was wanted for then. I went with No. 4 accused

/to a

to a meeting held outside the village of Mamathe's. The people at this meeting were accused Nos. 7, 9, 5, 1, 3, Chief Ntoane, No. 10 accused and myself and Sepalami. Mapeshoane, Sothi, Nos, 2 and 6 were at the motor car. When we arrived No. 4 spoke saying, "We are going to kill a person," without saying where. Sothi then said, "If you are going to kill a person I am going back," whereupon No. 4 said, "If you go back we will kill you." Nobody else spoke. I was not willing to go and kill a person. I did this because of the order of the Chief. We then divided into two sections by order of No. 4 accused. We then moved off, one section ahead of the other Section. A motor car followed the first group or section. The people in the car were accused Nos. 2 and 6. I could not say to whom the car belonged, as it was dark. The second group followed behind the car.

Case adjourned to 30.7.48, at 9:30 a.m.

Sgd. E.C. Butler
District Commissioner.

Case re-opened 30.7.48.

Sgd.E.C. Butler
District Commissioner.

While on our way to Fusi's we met Moloi Ntai who was riding a horse; he was going in the direction of Mamathe's and coming from the direction of Mahleke's. As he passed he spoke to my elder brother, Maklone. I did not hear what he said as I was walking fast. He passed me near David's place, that is David Bane's place..I was in the first group; when I arrived at Fusi's one Meleke Ntai came; Fusi was also there who came from his own village. We were standing near Pheta's after passing a big gate. Pheta's is near Fusi's and it was there we had to catch the man. Meleke came riding a horse, a bay mare, which belongs to Ananias. The horse had a saddle on. I could not identify that saddle now. Meleke came from Mahleke's. He was going in the direction of Lepae's village; he was riding at a walk. Ramabanta caught hold of the horse by the reins. We

/then

then seized the man on horseback and threw him to the ground. We all caught hold of the man, that is the men in the first group and some of the second group too. Accused Nos. 2 and 6 were there too. Meleke was thrown to the ground and was lying on his back. He was throttled by No. 4 accused while accused No. 3 held his two hands over his nose and mouth. I held Meleke too. I held him by his right leg. We held him down until he died of throttling and suffocation. After he had died Ntoane cut part of his mouth as I have shown the Court, ie. starting from underneath the left nostril and then round in a semi-circle to the edge of the mouth on the left and then back below the lower lip to a spot in line with the spot from which he started. Ntoane cut the deceased on the orders of accused No. 1 who afterwards stated that, "The man is useless as he has no blood". Then No. 2 accused ordered us to carry the body away and he spoke himself. Chief Ntoane gave the piece of flesh that he had cut off to Chief Bereng. It was only one piece of flesh when handed to Chief Bereng. Chief Gabashane told us to take the body and throw it down below. I helped to carry the body with the following accused, Nos. 5, Mapeshoane, No. 6, No. 7, No. 4, No. 3 and No. 10 accused. We left the Chiefs up above. We threw it into a donga about 11 or 12 feet deep; he went down with his left side uppermost and face downwards. I saw where he fell; he fell on ground; there was nothing in this donga. When the body came to rest it was lying on its right side with face downwards. It was dark, very dark, pitch dark, there was no moon and there were many clouds. There was much rain that night. It started to rain in the evening as far as I can remember. It was raining while Meleke was assaulted and it was raining when we threw the body into the donga. It is about 400 yards from where Meleke was assaulted to the donga. It is downhill and stony going to the donga. I know it was three hours from the time when we held the deceased down to the time

/we took

we took the body to the donga. This time we took from when the deceased was put down until thrown into the donga was the time it would take for a person to walk about 400 yards. The time I have just referred to is the time it took from when the deceased was put down until his lips were cut off. I think we have now been in Court about 3 or 4 hours. (Actual time is, however, 1 hour. E.C. Butler). After throwing the body into the donga we returned to the Chiefs and No. 2 spoke saying that if anybody mentioned this matter he will be held responsible. We then dispersed and went to our homes. When Meleke was being assaulted there was a torch being used by Chief Gabashane. Ramabanta caught the horse, took off the bridle and let it go. I did not notice what he did with the saddle. At this time of the assault I was very frightened, but when we held the man down the intention was to kill him. I saw the man's lips being cut, and when the horse was let go. I did not see everything I went home with Nos. 5 and 9 accused. I am married, my wife was at home in the hut asleep when I got^{back}/home. She continued to sleep. My wife saw me come home; she got up and lit the lamp. She did not speak to me. I afterwards saw the spot where we had thrown the body. I subsequently went to that spot. I think it was Saturday in the daytime. When I went there on the Saturday I found some ground had fallen into the donga where the body had fallen; there was no water in the donga, only mud. I was present when the body was found and taken from the donga. We held a meeting before we broke into two groups where it was said a person was going to be killed.

BY ADV. GROBBLER: I did not say that this meeting was held outside Mamathe's village. I have mentioned to the Court all that I perceived that evening when Meleke was killed. I have not left out of my statement any act of assault on the body that night. I saw Mapeshoane and Sothi Chela take part in holding the deceased that night. We all assaulted the deceased together /by pulling

by pulling him off his horse. I saw Mapeshoane and Sothi Chela help to pull the deceased from his horse, but I did not see on what side of the horse they were as it was dark. I saw these two men. I was close to them and could have touched these two men. They did not speak to me. I saw Mapeshoane and Sothi hold down the deceased immediately he was dragged off his horse. I kept my eyes on the face of the deceased from the time he was put on the ground until the time he was carried to the donga. I have not forgotten to state any acts of assault on the deceased that night. I did not tell the Police of any other acts of assault on the deceased which I have not now stated. I did not see any needle or other such sharp instrument used on deceased. I never told the Police that a sharp instrument was used on the deceased's throat, nose or other part of his body. I told the Police that I had seen only a knife being used on the deceased to cut the lips only. If you produced a Policeman that would say that I said that he would be telling a lie. I signed the statement I made to the Police. It was interpreted to me in Sesuto. When I made my communication to the Police, a Sesuto interpreter was used, it was Chief Tsenoli. The deceased was thrown into a donga that had sand in it and the body fell on to sand in the donga. I heard a thud as the body fell. I do not know whether the body received injuries from the fall; there was nothing to break the fall of the body. That evening I saw the body was lying on the right side of the body in the donga. I did see one boot on the body as it has only one boot on. I could see the whole of the body lying in the donga. There was no object which prevented me from seeing this. I was standing on top, and the distance from where I was standing to the body in the donga was about 15 - 16 feet. There was a little water running in the donga but there was much sand. There was no depth of water running in the donga, as I saw it.

/The water

The water was just running over the sand in the donga; what I heard was a thud, not a splash. I would have heard the splash if there had been a splash. No part of the body was covered with water as there was no water. I, Mapeshoane and Sothi and others threw the body down. It was raining when deceased was being throttled. Deceased did not resist when we caught hold of him and threw him to the ground. I only saw one torch being used. I would have seen if there had been another torch. I went to where we had thrown the body on the following Saturday, in the morning. When I arrived the body was still lying in the sluit. I agree with Sothi that when the lips were cut the deceased was dead. The evidence I have just given is as true as the statement I made to the Police that no sharp instrument was used on the nose or throat of the deceased. I am not implicating No. 1 accused and others for a reason other than a desire to tell the truth.

BY ADV. GORDON: I slept last night in Maseru. I do not know where Sothi slept last night. I am sleeping with private people. I come with the Police every day; they fetch me from where they left me. I am fetched by truck; by private people I mean the Police, because I do not know them, I do not know where Sothi sleeps. The Police always take me back to where I stay. Sothi is not in the same truck. I do not know where Mapeshoane or Sothi, Sepalami, or Ntsane are. On the night in question when deceased was assaulted we walked in two groups in the rain. We walked a long distance before we got to Pheta's place. It was much longer than from here to the donga outside the Court. I walked with others, fast, along with Chief Bereng in the rain and Chief Bereng walked fast. I was in the first group and we were walking in a bunch or group of about six people. We walked along following each other; I do not know who was in front of me. It was very dark. The man in front of me /was about

was about 7 paces away. I think there were three people in front of me. I do not know who the second man in front of me was; it was dark. I do not know who the people behind me were. I am telling the truth when I say that Chief Bereng was walking fast. I know Chief Bereng was ahead of me. I did not tell the Court that Chief Bereng was walking in front of me. I do not know where Chief Bereng was walking in the line. I cannot say where the different people were in that time, it was dark. I cannot say where No. 4 was walking in that group of ours. I say he was there because when we divided up he was amongst us. I next say No. 4 when we arrived at the place where we caught the horse; I am quite sure of that. I say now that on the way to where we caught the deceased, No. 4 accused spoke to No. 11 accused. I did not see No. 4 accused at the time we were walking. As I passed No. 11 accused I saw him talking to No. 4 accused. I did see No. 4 accused before we reached the place where we grabbed the deceased. I saw Fusi, No. 8 accused, arrive. We arrived at nearly the same time as the deceased, who was riding his horse, and as soon as we saw deceased we assisted in pulling him off his horse. We did this very quickly. Mapeshoane was already there when I arrived. I do not know whether Mapeshoane was one of the three men in front of me. Mapeshoane was already there throttling the deceased when we arrived. Mapeshoane helped to pull the deceased off his horse. I am telling the truth. I do not know whether Mapeshoane is telling a lie.

RE-EXAMINATION BY PROSECUTOR. I do not know in which group Sothi Chela and Mapeshoane were; it was night and we were all mixed up. When the first group arrived and Meleke arrived, he was caught hold of and thrownd to the ground and killed. When this happened the second group had already arrived and took part in this assault. I know the donga where deceased was thrown; I know it well. I did not see water that night because it was /dark

dark; it was a drizzle that night, spruits would be wet that night from the rain that fell. We did not have a light that night when we threw the body into the donga, it was dark. It was so dark that night that I could only see a person if he was a yard away from me. I could see him, that is the body, where it was lying in the donga. I identified accused No. 11 as he passed close to me.

BY COURT. The body I saw lying in the donga on the Saturday was the body of Meleke. I first heard about the plan to kill Meleke when we were already on the road going to kill Meleke. I was not consulted about this previously. We were already divided up when we met Mqoloi on horseback and we were about 40 to 50 yards apart. We were all walking along on foot.

His
Molemohi Mpiko X
Mark

Witnesses: 1. L.S. Moletsane.
2. Joel Molungoa.

Read over, interpreted, adhered to, and sworn to before me this 30th day of July, 1948.

Sgd. E.C. Butler
District Commissioner.

Above witness was told of the provisions of Section 228 of Proclamation No. 59 of 1938, before giving his evidence and the Witness is now discharged from any liability to prosecution for this offence, provided he complies with the conditions of the above-mentioned Section in any future hearing of this case.

Sgd. E.C. Butler
District Commissioner.

6th WITNESS, SEPALAMI MATHIBE, duly sworn states:

I live in Mamathe's village under Chief Gabashane, No. 2 accused. I know all the accused. I know the days of the week, but not the dates of the month, but I know the months of the year. I knew Meleke Ntai, he died. I know about his death, he died on a Thursday during March this year. I know

/Moshoeshoe's

Moshoeshoe's Day. Meleke died before that day. I was present at Meleke's death. I was called there by Mapeshoane on behalf of accused No. 2. I was coming from a woman called Maneria and I found a group of people standing behind the house of No. 4 accused. Mapeshoane came from that group. I went to Mapeshoane and when I arrived he said, "Look here man, I have been looking for you on the orders of the Chief." As a result of my conversation with Mapeshoane I went to the group I have referred to. The people in that group were No. 2 accused, No. 1, Chief Ntoane, No. 3, No. 4, No. 10, No. 9, No. 7, No. 5, No. 6, Mapeshoane, Sothi, Molemohi and myself. I was about 15 paces away from this group of people when Mapeshoane spoke to me. Mapeshoane did not speak loudly to me or raise his voice. Nobody else in that group spoke to me at that time. After joining this group somebody spoke, i.e. No. 4 accused spoke saying, "I have been ordered by the Chief that we should go and kill a person at Fusi's." I said that, "Since this is the Chief's order, it is in order," and I went on with others in the direction of Fusi's. I did not know who the person was who was going to be killed. While at Maklone's we were in one group, and when moving off to Fusi's accused Nos. 2 and 6 went to the motor car. It was on the road below Toae's. I did not know the motor car. All the others went along the footpath, No. 4 accused was leading with others. While on the road No. 4 accused said we should divide into two groups. I joined the second group; the first group was followed by the motor car and we followed the motor car. Nos. 2 and 6 accused were in the motor car. I did not see anybody pass us. When we got to Fusi's we found the first group had caught hold of a person. When I first saw this person he was on the ground held by No. 4 accused on the neck; No. 3 had hold of the left hand of the man on the ground. I did not see Fusi arrive, but he was there

/holding

holding the right hand of the deceased. The man being held down was Meleke Ntai. I also held Meleke by the legs while Mapeshoane held him by his knees. I did not notice whether there were others holding the deceased, as we were in a hurry and there was great confusion. I saw a horse there, but I cannot describe it as this happened at night. The horse was running away when I saw it. Mapeshoane and Sothi were in the second group and arrived at the same time as myself. It was a very dark night; there were clouds and it was raining. It was not raining very much. We had light from a torch held by No. 2 accused. Accused No. 1 gave an order that the lips of the deceased should be cut and Ntoane cut a piece from his mouth as I have shown the Court, starting from below the nose in a semi-circle round the left-hand side of the mouth and then back below the lower lip. There was only one piece cut off. Chief Ntoane handed the piece of flesh to accused No. 1 Chief Bereng said, "This person of yours has no blood and it appears as if he has been sick." Meleke was still alive at this time. Accused No. 2 said that this man should be killed because if left alone he will report the matter. Then No. 4 accused throttled him and then Chief Ntoane left the arm he was holding and suffocated the deceased with his two hands, and when the deceased was dead Chief Gabashane ordered that the body should be thrown down below. I helped to carry the body and we took it to a donga and we threw the body into the donga. I did not notice which part of the body was uppermost, as we just threw it into the donga; there was a sound as if the body fell or landed in mud or water. I did not see the body come to rest at the bottom of the donga. We then returned to the top where the Chiefs were, namely Chiefs Gabashane and Bereng. We went back immediately and when we returned Chief Gabashane said, "If anybody reports this he will be held responsible", and then Chief Gabashane said we should return to our homes. I went

/home with

home with Sothi and Mapeshoane. I am a married man; when I got home I found my wife asleep, but she woke up and opened the door for me and she spoke to me. My feelings when I handled the deceased were to kill him because it was the order of the Chief.

BY ADV. GROBBLER. It is not a habit of mine to kill a person in this way; this is the first time. If my Chief orders me to kill anyone I will kill him. If he ordered me, I would even kill you; even if he ordered me to kill my wife, I would do so. The distance at which the two groups were apart after we moved off was about 75 - 100 yards. We did not walk in single file. The first group walked away in a group when they left us. Molemohi was in the group ahead of us, and I do not know what happened there. It was easy to see that deceased was alive when his lips were cut, his eyes were wide open and he did not cry. Anyone who looked at him at that moment could have seen that he was alive. When Makione was throttling the deceased he was killing him. It was quite easy to see that the deceased was breathing when his lips were being cut as there was a light; deceased made no noise while this was being done. I do not know whether deceased spoke when he was caught hold of on the horse because I was then some distance away. I am speaking from my own personal knowledge of what I saw and heard. I am sure about Chief Gabashane saying the deceased should be finished off. I did not notice whether deceased had both his boots on as we changed while we were carrying him to the donga, but I know he had both boots on when we left the spot where he was killed. It was not possible for me to see the body lying at the foot of the donga from where I stood. It was impossible to see the colour of the horse. I could not say how much water there was in the donga, but there was water there as it was raining.

BY ADV. GORDON. I have never been on a killing expedition before

/I was

I was not told how the deceased was going to be killed. I did so because I was instructed by the Chief and I felt I should kill after that order. If the Chief was present he would order us how to kill. I did not ask the Chief how I was to kill the deceased, the Chief had given us an order to catch him. Yes, the Chief said to me, "Sepalami, catch him."

Case adjourned to 31.7.48.

Sgd. E.C. Butler
District Commissioner.

Case re-opened 31. 7.48

Sgd. E.C. Butler
District Commissioner.

I am sure this murder took place at night, a Thursday night, it was not Wednesday night. I am sure of that. My reply is that it took place on a Thursday. Those who gave their evidence know what they have said. I know the days of the week. I do not know on what day of the week Moshesh's Day was; this happened before Moshesh's Day. I took part in this murder and I remember what day it was, but as I was not doing anything particularly on Moshesh's Day I do not remember what day of the week was Moshesh's Day. This murder happened on the third month of the year; this is the seventh month of the year, July. On Moshesh's Day I sat at home; I forget whether I was at Maseru that day. I do not remember the day of the week His Majesty the King was in Maseru. Molemohi did not tell me it was a Thursday when this murder was committed. I was last with Molemohi on the day of his arrest. We did not discuss anything, i.e. about what happened that day because the Police who guarded us said we should not discuss the matter, that is the Teyateyaneng Police. I saw Molemohi yesterday. We sleep together, also Mapeshoane, Ntsane, and Sothi, we sleep together every night. I do not know why they have said that they do not sleep with me. They are answerable for what they have said. We do not whisper at night and talk about this case. I am
/frightened

frightened of the Police in this respect, namely because they are guarding me. I say I am frightened of the Police because I respect them and I also respect my Chief, Gabashane. I know I am saving myself by telling the truth. The law will decide whether a man is saving himself when he tells the Police something. I do not know what would happen to me if I was told by my Chief to kill my child and I did not do so. I would obey my Chief always if he told me not to report to the Police. I disobeyed my Chief in this instance because I was arrested; if I had not been arrested I would not have reported. I spoke because I found myself in trouble. If I had not been arrested and the Police had just asked me about Meleke, I would not have told them about this. I spoke to the Police because I felt I should tell the truth and I felt I was obliged to tell the truth because I had done this. I had fear, and I was obliged to tell the truth. Before we got to Fusi's No. 4 divided us into groups two groups; he did not say who should go into any particular group; each person went into whatever group he wished. I, Mapeshoane and Sothi were in the same group. We walked home together; we are not particular friends, it just happened like this. We all wished to tell the truth. We did not discuss this matter as we walked home that night. This is the first murder I have been connected with. I am telling the Court the whole truth; we did not discuss this as it was a serious matter, and I considered that if we discussed this matter which was a secret we would be arrested. I did not want to be arrested. That night we talked about certain things, but I cannot remember now what we talked about. I have a good memory. We held an ordinary conversation that night while walking back. One must not forget an order and that is how I remember. I do not remember what Sothi said when the Chief said, "Catch him." I saw accused Nos. 4, 3, 8, Mapeshoane and others including Chief Ntoane had hold of Meleke when I got this order

/and the

and the Chief gave me this order for that purpose. I only saw the knife. We all went to kill this man but we did not go armed. I do not know where Ntoane got the knife from. I saw it was a knife, but I did not see what kind of knife. I have gone wrong when I said the deceased was suffocated by Chief Ntoane, I should have said the deceased was suffocated by No. 3 accused. I realized this mistake last night as I lay thinking before going to sleep and decided to correct it when I heard my statement read over to me this morning.

BY COURT. No questions.

Sgd. Sepalami Mathibe.

Witness: L.S. Moletsane.

Read over, interpreted, adhered to and sworn to before me this 31st day of July, 1948.

Sgd. E.C. Butler
District Commissioner.

The above witness was told of the provisions of Section 228 of Proclamation No. 59 of 1938 before giving his evidence and the witness is now discharged from any liability to prosecution for this particular offence, provided he complies with the conditions of the above-mentioned section in any future hearing of this case.

Sgd. E.C. Butler
District Commissioner.

31.7.48.

Prosecutor informs Court that Counsel for the Defence are prepared to admit dates and places of arrest and also that after being cautioned no statements were made by the accused.

Accused No. 2 Maseru	13th July, 1948
Accused No. 3 Mohale's Hoek	21st July, 1948
Accused No. 4 Teyateyaneng	13th July, 1948.
Accused No. 5 "	14th July, 1948.
Accused No. 6 "	13th July, 1948.
Accused No. 7 "	13th July, 1948.

/Accused No. 8

Accused No. 8 Teyateyaneng	14th July, 1948.
Accused No. 9 "	13th July, 1948.
Accused No.10 "	14th July, 1948.
Accused No.11 "	21st July, 1948.
Accused No.12 Maseru	28th July, 1948.

Evidence has already been given, and is on record, that No. 1 accused was arrested at Mohele's Hoek.

7th WITNESS, NTSANE NTAI.

I live at Lepai's under accused No. 2. I was working in Johannesburg in the early part of this year. I came back from Johannesburg to my home in March this year. I know the days of the week, the dates of the month, and the months of the year. I arrived in Basutoland on the 1st March, 1948; it was a Monday. While I was at home a message came announcing the death of a brother. I know Meleke Ntai, he is the elder brother of my father. I got this message on Wednesday, the third of the month. I know something about the death of Meleke Ntai. I was at home when I got this message and on that evening while I was asleep my grandfather Moloi Ntai (Accused No. 11) came - my door was closed - he knocked at the door. I asked who it was, the person replied saying, "It is I". I asked what he wanted and he said, "Open". I then opened the door and he came in. When inside he said, "I have come to you; you and Makhetha are called by Chief Gabashane, accused No. 2". I said, "What is the matter that the Chief calls us at night time." He said, "I do not know, you will hear from the Chief and Makhetha is waiting outside". I then went out and the three of us went along. I found Makhetha standing outside. We went to the Chief's place and when we reached the "Khotla" he told us to wait at the "Khotla" or Court. Moloi then went on to Chief Gabashane's houses. Makhetha and I waited there for the order for which we had been called. After a longish time Moloi returned and he said, "Let us go back home. I will tell

/you while

you while we are on the road." On the road he told us that he had found at the Chief's houses the following people: No. 1 accused, No. 2, Mapeshoane and their people; he did not mention their names. Moloi said that he found that a discussion was held about killing a person. Makhetha and I did not reply to this. Moloi then said you must not dare mention what I have told you and he said further if you dare report this you yourself will be killed. We were so frightened we did not dare speak about this matter until we got home. No. 11 accused, Moloi, then passed on to his own place. After Moloi left we spoke shortly about this. We did not know who was going to be killed. After this conversation Makhetha and I parted, each one going to his own home. I and others, namely Moloi Ntai, Makhetha and Meleke Ntai went to the burial. Accused No. 11 told me that our relative had died. We went to the funeral on horseback. After leaving our village I called at Mamathe's store with Samuel Kaebe; he came from his own place and found me at my own place. When I went to the store No. 11 accused and Makhetha went in the direction of the village of No. 2 accused. I did not see whether they called at the village. After going to the store, I followed No. 11 accused and Makhetha and at Seoka's I caught up to them; there were then three of them, namely No. 11 accused, Makhetha and Meleke Ntai. We then went along together to the funeral of the man who had died. The funeral was held at Mahleke's. I attended the funeral of Tlatsinyane. The funeral took place late in the afternoon, so late that when we left the funeral the cattle had already come home. Meleke and No. 11 accused and Makhetha also attended the funeral and after the funeral we dispersed and went to our homes. We ate meat at Mahleke's. Meleke ate meat, too. Beef. No. 11 accused, Meleke Ntai, Makhetha and I left the funeral together. On the way back we rode very fast as the rain was coming. Owing to his ill-health Meleke Ntai could not ride

/hard

hard and so was left behind. No. 11 accused said we should leave him behind. Makhetha asked, "Why should we leave him behind?" No. 11 accused replied saying, "If you do not leave him behind you will see what will happen to you." I was not satisfied to leave him behind, but because of the remark I was frightened. We left this man behind and when we reached Ntsi's we met a big group of people. It was after dark at this time. It was raining, it was dark and there were clouds but it was not very late. I did not identify anyone in that group. I did not go to that group, but accused No. 11 went to that group. Makhetha and I went on our way. No. 11 caught up to us when we got near Mamathe's store. We asked him who were the people with whom he had stopped. He said, "What do you want to do with those people," and he went on to say, "You dare speak about it" We then kept quiet and we went home. No. 11 went with us until we got home. I got a report about Meleke the next evening. I did nothing as a result of that report. I saw Meleke's horse at the home of the owner of the horse, namely Ananias, the same evening as I received a report about Meleke. When I saw the horse it was not saddled. When Meleke went to the funeral with us he was wearing a blanket (Exhibit 2). When we returned from the funeral another blanket was lent to him, namely (Exhibit 4). He was wearing the trousers before the Court, (Exhibit 1). He was wearing boots but I cannot identify them. I identify the saddle (Exhibit 5) before the Court as the saddle Meleke was using that day. Meleke carried a whip but I could not identify it now. Meleke had a hat, the hat before the Court (Exhibit 6). Meleke had his blanket pinned. Meleke was riding a bay mare that day.

Mr. Advocate Gordon informs the Court that he will not be in attendance after this date.

Case adjourned to Tuesday 3rd August, 1948.

31.7.48.

Sgd. E.C. Butler
District Commissioner.

Case re-opened 3.8.48.

Sgd. E.C. Butler
District Commissioner.

BY MR. VAN SOELEN FOR MR. ADV. GROBBLER AND MR. ADV. GORDON.

I was working at Cleveland in Johannesburg and my employer was Haggis Son and Love, a firm of Rope Works. On the day of the funeral of my brother this funeral took all day. As far as I remember the rain stopped for a while that day but I cannot remember for how long and as far as I remember it only stopped once that day before the funeral.

BY COURT. No questions.

Sgd. Ntsane Ntai.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

8th WITNESS, MAKHETHA NTAI, duly sworn states,

I live at Lepai under Chief Gabashane, accused No. 2. I know the days of the week but not the dates of the ~~month~~ or the months of the year. This year, on a ~~certain~~ Thursday I went to a burial of a person at Mahleke's. I do not know Moshesh's Day I think it was the beginning of Autumn. I was at home the evening before that day. I received a message that evening. I received it from Moloi, accused No. 11; he came to my house. He said Ntsane and I were required at the Chief's place, that is the place of Accused No. 2. I went with No. 11 accused to Ntsane's and from there the three of us went to the Chief's place. On arrival there Moloi Ntai proceeded to the house. Ntsane and I remained standing outside the Court but near the Court and close to the Chief's house. Moloi returned to us after a fairly long time. No. 11 spoke to us and said the Chief, i.e. Chief Gabashane had said he wanted a person; he did not mention the people he had seen at the house. When he told us this we were frightened, that is I was frightened. We /then went

then went straight to our home. We did not discuss this matter, neither of us. I was told on the Wednesday by accused No. 11 that my relative had died, i.e. Tlatsinyane; my wife also told me this. I went to the funeral with No. 11, Ntsane Ntai and the deceased, Meleke. We went on horseback. When we left Ntsane took the road to Mamathe's store. Moloi and I left together; the deceased was ahead and we caught up to Meleke. When we left Ntsane said he was going to the store for tobacco and Moloi and I took the bridle path. When we left our home for the funeral Meleke left a short while before us. Moloi and I caught up with the deceased after Ntsane went to the store. Moloi and I did not visit anywhere before we caught up to the deceased, Meleke. We called at a village on our way. I do not know the name of the village; by we, I mean Moloi, myself and Ntsane. I know Mamathe's village and No. 11 called at that village as we were proceeding to the burial place. Meleke was still ahead of us when No. 11 called at the village; he did not tell us what he was going to do and I did not see where he went to. Moloi, No. 11 accused, caught up to me after I had caught up with Meleke Ntai. Ntsane had reached me before accused No. 11 got up to me and the four of us arrived at Mahleke's together and the four of us went to the funeral. We had a meal at Mahleke's: Peaches and Mahleu. After the funeral we ate meat, including the deceased, and after eating we then went home, leaving and travelling together. On the way deceased stayed behind because No. 11 said we should leave him behind and we did this by riding strongly and galloping our horses. I asked why we should leave Meleke behind. No. 11 replied saying, "You already know the reason why we must leave him behind." I was not satisfied at leaving him behind, but I left him behind because of the words of No. 11 accused the previous day. The sun had set when we left Meleke alone, but

/the sky

the sky was covered with clouds and it was raining them. At Ntsie's I saw people travelling on foot, they were going in the direction we had just come. I did not identify those people, and I did not see any vehicle. I did not go to this group of people, but accused No. 11 stayed behind with that group of people. I and Ntsane went on our way; later No. 11 caught up to us at Mamathe's shop. I asked No. 11 who those people were that he had stayed behind with and his reply was, "You dare speak about it, the responsibility will be yours and you will feel it." We then went home. Meleke is dead, but I did not see him and I did not go to his funeral. Exhibit 5, the saddle before the Court is the deceased's saddle. I can identify it. I recognise Exhibit 2, it was the deceased's blanket. Exhibit 4 belongs to Kotja, I know it and that day it was worn by the deceased, Meleke. The trousers, exhibit 1, the pair of boots, Exhibit 3, the hat, Exhibit 6, belong to the deceased and he was wearing them that day and the sjambok, Exhibit 7, belongs to the deceased, and he had it that day, also the saddle blanket, exhibit 8, also the belt, Exhibit 9, which he had on that day. Deceased was riding a brown mare that day. I was away from home and did not assist in the search for Meleke.

BY MR. VAN SOELEN. One Samuel accompanied Ntsane to Mamathe's shop. I saw Meleke was ahead of us when I was at Mamathe's. There were many people at the funeral; they all stayed to eat meat. I do not know who were the first people to leave. No people had already left the funeral at the time I had left for my home. It was raining much when I left for home; the rain started in the morning.

BY COURT. No questions.

His
Makhetha Ntai X
Mark

Witnesses. 1. Long Mabathoana
2. Joel Molungoa.

/Read over

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

9th WITNESS, MOLIKO KHOTHATSO, duly sworn states:

I live at Mamathe's under Accused No. 2. I know the days of the week, dates of the month and the months of the year. One day this year, on a Thursday, the fourth of March, I got up from bed because my dogs barked. I had no watch but I estimate the time as about 10 o'clock at night. I went out and saw many people passing along a path at the back of the houses going towards Fusi's; they were on a footpath or road used by sledges above the main road, which passes behind my house; they were coming from the direction of Chief Gabashane's place. I did not recognise any of the people because of the darkness. One of these men spoke while the dogs were barking and I was trying to stop them and the voice asked whether I owned these dogs for people. I did not recognise the voice. Soon after these people passed on, I saw some other people coming from the direction of Fusi's place going towards the shops, and I heard a voice in this group which I recognised as that of accused No. 11, who is a person I know and I know his voice. I did not hear what he was saying, but I recognised his voice as he spoke to the other people with him. This second group was on the main road below my yard and this group was proceeding in the direction of the shop from Fusi's. After this group had passed I heard the sound of a vehicle which I made out to be the noise of a motor car and not a lorry. I saw this motor car; it was standing at the place of a man called Toae; this car went in the direction of Fusi's where the larger group of people appeared to be going. As the back of the car was towards me it appeared as if only one of the lights

/was a

was a bright light. I saw three or four people go towards the motor car but there were not many people; it was very dark and I could not see properly. I had heard on the Friday evening that the deceased was missing and on Saturday I met the brother of the deceased, No. 11 accused. I spoke to him and asked him where he was going and he said he was going to search for the deceased. I then asked No. 11 accused where the deceased was coming from when he got lost. No. 11 said they were coming back from burying a person at Mahleke's. I asked what day that was and he said a Thursday. I then asked him whether ^{he} had not met many people on that Thursday on the plain; he denied this. I said to him, "Speak the truth, because I saw you pass my yard". No. 11 then admitted he had met those people. I then said, "Why do you deny when I ask you?" He did not reply, but said he had met those people at Ntsie's. I then asked him who those people were and he said he did not know them. I then asked him where he had met a motor car; he denied flatly having met a motor car. After I told him that he must have met the motor car before he got home, his attitude changed and he appeared to be excited. After this he said I should no longer speak to him and he went away.

BY MR. VAN SOELEN: No questions.

BY COURT. I did not really know what the man meant when he shouted out and asked, "Whether I owned these dogs for people", but I understood him to mean that he did not want me to come out and stop the dogs from barking. I want to say that the three or four people went to the motor car before it went away.

Sgd. Maleko Khothatso

Witness: Long Mabathoana.

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner

/10th Witness

10TH WITNESS, MAMPANE MOTHOBİ, duly sworn states:

I live under Jane Moshoeshoe of Chief Gabashane. I know accused No. 8, Fusi Rakokoli. I had a visit from accused No. 8 on a Thursday in March. I am not quite certain but I think it was on the fourth of that month. When he came to me it was at night time, towards midnight. I was in my hut sleeping when Fusi came to me; he knocked at the door. I did not open the door but I said, "What is that?" He said then, "My father I want you to come and help me. Here is a person on the main road who has been thrown by his horse, his friends have left him behind and he is drunk." I then asked, "Where is the home of that person?" He said, "His home is at Lebina's." I then said, "But who are you?" He replied saying, "I am Fusi". I know Fusi and I recognised him by his voice. I then said, "Man, it is in the night and dark; you should go and raise the alarm with the Headman." My Headman is Jane Moshoeshoe. I did not go with Fusi. I was afraid of the darkness. I know Meleke Ntai. I do not know where he is now. I heard it said that he is dead, that was on the next day to that Thursday when Fusi came to my home. I did not hear any noise the night Fusi came to my home, except the noise of a vehicle, and the sound was similar to that of a lorry. Chief Gabashane is the headman of Fusi. I think it was this year when Fusi came to my house.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Mampane Mothobi.

Witness: Long Mabathoana.

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

/11th WITNESS

11th WITNESS, MAPOLOKO MOTHOBİ, duly sworn states: .

I am the wife of Mampane Mothobi and I live with him under Headman Jane Moshoeshoe under Chief Gabashane. I remember a certain night when a person came to my house; it was a Thursday during March. It was at night time and we were already in bed. A person came and knocked at the door; that person asked Mampane to help him carry a person outside who had been thrown to the ground by a horse. The person outside said he was Fusi when Mampane asked him who he was. I know Fusi, accused No. 8, and I know his voice. My husband did nothing; he did not go outside. My husband also asked Fusi where that person lived; that person outside said that the person who had fallen lived at Lebina's. I heard the sound that night of a motor car. I did not know Meleke Ntai, but I received a report about him on Saturday of that same week. It was 1948 when all this happened.

BY MR. VAN SOELEN: No questions.

BY COURT. No questions.

Sgd. Mapoloko Mothobi

Witness: Long Mabathoana.

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler.
District Commissioner.

12th WITNESS, ROSALIA MATHIBE, duly sworn states:

I am the wife of Sepalami Mathibe, and I stay with him at Mamathe's under Chief Gabashane. I remember an evening when my husband came home very late. That was in March. I cannot remember the date. I know Meleke Ntai; I heard a report about Meleke Ntai, that he was missing; this was on a Friday, the Friday after the Thursday when my husband came home late at night.

/BY MR. VAN SOELEN

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Rosalia Mathibe

Witness: Long Mabathoana

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

13th WITNESS, MAMOOKHO MOLEMOHI, duly sworn states:

I am the wife of Molemohi Mpiko and I stay with him at Mamathe's at Chief Gabashane's. I remember a night when my husband came home very late; that was in the Autumn. I knew Meleke Ntai. I received a report about him, namely that he was dead. I got this report after the night my husband came home late; it was in the same week as my husband came home late

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Mamookho Molemohi

Witness: Long Mabathoana.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

14th WITNESS, MASEBOKA CHELA, duly sworn states:

I am the wife of Sothi Chela living at Mamathe's under Chief Gabashane. I remember an evening when my husband came home very late. It was a Thursday night in March. I knew Meleke Ntai; I received a report about him. The report was that Meleke had been found dead. I received that report on a Friday, the date a search for Meleke was being made. I heard on the Friday of the same week as the Thursday when my husband came home late, that Meleke was dead.

/BY MR. VAN SOELEN.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Her
Maseboka Chela X
Mark

Witnesses 1. L.S. Moletsane
2. Joel Molungoa

Read over, interpreted, adhered to, and sworn to before
me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

15TH WITNESS, PAULOS KAHLOLO, duly sworn states:

I live under Headman Janki of Thubakobo under Chief Gabashane. I know Fusi Rakakoli, accused No. 8. I am hired by him; he is a doctor and he treats sick people at his place. I remember when Fusi told me to take the sick people to wash themselves, this was on a Saturday morning during the weeding season; it was Autumn. He told me to take them to a stream where they could wash themselves. On that day No. 8 gave me this order earlier than usual. It was usual for me to take the mental people down to the stream to wash. It was the first time Fusi had instructed me to do this. Where I took them that day was the usual place I took them to wash themselves. It was cold when I took them because it was early morning. While These people were washing, No. 8 accused, Fusi, was standing on the top of the hill. I do not know what he went there for as he did not usually do so. As we were coming up, we found a dead body. I was frightened. I just looked at it and went away. The body was lying in the donga. I did not notice how it lay. I did not know that person; there was no water in the donga; the body appeared to be naked. I reported what I had seen to Fusi where I found him on the hill. Fusi told me to saddle up his horse so that he could go and report to his Chief.

/BY MR. VAN SOELEN

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Paulos Kahlolo His
 X
 Mark

Witnesses 1. L.S. Moletsane
 2. Joel Molungoa

Read over, interpreted, adhered to, and sworn to before
me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner..

16TH WITNESS, PHETA MOSEHLE, duly sworn states:

I am a Headman under Chief Gabashane living at Mamathe's.
My village is near the village of No. 8 accused, Fusi. I did
not know M leke Ntai. Fusi called me and showed me a saddle;
this was on a Friday afternoon. I do not remember the month,
but it was in Autumn. It was some distance away from my huts;
it was between my place and Fusi's place. Fusi said, "My
brother-in-law, come and look at this strange thing," - the
saddle; he further said, "My brother-in-law, this saddle will
cause some suspicion that people will think that we have
killed a person." I was surprised that he should know that
the owner of the saddle had died. He then asked me to look
after the saddle while he reported the matter to the Chief.
I guarded the saddle from that afternoon to the following day
together with the Chief's messenger. Fusi went to Chief
Gabashane; I do not know when he returned but I heard him
speaking in his hut that night; Exhibit 5 (saddle) is the
one I guarded that night; the sjambok, exhibit 7, and the
saddle cloth, exhibit No. 8, were there too. Exhibit 8 was
about 10 feet away from saddle while the sjambok, exhibit No.
7, was about six feet away from the saddle. On Saturday
morning I saw Paulos Kahlolo and the patients of No. 8 go down
to the stream to wash. I saw accused No. 8 standing on a hill
/near his

near his place; he was standing there with one Morosana. I saw Paulos go and speak to accused No. 8. Later that Saturday Fusi came to me where I was guarding the saddle and he said the patients from the stream had reported finding a body at the stream. Fusi then said I should think carefully because this incident had occurred between us and Monyana. Monyana was one of the Chief's messengers guarding the saddle. I said to Fusi, "Why do you speak like this, can I take a spear and stab myself?" Fusi then said that probably an enquiry would be made by the Government. That was the first time I had seen the patients go down so early to wash. I went down to the body when the Policeman was already there.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

His
Pheta Mosehle X
Mark

Witnesses 1. L.S. Moletsane.
2. Joel Molungoa.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

17th WITNESS, KOCHA KOCHA, duly sworn states:

I live under Mahleke under Chief Gabashane. The deceased Meleke Ntai was my uncle. On Thursday, 4th March, Meleke attended a funeral at my place. He was with No. 11 accused, Makhetha Ntai and Ntsane Ntai. After the funeral they went back together. On Saturday, the sixth March, No. 11 accused came to see me and said, "I have come to tell you that a person Meleke is dead", I asked who killed him; he said persons had killed him. I said, "Where were you?" He said they had left him; he said they had left him behind because he had refused to gallop his horse. I said, "You left him behind purposely". He struck me with his fist on my chest and said I should not

/speak

Speak like that; I was speaking badly. I then struck back and other people came and separated us.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Kocha Kocha

Witness: L.S. Moletsane.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

18th WITNESS, MASIELE NTAI, duly sworn states:

I live at Phiri's village, also known as Lepai's, under Chief Gabashane. On Thursday, the 4th March, my husband Meleke Ntai went to a funeral at Mahleke's; he went with accused No. 11, Noloi Ntai, Makhetha Ntai and Ntsane Ntai. They all rode on horses. It was raining that day; deceased Meleke did not return that day. Next day the 5th March I asked accused No. 11 when they reached Masopeling. He did not explain how they had left him behind. Later that day in the morning after I had spoken to accused No. 11 my husband's horse arrived; the bridle was on the horse but was broken, but it had no saddle on. I do not know the colour of the horse. He had borrowed it from somebody. I then made a report to Lepai and I went to search for him myself. As a result of information received I went to Fusi, No. 8 accused. I asked him whether he had seen my husband; he said he had not seen him, but he said he had seen a saddle (Exhibit 5) saddle cloth, (Exhibit No. 8) sjambok (Exhibit 7). He said he had seen them near his place so I said I might as well go and have a look at them. I went and I identified these things. I identify the saddle, sjambok and saddle cloth before the Court as my husband's (Exhibits 5, 7 and 8). The trousers are

/my husband's

my husband's (Exhibit 1), blanket (exhibit 2), boots (exhibit 3) and the hat (exhibit 6), the belt (exhibit 9) are all my husband's. Deceased was wearing these articles the day he went to the funeral. From Fusi's place I went to the place of accused No. 2, and he gave me a messenger to take me home. Makhetha Ntai, Ntsane Ntai and Moloi Ntai, No. 11 accused, did not help me to look for my husband. I saw the body of my husband after it had been found; this was on the Saturday and I identified it as the body of my husband. I saw the body when it was brought to the house; they did not show it to me openly so that I did not see its face. I am wrong when I say I identified it as my husband's body. My husband is a sickly person; he used to say that he had pains all over his body; he was a thin man.

BY MR. VAN SOELEN: No questions.

BY COURT. I identified the clothes on the body as those of my husband, although I did not see his face. I identify the handkerchief as that of my husband (Exhibit 10)

	Her
Masiele Ntai	X
	Mark

Witnesses. 1. L.S. Moletsane.
2. Joel Molungoa.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

19th WITNESS, MALINEO @ MAFUSI RAMATEKOA, duly sworn states:

I live under Makhethisa under Chief Jonathan. In March 1948 I took my daughter to Fusi, accused No. 8, for treatment. It was a Thursday; it was raining that day. That night I slept in the same hut as Fusi, together with Mathabo, and my daughter, Lineo, Mantoa, and Mothibeli. That night Fusi went out and he returned after we had settled down to sleep but we were not /asleep;

asleep; he returned after a long time. He asked us to give him food; we said there was no food, so we gave him some peaches. Fusi was not sick that night. That Thursday was the fourth of March.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Malineo Mafusi Ramatekoa.

Witness, L.S. Moletsane.

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

20th WITNESS, MATHABO MOTHIBELI, duly sworn states,

I live under Headman Mosiuoa Masupha under Chief Gabashane. I know accused No. 8 Fusi. At the beginning of March, 1948, I took my husband to No. 8 accused for treatment. I remember sleeping in the hut with accused No. 8 on the Wednesday and I do not remember the dates of these two nights. a Thursday nights./ Ma-Lineo @ Mafusi, previous witness, slept in the same hut on the Thursday night. That Thursday night accused No. 8 went out of the hut and came back after a long time and asked for some food. There was no food, but he ate some peaches. He was not sick that day.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Mathabo Mothibeli.

Witness: L.S. Moletsane.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

/21st Witness

21st WITNESS, NTLALA NCHAKHA, duly sworn states:

I live under accused No. 2, Chief Gabashane. In March, 1948, I was staying with Fusi, accused No.8. There were quite a number of people who were receiving treatment from Fusi. It was not the custom for people to go down to a stream to wash. In March I received an instruction from Fusi to go and wash; we had a man who was guarding us, Paulos Kahlolo, who took us down. This was the first time he had been taken down to wash. While washing I saw a dead man and so I pointed this out to Paulos, who went and reported this to Fusi. I did not know the dead body; it was a man. The body had a blanket on, as I noticed, and it was lying on the side of the water.

BY MR. VAN SOELEN: No questions.

BY COURT. No questions.

Ntlala Nchakha His
X
Mark

Witnesses 1. L.S. Moletsane
2. Joel Molungoa.

Read over, interpreted, adhered to and sworn to before
me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

22nd WITNESS, MAMASELA THOTHE, duly sworn states,

I live at Peka under Headman Phakiso, Chief Jonathan. I know accused No. 8, Fusi. In autumn I was at Fusi's receiving treatment. On a Friday coming back from a well I saw a saddle, a sjambok and a handkerchief and a saddle cloth lying in the veld. I identify the saddle (exhibit 5) sjambok (exhibit 7) saddle cloth (Exhibit 8) and handkerchief (Exhibit 10) as those I found that day lying on the veld. I told Fusi about my find.

BY MR. VAN SOELEN: No questions.

BY COURT. No questions.

Mamesela Thothe Her X Mark

/Witnesses

Witnesses 1. L.S. Moletsane
2. Joel Molungoa

Read over, interpreted, adhered to and sworn to before me
this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

23rd WITNESS, No. 395 TROOPER HAMILTON KAKA, duly sworn states:

I am a Trooper in the B.M. Police stationed at Teyateyaneng. I know the accused. On the 6th March, 1948, I proceeded to Mamathe's to investigate the death of one Meleke Ntai. I reported to Chief Gabashane, accused No. 2. After re-portion I went to the spot where the body was found. Fusi pointed out the body to me lying in a donga; it was lying in mud, wet mud, it was lying slightly on the right side with the head supported by the right arm, face downwards, and the left arm pressing on the ground. The face was not lying in mud, the body had blankets on and they were tied (exhibits 2 and 4). They were pinned round the deceased's neck; these had fallen forward over his head. The body had on trousers (Exhibit 1). There was one boot on the deceased on the left foot, exhibit 3. The belt (exhibit 9) was round the waist of the body. I did not know this man. The body was identified to me by one Khongoana as being the body of one Meleke. I examined the body for injuries. I found an injury on the lip, halfway between the centre of the nose and the upper lip and going in a semi-circle to the left of the mouth and ending below the centre of the nose on the lower lip. To me it appeared as if it was a cut wound. I saw no other injuries. When I lifted up this body I found crabs at this place. I saw four crabs. We saw them immediately we removed the body; they were near the right shoulder. They were about the size of a 2/6 d piece. I then had the body moved to Teyateyaneng. The saddle, (exhibit 5) sjambok (Exhibit 7), saddle cloth (exhibit 8) and the handkerchief (Exhibit 10) /were shown

were shown to me by Fusi, accused No. 8, that same day and I took possession of those articles. I found the right boot, (exhibit 3) thirty yards away from the body between where the body was found and where the saddle was found. It had been raining on the Thursday and the Friday preceding the Saturday that I went out to investigate. Accused No. 8 pointed out a spot to me in the veld where I found the saddle, (Exhibit 5), sjambok(exhibit 7), saddle cloth (exhibit 8) and the handkerchief (exhibit 10). I found no spoor at the saddle but near the body there appeared to be foot prints in the grass. On the next day I found motor car tracks; that was on the Sunday. The tracks seemed to come from the place of accused No. 2 and when the tracks came near the place of No. 8 accused, they turned and seemed to go back to where the car had come from. The tracks appeared to be about three days old.

MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. 395 Trooper Hamilton

Witness: L.S. Moletsane.

Read over, interpreted, adhered to and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

24th WITNESS, BETHUEL NTAI, duly sworn states:

I knew Meleke Ntai. He was a relation of mine, my elder brother. On the 6th March, 1948, I saw his body in the donga at Fusi's and I identified the body as that of my elder brother, Meleke Ntai, and I identified the body to Dr. Ogg on the 7th March, 1948, as that of Meleke Ntai.

BY MR. VAN SOELEN. No questions.

BY COURT. No questions.

Sgd. Bethuel Ntai

Witness: L.S. Moletsane

/Read over

Read over, interpreted, adhered to, and sworn to before me this 3rd day of August, 1948.

Sgd. E.C. Butler
District Commissioner.

Close of Prosecution.

At this stage Mr. van Soelen applied for the discharge of accused No. 12 as there is insufficient evidence to commit him for trial.

Prosecutor quotes from Section 177 A. of Proclamation 59 of 1938 as amended by Proclamation 48 of 1947, and points out that all that is necessary to commit a person is sufficient evidence on which he might be convicted, and not shall be convicted.

The Court considers there is a prima facie case against all the accused and so commits them all for trial.

Sgd. E.C. Butler
District Commissioner

All the accused, namely One to Twelve, are committed for trial on a charge of Murder.

By me

Sgd. E.C. Butler
District Commissioner.

I certify the above to be a true record of the proceedings in case Rex versus Bereng Griffith Lerotholi and eleven others (Preparatory Examination) charged with Murder and committed for trial on that charge.

Sgd. E.C. Butler
District Commissioner

Exhibit "A". H.41.

BASUTOLAND GOVERNMENT.

Report of Post-Mortem Examination.

To the Supt. Police,

I HEREBY CERTIFY that, at (1) Teyateyaneng, on the 7th day of March 1948, commencing at the hour of 2.45 p.m. I examined the body of a (2) male, (3) African, (4) Adult. That the body was identified to me by Bethuel and Mokhahle of Mamathe's as being that of (5) Meleke. That as the result of my observations, a schedule of which is appended, I have formed the opinion that death occurred (6) $2\frac{1}{2}$ days prior to my examination, and that it was due to (7) drowning.

REMARKS: (8) Deceased last seen Thursday evening and found lying on his right side in a donga. Head and right side found in water. (There had been heavy rain on Thursday and Friday). When the body was lifted numerous crabs were seen in the water just under the body. It was noted that portions of both lips were missing and that there were abrasions on the eyelids. Two blankets were found together about 4 paces from body. Dated at Teyateyaneng this 7th day of March, 1948.

Signature: R.C. OGG

Qualifications: M.B., Ch.B. (Edin)

Designation: M.O.

SCHEDULE OF OBSERVATION.

External Appearances (10) Body covered in fine river sand. Not decomposed. Hands and feet blanched showing immersion in water. Upper and lower lip missing from below right nostril in a semi-circle. Remains of upper lip showed slightly jagged edges, lower lip cleaner line.

Tip of left nostril abraded irregularly, probably crabs.

Area 1 in. x $\frac{3}{4}$ in. abraded midsternum - ditto

Left leg 3 areas $\frac{1}{4}$ each abraded - ditto

/Right leg

Right leg one area 1/2 in. abraded - ditto

Both eyelids had superficial skin removed - ditto

Age of deceased: Apparent 48/50. Reputed +/- Boer War.

Skull and its contents (10) No bleeding into scalp. No fracture of skull. Brain congested. No fracture of base.

Mouth, Pharynx and Oesophagus. Except for absence of lips normal. No forth apparent.

Pericardium Pericardial Sac, and Heart (11) N.

Large Blood Vessels (12) Some syphilitic atheroma.

Larynx, Trachea, and Bronchi contained fair amount River Sand.

Pleurae, Pleural Sacs and Lungs:

Right: Voluminous, Heavy, some old adhesions. Blood-stained frothy fluid expelled. Lung tissue darker than normal.

Left: Not so heavy as right and less fluid and less dark.

Thymus, Thyroid and Lymphatic Glands (13) N.

Peritoneum and Peritoneal Sac (14) N.

Spleen. N.

Stomach (15) and Omenta Crammed with meat. Deceased had evidently had a very large meal. No liquid or water seen.

Intestines (16) N.

Mesentery N.

Vermiform Appendix N.

Liver (17) Gall Bladder and Bile Ducts. N.

Kidneys (18) Ureters and Suprarenal Glands:-

Right N.

Left N.

Urinary Bladder (19) and Urethra N.

Pancreas N.

Generative Organs (20) N.

Spinal Column and Cord (21) No fracture of neck.

/Additional

ADDITIONAL OBSERVATIONS.

From the appearance of the right lung particularly coupled with the very appreciable amount of river sand in Larynx, Trachea and Bronchi and congestion of brain - death due to drowning. The absence of lips and the abrasion etc. of nose and eyelids compatible with being caused by crabs. Organs, Parts or Material reserved for further investigation and now disposed of.

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SECRET.

Exhibit "B".

10/48

Office of the Medical Officer,

Maseru, Basutoland.

2nd July, 1948.

THE COMMISSIONER OF POLICE,

MASERU.

This is to certify that we were present at the exhumation of the body of a Male African adult at Teyateyaneng African Cemetery on 29.6.48, and subsequently examined the body for certain injuries - it being alleged that deceased had been throttled and a sharp instrument forced into his nostrils and throat.

The body was in an advanced state of decomposition - but was identified to us by BETHUEL NTAI, by certain cuts on the lips, as being that of MELEKE, of MAMATHE'S. He further stated that the grave from which the body was removed was that in which Meleke had been buried.

It was noted that the incision made at the first post-mortem examination extended from below the chin to the symphysis pubis and that the skull had been opened.

The tissues on both sides of the neck were opened up - but no sign of bruising of the tissues was found. The incision made at the first Post-mortem was re-opened and continued upwards and through the middle of the jaw bone and the the back of the throat and mouth thoroughly examined. The mucous membrane here was well preserved and showed no sign of injury. The mucous membrane of the nose was completely decomposed and it could not be said whether or not there had been any injury here.

SUMMARY: Evidence of the alleged injuries was not found.

1. Sgd: B.D. WHITWORTH 2. Sgd: R.C. OGG
MEDICAL OFFICER. MEDICAL OFFICER

Maseru C.R. 198/48

PREPARATORY EXAMINATION.

In the case of the King versus Bereng Griffith Lerotholi and Eleven others as per annexure attached.

Here-in-after referred to as the accused.

Charged with the crime of Murder.

At Maseru in the District of Maseru on the third day of August, 1948, in the presence of E.C. Butler, Esquire, District Commissioner, for the said District, appeared the said accused years of age, born at

Basutoland by trade or occupation -

residing at - in the District of -

who, having heard the evidence adduced in support of the charge made against them that upon or about the 4th day of March, 1948, and at Fusi's in the District of Teyateyaneng the said accused did wrongfully and unlawfully and maliciously kill and murder Meleke Ntai in his lifetime a peasant residing at Phiri's village in the Teyateyaneng district.

and being asked what they will say answer thereto, and being at the same time cautioned that they are not obliged to make any statement that may incriminate them and that what they shall say may be used in evidence against them declare:

We reserve our defence, decline to accept short service.

Sgd. J. v. Soelen
on behalf of all accused Nos. 1 to 12.

The above declaration was freely and voluntarily made by the said Mr. van Soelen on behalf of all the accused who affixed his signature hereto.

3.8.48.

Sgd. E.C. Butler
District Commissioner.

ANNEXURE.

In the case of the King versus:-

1. Bereng Griffith Lerotholi, Basuto male, 46 years, Chief of Phamong District Mohale's Hoek.
2. Gabashane Masupha, Basuto Male, 40 years, Chief of Mamathe's District Teyateyaneng.
3. Mojautu Nonyana, Basuto Male 45 years, of Phamong, District Mohele's hoek.
4. Makione Mphiko, Basuto Male, 48 years, of Mamathe's District Teyateyaneng.
5. Sankatane Masupha, Basuto Male, 36 years, of Mamathe's District Teyateyaneng.
6. Mosiuoa Masupha, Basuto Male, 28 years, of Mamathe's District Teyateyaneng.
7. Kemaketse Masupha, Basuto Male, 30 years, of Mamathe's District Teyateyaneng.
8. Fusi Rakakali, Basuto Male, 50 years, of Mamathe's District, Teyateyaneng.
9. Saferi Ntsoso, Basuto Male, 28 years, of Mamathe's District Teyateyaneng.
10. Ramabanta Mahleke, Basuto Male, 45 years, of Mamathe's District Teyateyaneng.
11. Moloi Ntai, Basuto Male, 40 years, of Mamathe's District Teyateyaneng.
12. Titimus Ramashamole, Basuto Male, 38 years, of Mamathe's District Teyateyaneng.

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