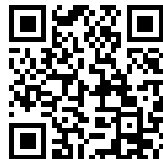


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(London) Nov. 1877

LANGALIBALELE AND THE
AMAHLUBI TRIBE

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LANGALIBALELE AND THE
AMAHLUBI TRIBE

BEING

REMARKS UPON THE OFFICIAL RECORD OF THE TRIALS OF
THE CHIEF, HIS SONS AND INDUNA, AND OTHER MEMBERS
OF THE AMAHLUBI TRIBE

BY THE

^k
BISHOP OF NATAL

Printed by

SPOTTISWOODE & CO., NEW-STREET SQUARE, LONDON

1874

PREFACE.

THE Official Record of the Trial of Langalibalele, late Chief of the amaHlubi, has been published in the form of an ordinary Blue-Book, with the Royal Arms, by 'P. Davis & Sons, Government Printers'; and on formal application it has been forwarded to me by the Secretary for Native Affairs with the attestation of the Clerk of the Court that it is 'a true and complete copy of the Record in the case.' The Records of the other two Trials, *viz.* of the Sons and Induna and of 221 members of the Tribe, have been published also in the same form of a Blue-Book, but without the Royal Arms, and bearing the names of Messrs. Keith & Co. as Publishers: but there is no reason to doubt that they are published under the same authority as the former, though not openly avowed. These three have now appeared together in the form, as before, of a Blue-Book,¹ but without the signs of Government authorisation, and are said to have been published as a private speculation by Messrs. Keith & Co., who have prefixed to it an 'Introduction' to which the signature of their firm is attached.

This 'Introduction,' professing to give 'an account of the Revolt of the amaHlubi Tribe, and the measures taken

¹ The full title of this work is—'The Kafir Revolt in Natal in the year 1878, being an account of the Revolt of the amaHlubi Tribe, under the Chief Langalibalele, and the measures taken to vindicate the authority of the Government, together with the *Official Record* of the Trial of the Chief, and some of his sons and Indunas.' The name of the Tribe may be pronounced *amaThlubi*.

to vindicate the authority of the Government,' is certainly an extraordinary document to be allowed to be prefixed to an Official Record. It is thought to exhibit in many places strong signs of an official pen.¹ If this be so, the Government, it would seem, is unwilling to take upon itself the responsibility of its composition. Coupled thus, however, with the Official Records of the three Trials, which, as far as I am aware, are not to be obtained in a separate form, it will, of course, be supposed by most readers to be an authoritative and trustworthy narrative of the affair. They will probably turn to it in the first instance for an account of Langalibalele's 'contumacious conduct,' and will thus be strongly biassed against the prisoner, and will perhaps hardly care to weigh very carefully the evidence which follows.

This being the case, I feel bound to protest against the whole proceeding as exceedingly unfair and unjust; and, in order to discuss thoroughly the evidence produced against the Chief in the three Trials, I shall here draw attention to some of the most salient portions of this 'Introduction,' by which the reader will be able to judge of its general character for truthfulness and honesty in those parts which bear against the prisoner. It does certainly seem somewhat strange that 'Messrs. Keith & Co.' should have taken such a deep interest in Langalibalele's affairs, and should be acquainted with so many facts which are not mentioned at all in the Evidence, and some of which, one might imagine, could only have been known to official persons. However, I must suppose that the firm

¹ During the hearing of the arguments in support of the Appeal, 'Mr. Goodricke said he would quote from the Preface to the report of the Trial. The Lieutenant-Governor said the Government had nothing to do with that, and even Mr. Shepstone did not know who the author was, but he himself happened to know by accident.'—*Natal Witness*, July 14, 1874. The Rev. W. E. Hunter writes (July 13, 1874), 'Mr. Keith himself, in answer to questions of mine, told me that the MS. of the "Introduction" had been submitted to Mr. Shepstone for his approval and had received his sanction.'

in question are really the authors of this 'Introduction,' and accordingly I shall criticize it with the freedom which the case requires. By following this course, I shall be enabled to give a tolerably complete and connected history of the whole proceedings in the case of Langalibalele and his tribe.

Meanwhile this quasi-official document pronounces the following judgment upon the treatment of Putini's tribe, p. xxxvii.

'The tribe has been hardly dealt with; its dispersal was a grave blunder, and the event forms a historical parallel to the treatment by the British Government of the "simple-minded Acadians [the descendants of the early French settlers in Nova-Scotia], who, rightly or wrongly, were accused of having assisted, early in the 18th century, the French from whom they were descended, and with whom they were connected by many ties of friendship." . . . The historian says, "Whether the accusation" preferred against the Acadians "was founded on fact or not, has not been satisfactorily ascertained," and so may we write in reference to Putini's tribe. Meantime the tribe has been dispersed, and for a time families have been separated, though no member of the tribe has been removed out of the colony;¹ and their cattle and property of every description has been confiscated by the Crown. There is one circumstance which can be regarded with satisfaction—no blood was shed during the proceedings against the tribe.² And, with the

¹ Umbalo, son of Putini, and Acting Chief of the tribe, while detained as a captive under surveillance, awaiting the long-delayed 'Trial' of his people, which has not yet taken place, July 15, nor, as far as appears, is ever likely to take place, died about the beginning of March, after a painful illness of 14 days. No tidings of his illness had reached me, so that an effort might have been made to obtain medical help for him; though he had been living for some time at Mahoiza's kraal on Bishopstowe land, from which he was removed, for some unknown reason, to another kraal of his, some 14 miles distant, across the Umgeni. Nor were any of his sons informed of it; but one of these, hearing of it accidentally from some passer-by, hurried to see his father, and was with him for the last six days of his misery. The other two only arrived to find him buried.

² It is not strictly correct to say that 'no blood was shed during the proceedings against the tribe,' as the following stories show, the first of which was noticed in the local papers at the time, though coloured somewhat differently from the statement below, told by four sons of Putini and two grandsons, with every appearance of truth.

¹ Two young men, who had been sent to take to Umbalo some cattle de-

opportunities of enquiry which will doubtless be afforded, *we may hope the Government will be brave enough to retrace a step apparently unwarranted, which has occasioned great loss and hardship to innocent members of the tribe, and, as a restitution is possible, do what it can to remedy a State blunder, which could only have been committed during a time of panic.* Natives have a keen sense of justice, and we hope their expectations in this case will be justified by the action of the Government.'

But if the treatment of Putini's tribe was a 'grave blunder,' so, I believe, will that of Langalibalele and his tribe be pronounced to be, by most unprejudiced readers of the following remarks.

The course which I have taken in maintaining that the Prisoner has not had a 'fair and impartial Trial,' and that he has not been really guilty of the crimes for which he has been condemned, has, I am aware, been severely

manded by Mr. Macfarlane and Capt. Lucas, on their way back, reached a kraal which they found already in possession of a Government force, engaged in "eating-up" the cattle. They were both on horseback, carrying each a sjambok (whip of hide) and nothing else. In that force were some sons of Ngoza, together with a son of Fulatelwa, who said, as soon as they saw them, "Get off those horses!" Unkolongwane got off; but Umtyoloji refused to get off, not knowing that the force had come to eat them up. So they shot him at once and he died; and then they ate up those two horses and the cattle of that kraal, and of the whole tribe of Putini.'

[I have since heard the story from the young man (Maplanke) who shot Umtyoloji. 'Yes! that man carried a hide sjambok only, and no weapons; he was on horseback, with another of his tribe. Maplanke found Lutyungu speaking with that man, who would not dismount, whereas the other had done so. They wanted him to get off instantly: whereupon he tried to strike Lutyungu with his sjambok; and so Maplanke was angry, and fired at him, and killed him, and they took those horses. For Capt. Lucas had ordered that, if any refused to allow the force to eat up his things, they should kill him at once, and that would be no fault.']

'After the people of the two tribes of Langalibalele and Putini had been imprisoned, many here at Maritzburg and others at Ladismith and elsewhere, there remained still a few who had not been captured. And, when the *impi* came to hunt after them, a young man, Mbenge, seeing the *impi* coming, ran and hid himself in the bush; for it was generally said that all the males caught were to be killed and only the women and children to be left, who were to be portioned out among the men of the Government Native Force. But the *impi* managed to find him in his hiding-place, unarmed, and assailed and killed him.'

censured by a large majority of my fellow-colonists. I cannot wonder at this, for it was impossible that they should know the facts on which my action in the case was grounded. It has been said that I have 'voluntarily thrown myself into this important question,' which '*did not lie in my path of duty*' (*Natal Witness*, June 19). I say that it did—that I was challenged to sit by and see the prisoner brought to Trial, and by my silence at all events—if not by my consentient voice—to tell the world that I believed that that trial was 'fair and impartial.' I saw that my fellow-man was being unfairly treated and unjustly condemned, in a tumult of popular excitement and frenzy; and I believe that it did 'lie in my path of duty,' at all cost as an Englishman, no less than as a minister of religion and a missionary, to raise my voice as strongly as I could against it. It may be that the Appeal, to the Lieut.-Governor acting with the advice of the Executive Council, which under the Ordinance, No. 3, 1849, has been asked for and allowed on behalf of the Prisoner, may be decided on legal questions, as to the validity of the Trial, and not on the merits of the case. But I cannot be content with this. If Langalibalele had really shown himself a malignant rebel, I should be very far from urging a word in his defence, or from desiring to screen him from the full measure of punishment which his crime, so dangerous to the future peace and safety of the Colony, would in that case have deserved. But, if it shall appear that the faults which he has committed, when the circumstances are explained, are of a much more venial character than is commonly supposed, I think that the Colonists should rejoice to find that there has been only a frantic 'running away' where they feared there was a formidable 'rebellion,' and may allow that the Prisoner has been punished sufficiently, for any offence which he has really committed,

in the loss of property and position, the ruin of his family and the dispersion of his Tribe, and may be suffered to retire into private life, under proper surveillance for a time, without any danger to the prestige of our Government among the natives.

J. W. NATAL.

BISHOPSTOWE, NATAL :

July 1, 1874.

* * In these Remarks the following abbreviations are used :—
S. C. for Supreme Chief; S. N. A. for Secretary for Native Affairs; B. B. for the Blue-Book or Official Record of the Trials, to which last, however, *all* references are made when the contrary is not expressly mentioned.

But it should be noted that this Official Record contains, after all, only *ex parte* evidence, the witnesses having been all called by the Government, and examined by the Government Prosecutor (Mr. John Shepstone), and not cross-examined on behalf of the prisoners, as the Lieut.-Governor (Sir B. Pine), who presided in person at the trial of the Chief, refused to allow him to be defended by anyone, white or black, or even to be visited in gaol by anyone for the purpose of preparing his defence.

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REMARKS

ETC.

1. The Writer begins by saying that he will 'take especial care *only to include well authenticated facts,*' p. iii. ; and thus the reader might fancy that he will be under very safe guidance in reading his professedly 'unvarnished tale.' Yet we find repeatedly accusations or insinuations conveyed by statements of facts which are not authenticated at all, which are introduced with 'it is said,' 'he is reported,' 'we understand,' and which, when enquired into, are found to be utterly groundless and untrue. But we shall follow the story page by page, and note the fallacies and misstatements it contains, giving the necessary explanations and corrections, some from the Official Records themselves, others from the lips of the Chief, when visited in Durban Gaol by the Bishop of Natal for the purpose of preparing his Appeal.

Early History of the amaHlubi¹ Tribe.

2. 'Langalibalele, who was a Chief and rain-doctor in the Zulu Country under King Panda, was in 1848 obliged to flee to save his life. It is said that in that case he had incurred the displeasure of the Zulu despot by refusing to obey the summons of his Paramount Chief, alleging fear as his reason for not complying with the summons.'—p. iii.

Here it is insinuated that Langalibalele was in the

¹ In Zulu *hl* is pronounced as *ll* in Welsh, or nearly as *thl* in English: thus, *amaHlubi* may be read as *amaThlubi*. Langalibalele is pronounced *Lángā-llbā-lléé*, the vowels being sounded as in French.

habit of 'assigning fear' as an excuse for not going to the Supreme Chief on such occasions, just as he did to Mahoiza when summoned by him to appear before the S.C. of Natal. In common fairness the writer should not have omitted to state that he had very good grounds for such fear in Zululand.

'Langalibalele then said, he was afraid to go to the Government; he would turn Bushman and go into caves; he was afraid because of something which had happened in the Zulu Country, where, there having been a dispute among themselves, his brother had been sent for and killed by the Zulu Chief, and he himself had only escaped alive by fleeing to Natal.'—MAHOIZA, p. 12.

3. Langalibalele's own statement is as follows:—

'While Dingane was reigning in Zululand, Dhlomo, Chief of the amaHlubi, Langalibalele's brother, was summoned, and on his arrival was killed by the King. His brother Langalibalele entered upon the office of Dhlomo. He did not at that time flee from Zululand: he just stayed on with all the people of the amaHlubi.

'But Langalibalele's departure from Zululand arose in this way. Mpande (Panda) on one occasion wished to kill Putini, and sent an *impi* (force), which "ate up" Putini's cattle, and went beyond and "ate up" some of the cattle of the amaHlubi also. That was too much for Langalibalele: so they started together, he and Putini, and fled to the mountains, and stayed there a long time. About the time of the Umkosi (Feast of Firstfruits), Mpande sent out another *impi* under the Induna Dangazela, which came to them and fought, and afterwards they ran away and came to this land of Natal. That Induna got killed by the King, it being said that he had ruined the *impi*.'

Thus the fact is that Langalibalele was *not* summoned by Panda, though his brother had been sent for by Dingane some years before and killed.

4. 'Over a small force sent against him, Langalibalele is reported to have gained a temporary success; but, fearing the wrath of the incensed Panda, and the larger force which would certainly be sent to compel his submission, he crossed the Buffalo River, which forms the boundary between the extreme north-east of Natal and Zululand, and entered this Colony with his followers, the Hlubi tribe, and their relatives, the tribe of Putili [Putini].—p. iii.

The following message (*Natal Parliamentary Papers*, 1849, p. 11) was sent by Langalibalele to Lieut.-Gov. West, May 15, 1848, from which it would appear that he was surrounded by a *large* Zulu force, which he routed, and then asked permission to enter Natal.

'My Chief has sent me to report that he found himself surrounded at daybreak by a Zoolah army, *consisting of eight divisions*. The principal [part] of the army crossed into the district of Natal, and succeeded in taking him by surprise, because it traversed territory which he did not expect it to travel over, it being British territory. When he found himself attacked, he determined to resist to the last and did so. The result was that he saved his own cattle, but those of his people were taken. Only four of my Chief's men were killed, while 118 Zoolahs fell. This arose from our attacking them at night, after they had taken our cattle. A few days before I left, four messengers from Panda arrived at my Chief Langalibalele's kraal, to give him notice 'that Panda would be revenged—that he would destroy him and his tribe entirely—that he must plait a rope for himself that will raise him from the earth to avoid his vengeance; but so long as he remained on its surface he cannot escape it.' . . . Langalibalele replied that he had done nothing to provoke the attack, and that he had merely defended himself. . . . The messengers left saying, 'Your destruction is inevitable, your rocks and caves will not save you; your cattle, which you have sent away, shall become the inheritance of those to whose care they are entrusted, when you are no more! My Chief wishes me to say that he treated these messengers with respect, and allowed them to depart in peace. . . . He entreats that the Lieut.-Governor will allow him to take refuge within his district, and that he will send a few horsemen to afford him a safe conduct.'

Panda, in fact, in his reply to the Natal Government, admits that he had no fault to find with Langalibalele, in spite of all this running away and fighting.

'I have no cause of complaint against Langalibalele, &c.: they may reoccupy their country. But with Putini I have a difference; he killed my people while sleeping at his kraals. My great men have only gone to avenge themselves as yet: but, when I go, I shall leave them all whitening.'

5. 'The members of the amaHlubi tribe, under Langalibalele, and the amaNgwe or Putini tribe, are related to each

other by birth and also by intermarriages. The families of the hereditary Chiefs of the tribes are also related, Langalibalele having been, we understand, the uncle of the late Chief of the amaNgwe tribe. The tribes were also connected by political ties; and the members of the weaker tribe, enjoying (as they did) Langalibalele's patronage and, to a certain extent, protection, were in reality his vassals in Zululand, if not in Natal.'—p. iii.

Langalibalele was the son of Putini's sister, that is, he was Putini's *nephew*, not his 'uncle.' He says that Putini's, as the weaker tribe, received, of course, his aid in time of need. But he utterly denies that they were in any sense his 'vassals,' *i.e.* subject to his authority, either in Zululand or in Natal; they paid him no tribute of any kind; their chief was *not* 'bound to follow him to war, to contribute to the civil list, and otherwise help to support his dignity, to assist him with his counsel, and to attend as an assessor in his courts of justice,' as a vassal would be bound to do, p. vi: they did nothing of the kind, but were perfectly independent of Langalibalele himself and the amaHlubi.

6. 'Langalibalele and his followers found an asylum in Natal, where Panda dared not follow them. The principle upon which the lives of refugees have ever been spared, whilst the claims of the Paramount Chief to the cattle or property of the runaway tribe has been respected, is clearly stated in the evidence of the Secretary for Native Affairs, p. 25. And this was the principle acted upon in the case of the tribes referred to.'—p. iv.

This 'principle' is in accordance with the Native Law, as laid down in the *Kafir Laws and Customs* of the Cape Colony, p. 75:—

'Refugees are always received by the Chief to whom they fly, whatever might have been the nature of the crime for which they fled from their own Chief; and they are never demanded; for, if they should be, they would not be given up.'

'In times of peace, if a refugee is guilty of taking any of his

neighbour's cattle with him, or if any lawsuit was pending before he fled, such case may be laid before the Chief to whom he has fled, and who generally settles such matters impartially, although there appears to be no international law binding him to do so.'

Hence *for many years past* the Natal Government, assuming that all the cattle brought with them by refugees belonged to the S. C. of Zululand, has made a practice of restoring them, while receiving the refugees themselves, thus teaching the Natal natives in the plainest manner that there was no great crime involved in their running away from their own Supreme Chief, if only they could escape out of his territory—that their persons would be safe, though their cattle might have to be surrendered. But it is not correct to say that this principle was acted upon in 1848 in Langalibalele's case, since he brought with him into the colony—as he told me—about 8,000 head of cattle, and at all events a considerable number, which were not restored to Panda.

7. Mr. Griffith, as the S. C. of Basuto-land, might have acted on this same principle of Native Law, which is referred to by the 'loyal' Son, Manaba, as the ground of their confidence in Molappo's profession that he would save them, p. 48—

'the object or intention being to give up the guns, and then plead an international custom, that, when one tribe had run away, and got in amongst another tribe, they would be saved.'

On the contrary Mr. Griffith allowed his people to keep by far the best and largest portion of the cattle, and surrendered the refugee Chief to the representatives of the S. C. of Natal. Or, if it be said that he surrendered him under *Civilised* not under Native Law, to the Lieut.-Governor—not to the S. C.—of Natal, then he should have been tried under *Civilised Law*—under which, however, it would have been very difficult indeed to show that he had committed any offence whatever.

Settlement of the amaHlubi in Natal.

8. 'In this way, then, were the amaHlubi and the amaNgwe tribes settled in Natal. They entered it in 1848, few in number, and in distress and poverty; they left it in 1873, rich in stock and other property, accumulated during their residence in this country, under the protection of the Local Government.'—p. iv.

It should be borne in mind that this was not the first settlement of the tribe in Natal: they had only now returned to the land from which their fathers had been driven by Chaka's ruthless fury. We are told by Mr. Shepstone that the amaHlubi were at one time 'the largest tribe in south-east Africa,' and were among 'the Aboriginal Tribes which anciently occupied the territory now forming the Colony of Natal, prior to their being disturbed by Chaka's wars which began to affect them about 1812,' and they are reckoned by him 'among Tribes which now inhabit Natal, having retained or regained their original tribal organisation,' and which 'were in the country as Tribes, or fragments of Tribes, when the Boers first arrived (1838).' Lieut.-Governor Scott's *Despatch*, No. 34, 1864, p. 42, 60, 62.

9. But Langalibalele himself gave the following account of the wealth and strength of his tribe when it entered Natal.

'All the cattle of the amaHlubi, which were eaten up by Mpande (Panda), were 1,800. Through the multitude of cattle, however, possessed by the amaHlubi, there remained 8,000, besides those which were eaten up by the Zulu King; those 8,000 crossed over and came here into Natal. Langalibalele crossed over with three regiments of young men, besides two regiments of men. Those three regiments of young men made 18 troops, or companies, of the army. Now that they have been here under the Government, through their increase, they formed at the time of their dispersion 26 troops, or companies of the army.'

From the above it appears that it is wholly incorrect to say that they arrived here 'few in numbers and

in poverty,' from which it might be inferred that during all these twenty-five years it has only been their *feebleness* which has kept them quiet. It is plain that they had power enough all along to have done much mischief, if they had been so minded; though the tribe, no doubt, had flourished during the interval, especially of late years, being known throughout the Colony as an excellent *working* tribe; they had 'increased in numbers, wealth and influence,' p. vii, and had become nearly half as large again as when they first entered the colony—in other words, they had increased' from about 7,000 to about 10,000 souls, or, according to this *Introduction*—

'from calculations based on the hut-tax, about 9,400 men, women, and children, of whom (say) 1,875 would be adult males, nearly all of whom were fighting men.'—p. vii.

10. 'Langalibalele has ever been troublesome, and has never manifested that constant and ready obedience to the orders of his Supreme Chief that a loyal native in charge of a tribe should have manifested, especially when placed under such great obligations as had been incurred by Langalibalele.'—p. iv.

'Langalibalele ever manifested an independent spirit, and his isolation among his own people had the effect of increasing this spirit as time rolled on. In fact, the late Chief of the Hlubi tribe was regarded as a *mauvais sujet* some time before his insubordination ripened into open rebellion and resistance to the authority of the Government. This statement is confirmed by Mr. Macfarlane's evidence.'—p. vii.

Langalibalele was, no doubt, regarded as a *mauvais sujet*—or, rather, as a *bête noire*—by Mr. Macfarlane, whose impetuosity led to the destruction of Putini's tribe, which is expressly condemned in this '*Introduction*.' This is what Mr. Macfarlane says, p. 29:—

'For a long time before this disturbance, I had noticed indications of disobedient conduct on the part of the prisoner and his tribe. There was a general disinclination to obey, with anything approaching to alacrity, any order sent them; and there were general

indications, of which, however, it is difficult to give special instances, of an impatience of control.³

Such loose charges as the above, however, are surely outweighed by the simple fact that he had been for a quarter of a century a chief of a powerful tribe in Natal, and had never been in serious fault before, since the time of his removal in 1849 to his late Location; and Mr. Macfarlane himself says:—

‘This was the *first* time the prisoner ever refused to appear before me when ordered to do so, p. 29—

though, in point of fact, as will be shown below (62-3), he did not even on this occasion really ‘refuse’ at all, but merely pleaded illness at the time, and went down to Estcourt shortly afterwards to see the Magistrate, but found him absent, and spoke only with the Clerk.

11. The fact is, no doubt, that Langalibalele ‘ever manifested an independent spirit,’ and, by those who regard the Natives as dogs, who should only cringe and fawn before a white man, such a spirit will be condemned, though perhaps in reality more worthy of respect than the servile obsequiousness of some others of the Chiefs and Indunas in the Colony. This ‘independent spirit’ showed itself on the Fifth Day of Trial in the following passage at arms between the Prisoner and Mr. Macfarlane. I quote here from the *Witness Report*, which is more graphic than the Official Record.

Prisoner: Was not Umpiko the chief messenger?

Mr. Macfarlane: I certainly did not look upon him as such.

Prisoner: Umpiko was my head official witness; but Umzilikazi was not an official witness at all; he was merely a man of standing in the tribe. I do not deny that Mabudhle was an official witness. Mr. M. has mentioned the gun returned to my son; but he has made no allusion to the guns which were taken for registration, but never returned.

Mr. M.: There were some guns sent in after the time allowed, which I detained, giving the Chief to understand that, having made my report to the S. N. A., the matter was not in my hands any longer, but that it would be settled by the S. C.

Prisoner : With respect to my not obeying the summons, did I not send in to the Weenen Magistracy for some medicine to cure my leg ?

Mr. M. : The prisoner often sent in to the office for a bottle of rum to be taken as medicine, and I believe it was always sent. I fancy also that on one occasion I sent him a box of pills.

Prisoner : Mr. Macfarlane's memory is very convenient ; he only *thinks* he sent me the pills. I know positively that the guns which were not returned were sent in before the disturbance took place.

Mr. M. : I retained none of the guns which were brought to the office in good faith. They at once had a label attached to them, bearing the name of the owner and the date on which the arm was brought in ; and they were put aside to await the approval of the Government. But in the last instance the men were informed that the matter would be settled by the S. C.

Prisoner : I do not know whether it was the correct thing for Mr. M. to report me so speedily to the Government. I think first of all he might have sent a clerk from his office to see if I was well enough to travel (to Estcourt) or not.

Mr. M. : Mr. Rudolph would have been sent ; but the Prisoner considered that gentleman his enemy, and refused to see him.

Prisoner : It was not until after the matter had been reported to the Government that I refused to see Mr. Rudolph.

12. Langalibalele informed me that Mr. Rudolph had once told him that he was in disfavour with Mr. Macfarlane 'because he answered' his Magistrate, as in the foregoing extract.

On the day when he went to Estcourt Mr. Macfarlane was absent ; but he found the interpreter there, Mr. Rudolph, who said to him, 'Why do you refuse to have the guns registered ?' Langalibalele denied it, saying, 'Do I not at all times bring in the guns ? Were not the guns of Mr. Shepstone's sons called for and I sent them ? and those of Mr. Popham's men, and others ?' They had a sharp altercation with one another, but soon they talked quietly again. After a while Mr. Rudolph spoke with Langalibalele privately and told him, 'Don't suppose that this comes through my evil doing towards you ; it is Mr. Macfarlane's doing, for Mr. M. does not like a man who answers him when he happens to speak. You are a man who continually like to answer. That is what Mr. M. dislikes in you.'

13. 'Soon after their arrival in the Colony, Langalibalele, his people, and allies, were moved to the location which they occupied at the time of their recent operations; but this movement was not effected willingly. The order had to be carried out by force, the Chief being unwilling to leave the land on which he had settled; although it was a great favour to allow him to erect his huts and till the ground in this Colony at all.'—p. iv.

It is probable that Langalibalele had originally settled upon lands deserted by Dutch Boers who had quitted the Colony, and who at that time as Lt. Gov. WEST stated (*Despatch*, Dec. 5, 1848), 'were in his opinion generally disaffected towards the British Government, and were indeed generally impatient of any effectual control.' For one season, it would seem, he was allowed to till the ground where he had settled. But then, partly, perhaps, because the Boers wished to return to take possession of their abandoned farms, as also 'in order to close and guard the mountain passes against the inroads of Bushmen,' p. 34, the two kindred tribes were compelled to move into the tract they lately occupied, so as to guard the passes of the Drakensberg, by which the Bushmen were in the habit of descending to make their forays on the Colony.

14. This is Langalibalele's own account of this removal.

'When he arrived here, he built his huts at Emhlanani. When he had cropped once, the S. N. A. ordered him to leave the spot and go under the Drakensberg. But that was hard for the people, seeing that they had only cropped once; they wished to get a second crop, and then remove; they lamented their strength which they had sunk in the ground.¹ Some, however, started and went to the place assigned by the Inkos' under the Drakensberg. The Inkos' was angry when he saw that the amaHlubi and their chief still lingered. He called out a force, Somhashi, and Pakade, and Nodada, and Zikali, and others, and marched in person against Langalibalele.

¹ Mealies (maize), the chief product of a Kafir garden, bear very poorly in 'new land,' which has only been once cultivated. In the second year only do the people expect a return for their labours.

Whereupon Langalibalele went forth and saluted the Inkos' at Ladismith. And when the Inkos' saw him he said, 'Au! what do you mean, son of Mtimkulu, by troubling me thus? I supposed that you were refusing to move, whereas, it seems, you are willing. You must now pay a fine for my horse's journey.' So Langalibalele consented, and paid a fine of forty head of cattle, while the force ate up all the cattle of the amaHlubi which had not yet gone to the Drakensberg, altogether about 4000, and about the same number remained to the tribe. These were those same cattle that had come from Zululand.¹

After that all the amaHlubi tribe started and went and settled under the Drakensberg.'

From the above account and that in (2-4) it will be seen what ground there is for the statement made to the Secretary of State (*Parl. Blue Book*, 1874, p. 10)—

'The Chief of the tribe fled from the Zulu country years ago for protection in this colony. He had there, and he has here, always been a contumacious and treacherous man. Even during my former administration he gave the Government trouble and anxiety.'

15. 'The Drakensberg or Kahlamba Mountains form the western boundary of the Colony. Across these mountains is an inhospitable tract of country, but little known, and for many years deemed impassable; this tract intervenes between the boundaries of the Cape Colony and Natal.'—p. iv.

The N.W. boundary of the Colony was defined in the original Proclamation (*Moodie's Ordinances*, II., p. 17) as running 'in a direct line along the South-Eastern base of the Drakensberg Mountains.' But by an Order in Council taking effect on Jan. 1, 1859, this was altered to the ridge separating the waters flowing into Natal from those flowing into the Orange River. And the affair at the Bushman's River Pass took place at a spot where one of the sources of the Orange River runs down towards

¹ I had hoped to have been able to confirm or correct the Chief's statements as to the number of his cattle, &c., by reference to the records of the time preserved in our Colonial Office, the inspection of which I thought might have been permitted under the circumstances of the case. But H. E. has declined to permit the perusal of them (June 10), as they 'were not among the documents produced at the Trial, and cannot therefore be looked upon as in any way necessary for the prosecution of the Appeal.'

Basutoland—in other words, took place beyond the ridge which forms the watershed, and therefore beyond the boundary of the Colony, in the tract intervening, as above stated, ‘between the boundaries of the Cape Colony and Natal.’ Consequently any offence, which may have been committed by Langalibalele and his tribe in respect of the affair at the Bushman’s River Pass, could only have been tried in the Ordinary Civil Court of this Colony, under the laws now in force in the Cape Colony, in accordance with the Imperial Act (26 and 27 Vict., cap. xxxv.)

16. The Act in question enacts as follows:—

‘The Laws, which are now or which shall hereafter be in force in the Colony of the Cape of Good Hope for the Punishment of Crimes therein committed, shall be and the same are hereby extended and declared applicable to all Her Majesty’s subjects within any Territory in Africa being to the Southward of the Twenty-fifth Degree of South Latitude, and not being within the Jurisdiction of any civilised Government; and every crime or offence, committed by any of Her Majesty’s subjects within any such Territory, shall be cognizable in the Courts of the Colony of the Cape of Good Hope or of the Colony of Natal or of any of Her Majesty’s Possessions in Africa to the Southward of the said Twenty-fifth Degree of South Latitude, and shall be enquired of, tried, and prosecuted, and on conviction punished, in such and the same manner as if the Law rendering the same punishable had been in force within such Colony or possession.’

17. ‘It must be admitted that the amaHlubi discharged well the special duties imposed upon them by the Government, and that, in consequence, the farmers in Weenen County conducted their operations, and guarded their flocks, with comparative ease. Langalibalele performed his part of the compact, and protected the County of Weenen from inroads of Bushmen by the passes he commanded.’—p. v.

‘Langalibalele and the Hlubi tribe were located in Weenen County, on the slopes of the Drakensberg and the adjoining lowlands. Their special duty was to protect the County from the inroads of Bushmen. It was their self-interest as stock owners to perform this stipulated service, and they did perform

it to the satisfaction of the Government. A portion of the tribe of Putini—that implicated in the recent proceedings—was located on land adjoining that upon which Langalibalele was allowed to build his huts.—p. vi.

Perhaps, if this service had not been so well performed—if the Weenen Farmers had not altogether ceased for some years past to suffer from the inroads of Bushmen—they would not have been so ready, as some of them were, to excite the popular feeling against this tribe, by publishing groundless fears and suspicions, and the merest *canards* implying that the Hlubi Tribe were on the eve of breaking out into a desperate rebellion. Accordingly Mr. Shepstone writes from Estcourt to Sir B. Pine on Nov. 2, on the very eve of the Tribe's precipitate flight—

'The panic here has died away, and the subjects of it seem to be, from what I hear, not quite satisfied with their conduct.'—*Parl. Blue Book*, 1874, p. 34.

But surely these services of twenty-five years deserved some consideration, before the Chief was doomed to a sentence exceeding in severity, in the opinion of Natives (*Natal Mercury*, Feb. 14, 1874), even death itself. And, if it was convenient to post them so as to protect the Weenen County from the Bushmen, they might claim to have some indulgence shown them in the matter of guns, as having to deal with the poisoned arrows of their crafty and daring, though diminutive, foes. As the old Induna, Mhlaba, said, p. 58:—

'I don't know when it was that the young men first began to acquire so many guns. I did not notice. I thought they were getting these guns to do what they had been ordered to do—protect the country from the Bushmen.'

Langalibalele and the New Marriage Regulations.

18. 'In the year 1869 the new Marriage Regulations were promulgated. . . The maximum number [10] of cows to be given by a young man for his wife was fixed, the consent of the girl to her own marriage was rendered requisite, and a marriage

fee [5*l.*] was payable to the Government... These Marriage Regulations were carefully explained by the S. N. A. to Langalibalele and other Chiefs in Weenen County, and they were made fully acquainted with their effect. The operation of the tax was suspended for a short period to enable existing marriage contracts to be completed without coming under the provisions of the new tax; and during this breathing time many marriages of very young girls were hurried on, contrary and in flagrant opposition to the regulations. This attempt to evade the tax led to the punishment of the tribe by the imposition of a fine, which was paid. At the same time Langalibalele and his headmen were solemnly warned by the S. N. A. of the serious consequences which must result if such insubordinate conduct was manifested in future.'—p. vii.

The *second* offence, then, of this Chief who 'has ever been troublesome' (10) who has 'always been a contemptuous and treacherous man' (19), occurred in connexion with the Marriage Law, after an interval of more than twenty years! Let us see in what his fault on that occasion really consisted.

19. The above statement leaves the impression that not only were such evasions practised largely among the amaHlubi, but they were confined to this particular tribe; whereas it is notorious that on the first imposition of the tax numerous evasions took place all over the Colony, and were fully expected to take place, so that allowance, I believe, was made for this in estimating the value of the tax for the first few years. The fine imposed on the Chief, it appears, was only 10*l.*—say five or six head of cattle—showing clearly the light in which the offence was regarded at the time.

But Langalibalele himself positively denies that in his tribe there were any such deliberate evasions, and for the following reasons:—

(1) Because there was little or nothing to be gained by them, since the common *ukulobola* for a wife was very low in his tribe, viz. 6, 8, or 10 cows, instead of 20, 30, or

40, as in other tribes; and thus the father of a girl had no special reason for hastening her marriage unduly, before the new Law came into force, in order to get more cows than the number [10] allowed by the Law.

(2) Because in his tribe, as in Zululand, girls were not married singly at the will of their fathers, but in large companies at a certain age, by the order of the Chief, pronounced at the Umkosi, perhaps two, three, or four years after they were marriageable; so that any evasions which took place in his tribe would have been very numerous, and would have been conspicuously fastened on the Chief himself, who would lose his Marriage Fee in each case (7*s.* 6*d.*), while the 'Official Witness' would lose his (2*s.* 6*d.*), and they would have gained nothing whatever in return, as there was no fee for Chief or Witness under the old system.

20. The following is Langalibalele's own account of this matter.

The second fault of Langalibalele arose about the matter of the girls. When the S. N. A. came to Estcourt, there arrived an induna of Somhashi, and all of us sat down. That Induna, when he spoke, spoke very low, and Langalibalele said, 'Why do you speak so low? Speak out, that all the people may hear. No one is killed for speaking.' Thereupon the S. N. A. said, 'People of the amaHlubi, you had better warn that man, or some day he will get you into trouble.'

Langalibalele, however, did not find any fault with that Law; only he wished to say something about that matter of paying 5*l.* for each marriage to the Government, as all the people objected to it. As to that part of the Law which fixed the maximum *ukulobola* at ten cows, he did not desire to say a word, because the amaHlubi at all times were in the habit of betrothing for 10, or 8, or 6 cows; only a great man might demand many, whereas the common people could not claim them, according to the custom of the tribe. Nor, therefore, would the amaHlubi be likely to hasten on this account the betrothal of their girls, in order to escape that law of the S. N. A., for it fixed a higher number of cows than their own custom required.

Therefore Langalibalele does not know what ground of offence he gave the S. N. A. He was surprised to hear that he must pay a

fine, as the Inkos' was angry. But he paid the fine (10*l.*) to Mr. Macfarlane.

Baso also, Putini's son, who was present on the above occasion, gives the following account of what passed:—

'On the day when the S. N. A. went to Estcourt about the affair of the girls, there were assembled all the people to hear the words of the Inkos'. The Inkos' stated that girls had been hastily married who had not yet been betrothed. But Langalibalele contradicted the Inkos' on that point. Therefore the Inkos' re-proved Langalibalele severely, saying, "You are like a woman—I mean an old woman. Why do you contradict me about this matter?" Baso heard those words with his own ears.'

21. In fact, it was very natural and proper that Langalibalele should represent the hardship of the New Marriage Law, not for *himself*, for he would gain by it, but for *his people*. In the case of those tribes where 20 or 30 head of cattle were the usual *ukulobola* for a wife, the extra number beyond the maximum of 10 allowed by the Law were so much gain to the young man, who would easily pay the 5*l.* tax required by the Government,¹ and still save many head of cattle thereby. But, if Langalibalele gave the usual order for 100 young women of his tribe to marry, the young men would not only have to raise the same *ukulobola* as before, but would have to pay 500*l.* besides to the Government, of which the Chief himself and the Official Witness would receive 50*l.*

The Gun question in relation to the Natives generally.

22. 'In this Colony no native can legally own a gun or other firearm, until he has obtained the written permission of the Lieutenant Governor and the weapon has been duly registered; and care has been hitherto exercised in granting

¹ I would venture to suggest an improvement of the present Law, (if it is not to be abolished altogether), the idea of which is not my own, but due to the Rev. Mr. Carlyle, Presbyterian minister, viz., that in all cases of *first* marriages the Government tax of 5*l.* should be remitted to all young men who could show that they had worked three years for white masters.

the permits referred to. As far as possible this law has been carried out.'—p. vii.

It is notorious that in other tribes under Mr. Macfarlane, *e.g.* Putini's, and especially Zikali's, there were large numbers of guns unregistered, as well as in Langalibalele's. I quote the following from a letter by 'Observer' (believed to be a well-known member of the Legislative Council), in the *Natal Witness*, Feb. 27.

I will suppose that there are very few men in the Upper Districts of the Colony so ignorant of passing events, as not to have been aware that our natives, on their return from the Diamond Fields, brought fire-arms with them . . . Having honestly earned or purchased them in a British settlement, the Natal Government, according to Mr. Macfarlane's evidence, issued an official circular so far back as 14th Feb., 1872, directing that the guns brought by natives from the Diamond Fields were to be *registered* and *retained* by them. This order was, all things considered, only just, fair, and equitable, and should have been obeyed by the magistrates. But I have reason to believe that in many instances guns so brought down, produced, exhibited, or reported to the magistrates, have *not* been registered or returned to the natives, because it was too much trouble to write a letter or ticket, and to stamp the gun. Is it then to be wondered at that the natives should endeavour to secrete them, rather than run the risk of losing them by complying with the Law? The evasion of the Law, therefore, in the first instance is attributable to those magistrates who neglected or disregarded the instructions of the Governor communicated to them through the S. N. A.

I cannot say that Mr. Macfarlane was personally aware that there were a considerable number of unregistered guns in the possession of natives in his County. But he is an able man, and knows his County and his people thoroughly, and it would be strange if he knew less of his natives than outsiders did. However, he does not from his evidence seem to have taken any active steps to search for unregistered guns.'

23. 'Thousands of natives in this way procured arms and ammunition at the Fields; and at last it became almost the general practice for natives, before entering upon any engagement, to stipulate with their employers for assistance in pro-

curing fire-arms. This was, in fact, almost the only condition on which reliable labour was procurable. . . . No terms of condemnation are too strong when referring to the conduct of the Government of Griqualand West in allowing the native population to arm themselves as they did at the Fields, and thus deriving from them a large revenue, as the price of this "trade in human blood," as it has been aptly designated. Natal has been the first to reap the fruits of this indiscriminate arming of the native population of South Africa; Natal, which has been the most careful, has been the first to suffer from the trade by which the Government of a sister Colony and dependency of the British Crown has swelled its revenue.'—p. viii.

It is singular that Sir B. Pine, who first used the above expression 'trade in human blood,' as applicable to the conduct of the Government of Griqualand West, should have been himself called to account by the President of the Orange Free State, for giving permits under his own hand for the conveyance of fire-arms and ammunition to the D.F., which were stopped in their passage through the Orange Free State. Inasmuch as the two traders in question, having received such 'permits' from the Lieut.-Governor of Natal, 'had acted in good faith,'—

'The President, not feeling at liberty to grant a permit for their removal to the D. F., gave them permission to dispose of them in the State, giving them the option to take them back to Natal should they prefer doing so.'—*Natal Government Gazette*, March 3, 1874.

24. 'It is not surprising that the natives of Natal, perceiving the ease with which fire-arms could be procured at the D.F., left Natal with the object of returning with guns, and in this way a large number of the amaHlubi tribe procured arms and ammunition.'—p. viii.

The writer should have said here, as he does below (27), 'a large number of the amaHlubi tribe *among others*'; for the young men of other tribes profited largely by these opportunities, though Langalibalele's, being excellent labourers and known as such all over the Colony, were in special request. They did not go, however, of their own accord, at least in the first instance, nor were they sent by their

Chief. But Mr. Macfarlane, I understand, used to summon parties of young men, four or five at a time, for himself and other white men; sending messengers for the purpose to their kraals, and *not to the Chief himself*, who only heard accidentally of their going.

25. Langalibalele gave me the above information, and added the following particulars.

‘On the first day of the trial, the S. N. A. interpreted, and asked him about the guns, to whom he replied, “I know nothing about the guns or their story, for I never went to the D. F. Was it not you, Sir, who ordered that young men should go to the D. F.?” “Well! what do I know about that? It is you who know.” Langalibalele heard not a single word of reply to his saying, and the Inkos’ passed on to other matters.

‘The people who worked for Mr. Popham at the D. F. were Mbombo, Matyuka, Ratya, Langalibalele’s son, and others whom he does not exactly know. All these brought back guns, which were registered and returned.¹ Ratya was the only one of Langalibalele’s sons who earned a gun for himself at the D. F.; Manaba also had a gun, a present from his father; and these were the only two of his 58 sons (of whom 30 were old enough to carry guns), who possessed guns of their own.² The boys of the amaHlubi who worked for Mr. William Shepstone are these: Silendu, Madhlangampisi, Masinyazana, and others.³ When they came back from the D. F., all these boys brought guns, except one, Masinyazana, who was advised by his master not to buy a gun at the D. F., but at Maritzburg. So, when that boy arrived, he told this to Langali-

¹ Langalibalele was mistaken here: only three of the guns of Mr. Popham’s men were registered. But the Chief had nothing to do with this registration.

² Thus Sitokwana says, p. 45, that six of the seven sons captured with their father, Malambule, Mbaimbai, Mazwi, Siyepu, Mango, and Ngungwana, had only assegais: Manaba had a gun. But Langalibalele told me that Siyepu and Mango carried *his* two guns for him when they fled. But this surely was the time, in their hurried flight over the Mountain, when every one of the Chief’s sons who possessed a gun would certainly have carried it.

In the register of guns licensed for natives, kept by Mr. Perrin, Clerk in the office of the S. N. A., the guns of *nine* of Langalibalele’s boys, including the above names, are registered as licensed on Dec. 31, 1872. These, then, are, no doubt, the nine boys here referred to, whose guns must have been licensed by the Lieut.-Governor on Dec. 31; though eight of them were not exhibited to the Magistrate, and were not, therefore, ‘favourably reported upon’ by him, till the end of *March*, and one (Masinyazana’s) was not even purchased till after that date.

balele and the rest, viz. that his master would buy a gun for him, with which they were pleased. Accordingly, he went down and took his money to his master, who bought a gun for him, which he brought back with him.

'When Mr. William's boys left the D. F., Mr. William wrote for them a note that they might take their guns, nine altogether, to be registered without fear, and they were afterwards registered under that note.'

26. 'A circular was issued on Feb. 14, 1872, to the several Resident Magistrates within the Colony, notifying that guns lawfully acquired at the Fields would be registered for applicants if they were at once produced to the Magistrate, and on his report the license of the Lieutenant-Governor, as S.C., to hold such fire-arms would be granted.'—p. ix.

So says the S. N. A., p. 23 :—

'The Government felt bound and compelled to issue a circular to the Magistrates, telling them that any of these people buying guns in this way lawfully, and bringing them at once to the Magistrate to be registered, would be allowed a license from the S. C. to hold such fire-arms.'

From the above it might be inferred that there would be no difficulty whatever in any native getting his gun registered and returned to him. But, practically, the letter from 'Observer,' already quoted (22), shows that this was by no means the case. And accordingly in the Sentence on Langalibalele, p. 34, we find a somewhat different version of this Circular :—

'The Governor of the Colony issued a circular, dated Feb. 14, 1872, directing the Magistrates to inform any natives of this Colony, who had possessed themselves of fire-arms beyond the boundary, that such fire-arms, however obtained, were liable to be confiscated in this Colony, unless the Governor's authority to hold them were obtained in the usual form, and subject to the usual conditions.'

And Mr. Macfarlane says, p. 30 :—

'I remember the Circular of Feb. 14, 1872, to the effect that, *if the holders of guns were favourably reported upon*, their guns would be registered, and they receive permission to hold them.'

In other words, the matter was left in the hands of the Magistrate, who might 'report favourably' upon the

applicant or otherwise, or might not report at all. And so 'Observer' says (22):—

'I have reason to believe that in many instances, guns so brought down, produced, exhibited, or reported to the Magistrates, have not been registered or returned to the natives.'

27. 'The members of Langalibalele's tribe, amongst others, procured large numbers of guns at the Fields; they did so, not only to gratify their own eager desire to possess themselves of fire-arms, but also in obedience to express directions from their Chief.'

'It is stated that one native who returned from the Fields without a gun, and had brought down his earnings in coin, intending to invest them in cattle, was sent for by the Chief and heavily fined, for daring to consult his own inclinations in the matter, rather than obey the directions of the Chief, which had for their object the increased independence and power of the tribe.

'It is also known that in the winter of 1872 Langalibalele visited his neighbours the amaNgwe tribe, that he was on that occasion accompanied by a large number of his tribe, and that the main object of his visit was, to induce Putini's tribe to arm themselves at the D.F., and to take the necessary precautions to prevent the seizure of the guns on their return from the Fields.

'He is said to have urged that the young men of that tribe should follow the example of the young men of his tribe, and, instead of idling about the kraals, sleeping and drinking beer, should bestir themselves and seek work at the D.F. with the above object.'—p. ix.

It is most unfair that in a quasi-official publication like this, the writer of which professes to have 'taken especial care only to include well authenticated facts,' such assertions as the above should have been made, which are not supported by a particle of proof in the recorded evidence which follows or elsewhere, but are merely introduced with 'It is stated,' 'It is known,' 'He is said.' The Chief himself, in Court, denied that 'his young men procured the guns in consequence of an order

from himself, or with any purpose whatever'; though under the Government notice of Feb. 14, 1872, there was no reason why, if he had wished to do so, he should not have given express directions to that effect.

28. Langalibalele denied also to myself that there was a shadow of foundation for the statement that he had fined a young man for bringing his money back with him instead of a gun, though he remembered to have fined one for setting a hut on fire at night, and another for an act of adultery.

'He is astonished at this charge, and denies it utterly; for he says, he had no power to fine a man who returned with money, wishing to buy cattle. Why! his own sons, who were working for white men, returned with their money and bought cattle, in order to get wives. If, therefore, he fined that boy, he would have had to fine his own sons also. Moreover, there are many of those who worked for Mr. Macfarlane at the D.F., who returned with their money, and bought cattle; and he ought to have fined these also, if any such thing as that occurred. All this shows that the story is false: he says, it is utterly impossible that he should have acted in such a manner among his people.'

29. The main object of his visit to Putini's tribe in the winter of 1872, 'accompanied by a large number of his own tribe,' was to perform the usual ceremonies after the death of the old chief Putini. If he reproved the young men of that tribe for 'idling about the kraals, sleeping, and drinking beer,' and 'exhorted them to follow the example of those of his own tribe,' and bestir themselves to seek work, it would have been highly creditable to him, as a sort of guardian to the boy Chief, his relative; and, if he set before these lazy fellows the inducement of acquiring guns by their labour at the D. F., it was perfectly lawful according to the Government notice, and, as far as appears, it would have been a very wise and proper suggestion.

But Langalibalele himself denies that he said anything of the kind.

'He utterly denies that he went to Putini's to scold them for not buying guns: he never said a word of the sort at Putini's. He went there according to the native custom; for ever since Putini's

death he had never gone there, and had never been doctored (*lungiswa*), he being the son of Putini's sister. So, when he came there, an ox was killed, and he was doctored, being a son of a chief woman (*inkosikazi*) of that tribe. He knows not a word of anything being said about buying guns. That is entirely false.'

But the most decisive evidence, in confirmation of his own words, and in direct contradiction to the above statements, is given by the fact that of his 30 sons, of age to have guns, only two possessed them (25).

Langalibalele required to send in guns for registration.

30. 'But a small portion of the number of guns thus procured at the D.F. were, notwithstanding the invitation of the Magistrate, brought in for registration, and this neglect on the part of the tribe soon led to complications.

'It came to the knowledge of the authorities [i.e., of Mr. Macfarlane] from time to time, that certain natives had returned to their homes in Langalibalele's location with guns in their hands; and, as these guns were not brought in for purposes of registration, the Magistrate sent, on several occasions, to individual members of the tribe and to the Chief, with a view to have these arms, in compliance with the law, sent in to his office for registration. The guns, when registered, would have been returned in due course to their owners, with the requisite license from the S.C.'—p. ix.

Not a word is said about the *other* tribes, under Mr. Macfarlane's own jurisdiction, e.g. Zikali's, Putini's, Pakade's, &c. which were probably—Zikali's and Putini's certainly—quite as much in fault as Langalibalele's, who were never troubled by the Magistrate or his Indunas. We have a right to assume that the evidence produced in Court, of Mr. Macfarlane himself, his Induna, Umtyityizelwa, and Langalibalele's 'loyal' Induna, Umpiko, contains *all* the instances in which messages were sent to 'individual members of the tribe and the Chief' in respect of these guns. And from this it appears that *once* only did the Magistrate send to 'individual members' of the

tribe, *viz.*, Sibanda's five sons, and that in this case, whatever may be *suspected* or *imagined* by the Magistrate or any one else, there is no *proof* that the Chief was at all in fault, as will presently be shown (58).

31. As far as can be made out from the evidence and other sources, it appears that, excluding Sibanda's five guns, which shall be considered presently (39, &c.), messengers were sent to the Chief himself for only *two* different sets of guns. The first set were sent in at once, upon their being asked for the *second* time, *viz.*, eight guns of Mr. W. E. Shepstone's boys.¹ To the *first* message he had replied, p. 77, that—

'He had not seen all the young men, and did not know whether they had all arrived; but when they all came he would send them in.'

Upon the second message being brought to him, with a demand for a second set of guns, Umpiko says:—

'I said it was a pity that one thing should be left uncompleted until another trod on its heels, and, if a number of these things collected together, it would at last create a difficulty which might not otherwise exist. . . . Langalibalele said, "It was quite true it was a pity, and very unfortunate, that in these two things the one should catch up the other." Langalibalele agreed that the guns should be sent down the next morning with Umtyityizelwa. The following morning therefore we took nine young men and their guns down with us. . . . These boys with their guns were taken to the Magistrate; the guns were then marked, registered, and returned to their owners.'—p. 78.

32. The second set of guns demanded of him came with 'some eight young men' from the D. F., who had passed Capt. Allison's at the Olivier's Hoek Pass, but whose names were unknown; only it was known that they 'were ten in all, and one having been bitten by a snake, was compelled to remain behind,' p. 65. As to these eight boys Umpiko says, p. 78:—

'Langalibalele asked how he could possibly know these young men, who had gone from their kraals of their own accord [*i.e.*, whom

¹ Umpiko says below that there were 'nine young men and their guns'; but one of them had no gun at that time (25 and note), though already licensed for one in Mr. Perrin's book on Dec. 31.

he had had no concern in sending (24)]? He said he did not know them. I represented to Langalibalele that these young men were very much wanted. . . . Langalibalele said he would enquire about them, in order to ascertain how it was that they had not reported themselves to him.'

Umtyityizelwa is then sent with a second demand for these guns, who says, p. 65 :—

'And I was instructed at the same time to bring down the eight guns, and to state that the magistrate would not give the names of these men.'

Accordingly he delivers his message as follows, *Ib.* :—

'I said I had brought back the message of the Magistrate to Langalibalele, directing him to send in the eight guns—that I had not brought the names, which Langalibalele, however, was to require from his Indunas who were stationed among his people. He was therefore to ascertain where the guns were, and by whom they had been brought down; and he had a good scent to follow, inasmuch as the man who had been bitten by the snake on the way down was among the number.'

33. Be it remembered that the Chief had to enquire among 10,000 people, spread over an extent of country as large as the county of Middlesex, and that he had told the messenger on the former occasion—

'He was a great chief and well known as such throughout the Free State; and the men of several tribes, when travelling there, if questioned, said they came from Langalibalele, in consequence of his being the most powerful man in the neighbourhood. He said he could not trace any men unless their names were given him.' *Ib.*

Besides which, he felt, no doubt, what he said on the same occasion—

'Umtyityizelwa, I did not go to the D. F.; I did not dig for diamonds; I stay at home. The guns are not mine, but the property of the young men who go to the Fields to work for these guns. I am not the purchaser of them.' p. 78.

And he said to Umnyembe, as he told me, when he came with his first message—

'If the Inkos desires to take these guns, it would be right that the money of his young men should be returned.'

It is hardly to be wondered at that on this second occasion the Chief repeated to Umtyityizelwa his former reply—

‘You must give me the names of these people: I cannot do anything unless you give me the names.’

Immediately on Umtyityizelwa returning from this visit, Mr. Macfarlane reported the Chief to the S. N. A.

‘On reporting what had happened at Langalibalele’s kraal, the Magistrate said that he was writing down what I had said—that he could not deal with it, he could not stand it any longer, but he would give me a letter to the S. N. A. and all the great men.’ p. 67.

34. After this, however, Umpiko was sent again.

‘After a little while I was again sent by the Magistrate to Langalibalele, to ask where the other boys were who were known to have come down from the D. F. with guns. I was told also to say that there were others who had been reported by letter, in addition to those about whose guns Capt. Allison had made a report. I went, delivered this message to Langalibalele, and explained that two parties of young men, who were known to possess guns, had returned home, and yet neither of them had brought their guns to be registered. Langalibalele said those boys ought to go down also. They were sent for, and I took them down. I took five boys with their guns¹: the fifth was one who had been caught by Capt. Allison. As to the others Langalibalele said they had not come to him and he did not know who they were. These guns were taken to the office and *detained* there, the young men being told they must wait until a letter was received from Pieter-Maritzburg in reference to them. Those were all the messages I had to deliver about guns.’ p. 78.

With respect to these last five guns Langalibalele gave me the following information.

As to the guns reported by Capt. Allison, he asserts positively that he did not know of the arrival of the boys who brought them; for they hid themselves when they came, and did not show themselves openly. Hence there came two messages from the Office calling for them; but he replied saying that he did not know them, because it was the truth. At last that boy was caught by Capt. Allison who had been left behind to take care of another

¹ In point of fact he took in only *four* young men with five guns, as the story shows, the owner of the fifth gun being dead.

who had been snake-bitten and died. Capt. Allison made strict enquiries of him, but the boy refused to name the others; whereupon he flogged him severely until he named those who had gone before. After that there came a third messenger to Langalibalele, bringing that boy who knew the others. He sent Umpiko with the policeman to take that boy and get the guns.¹

35. In some cases the demand for the production of the guns was, after some difficulty, reluctantly complied with. In others the demand was still unsatisfied when the disturbance broke out.—p. ix.

‘During this period the insubordination of the tribe became daily more apparent. No general desire was shown to effect a registration of the fire-arms the tribe were known to possess; and difficulties were raised by the people when the authorities, in any particular instances which came to their knowledge, urged that fire-arms should be brought in, with a view to registration and the issue of the requisite license.’—p. x.

The reader will now be able to judge of the veracity of the above statements.

It appears (31) that in *one* case only was there any delay, for which the Chief himself expressed regret, and which apparently arose from accident, as he could have had no reason either for *secreting* or *withholding* the guns of Mr. W. E. Shepstone’s boys, which had been already licensed, and, in fact, Mr. Macfarlane sent to tell Langalibalele that ‘their guns were ready for registration,’ p. 77, or as Umtiyizelwa says, p. 65, that ‘there was no obstacle in the way as they had permission to keep the guns.’ In another case ‘the demand was unsatisfied,’ because Langa-

¹ Umpiko says: ‘As to the others Langalibalele said they had not come to him and he did not know who they were,’ and he speaks also of ‘others who had been reported by letter’ to Mr. Macfarlane. This most probably refers to the *rest* of the original party of *ten*, who had parted company on the way from the five whose guns were now sent in, and had entered the colony by some other route. These five, I find, were travelling together, when one was stung by a snake in descending the Drakensberg, and another was left to take care of him, while his three companions went on with the five guns belonging to the whole party. The snake-bitten man was taken by his comrade to the huts of Capt. Allison’s police, where he died; and, on searching the other, there was found the travelling-pass, which showed that the rest had passed with guns.

libalele asked a second time for the names of the eight young men; and Mr. Macfarlane instantly reported him to the S. N. A. After this, however, as soon as some of these names were given to him, the young men were sent in at once. But 'the disturbance' had already 'broken out,' and the messenger Umnyembe was on his way to summon the Chief to Maritzburg.

36. No doubt, it is true that the tribe did not evince any general desire to bring their guns for registration, which they regarded as equivalent to confiscation, unless the applicants were supported by special influence, as in the case of Mr. W. E. Shepstone's boys, whose guns were licensed long before they were even exhibited to the Magistrate (25, note). But the only *evidence* of this, I believe, is given by Umtyityizelwa, p. 66:—

'As Langalibalele went away, some young men sitting with Mango, one of the prisoners, began to say, 'They had gone to the D. F. and worked for guns, and how could they now be taken away?' The young men then made a great row, but I said I would not listen to boys nor be questioned by them.'

And he adds, p. 67. 'Mango shared in the uproar made by the young men.' Yet Mango had no gun of his own, and he was one of the most 'loyal' of the sons, and 'used his influence in endeavouring to induce Langalibalele to obey the first order to repair to the seat of Government,' *Sentence*, p. 89, and Umpiko says—

'The persons who made the greatest remonstrance, or who really remonstrated, against the proceedings involving the despising or defying of the Government, were Mbombo, Manaba, Mango, and myself.'

Nor (besides Sibanda's case) can I find any proof in the evidence that difficulties were raised by the people in any particular instances, as above stated, except in the report of Umpiko's words in the *Witness* and *Times* as follows:—

'There was some *attempt* made to prevent their going: but Langalibalele said he had made up his mind to obtain permission to keep the guns there.'

Which, however, appear thus in the Official Record—

‘There was a *tenth*, but he said he had made up his mind to get permission to procure a gun here, and not buy one at the D. F.’ p. 78.

This agrees exactly with the Chief’s own statement (25), and probably the reporters mistook ‘a tenth’ for ‘attempt,’ and filled up the sense as they thought best.

37. But again it is but fair to ask, were the amaHlubi the only offenders in this respect? It is almost certain that in every other large tribe under Mr. Macfarlane’s own jurisdiction, as well as in other parts of the Colony, there was the same unwillingness to bring their guns for registration or, as they thought, for confiscation. But *the other tribes were not interfered with.* For instance, ‘about 200 stand of arms,’ p. xxxvii, were taken from Putini’s tribe, of which only ten were registered, and Zikali’s and other tribes are believed to have been, and to be still at this time, swarming with guns unregistered. Only Langalibalele was worried, and, what appears to have been winked at in other tribes, was in the case of the amaHlubi branded at once as ‘insubordination.’

Thus in Mr. Perrin’s Register the following numbers of guns were licensed in the corresponding tribes during the years 1871–2–3, which were the years of greatest activity at the Diamond Fields.

| | Huts | 1871 | 1872 | 1873 |
|-------------------|------|------|------|------|
| Ndomba | 1190 | — | — | — |
| Faku | 2071 | — | 2 | — |
| Mgannu | 1277 | — | — | 1 |
| Pakade | 2222 | 1 | — | — |
| Zikali | 1651 | — | 1 | — |
| Nodada | 3000 | — | — | 2 |
| Putini | 1239 | — | 1 | — |
| Langalibalele . . | 2344 | — | 9 | 4 |

I believe that Ndomba and Faku are chief Indunas of Capt. Lucas and Mr. Macfarlane, respectively, and that most of the above tribes were under Mr. Macfarlane. Moreover, in the whole County of Weenen, for the year

ending Aug. 31, only 24 were registered in 1871-2, and in 1872-3 only 21, of which 13 belonged to the amaHlubi, besides 5 more, sent in by them, but detained and not registered. I leave the above to tell its own story, only remarking that it is plain that, as 'Observer' says (22), Mr. Macfarlane 'does not seem to have taken any active steps to search for unregistered guns,' and that from his never having stirred in the matter during those three years, but allowed guns to accumulate around him without the least interruption on the part of himself and his Indunas, the Chiefs could hardly help supposing that the Law in question, with the notice of Feb. 14, 1872, was treated by the authorities as a mere dead-letter. Even since the disturbance there has been no change in this respect. The same 'loyal' Chiefs, who sent their forces to 'eat up' Langalibalele and Putini, have sent in only 4 guns altogether for registration during the two years elapsed since July 4, 1872, until on May 14, 1874, Zikali registered 36 guns, and 30 more on June 16, besides which, for the nine months elapsed since Aug. 31, 1873, *none* have been registered in Weenen County and only 11 throughout the whole Colony, 7 of them in Ngoza's tribe.

38. But *how long* was 'this period' during which 'the insubordination of the tribe became daily more apparent.' The evidence, as given and received in Court, without a single distinct date and without a word of cross-examination, is so loose that it is impossible to arrive by means of that evidence alone at any correct judgment on this point; and probably most Colonists are under the impression that the alleged 'contumacy' extended over months, instead of, at the outside, a month or five weeks, as appears from the following reasoning.

Mr. Macfarlane, having sent his first message to Langalibalele after his return to his office from a short absence—that is, *after* March 3 (40), *how long after* does not appear—must have reported him to the S. N. A. *about the end of that month*; for he afterwards sent Umpiko for the five guns, after which Langalibalele went down to Estcourt,

and all this took place before Umnyembe arrived the first time, *B. B.* p. 78. Now according to the loose statement in the Sentence, p. 34, Umnyembe was sent 'in April, 1873.' Let us suppose about the middle of the month, April 15; then it is plain that the Chief must have been reported for 'contumacy' about March 31. Thus the 'period' may have lasted four or five weeks, during which time he had sent in nine guns of Mr. W. E. Shepstone's men, and had only expressed his inability to find the eight boys reported by Capt. Allison, unless their names were given to him.

39. *The five guns of Sibanda's boys with which the troubles began.*

On one occasion, Umtiyizelwa, the Head Induna of the Weenen Magistracy, was sent to a kraal in the Location, in reference to some guns which the young men were known to have recently brought down from the Fields. He saw the guns and their possessors; his authority was defied; he was subjected to rough usage, and threatened by one of the young men, who loaded his gun on that occasion. The father of these young men was summoned to Estcourt; and the matter having been enquired into by the Magistrate, a fine was inflicted, and this fine was duly paid. This incident tends to show the insubordinate spirit which, even at that time, was rife among the tribe. These young men, the sons of Sibanda, disappeared after this assault upon the Magistrate's messenger; and, although the matter was reported to the Chief, he excused himself from arresting these men, and is reported, on good authority, not only to have connived at their concealment, but also to have assigned them a hiding place until the tribe fled from the Colony.

'Umtiyizelwa, when sent to Langalibalele to complain of the treatment which he, a messenger from the Magistrate, had been subjected to, was very discourteously received. The Chief turned his back upon the messenger, and subsequently encouraged the young men to discuss the matter, which was a signal mark of disrespect, not only to the messenger himself but the authority he represented.'—p. ix.

The above avoids all allusion to the contradictions which exist between the evidence in Court of Mr. Macfarlane and his Induna, Umtiyizelwa, and the published statement of the Acting-Magistrate concerned, Mr. G. Mellersh, which make it difficult to see what really did take place in this instance.

40. Thus Mr. Macfarlane says, p. 63 :—

'The Acting-Magistrate, I being absent, received information as to certain guns having been brought to certain kraals from the D. F. He sent a message ordering the people to bring in the guns for registration. They refused to obey the order, and a message was then sent to Langalibalele by the Acting-Magistrate, and subsequently by myself, to send the people in with the guns, and a certain time—a few weeks—was given him in which to do this. The prisoner took no notice of the order, and at last refused to send the people in, saying the guns had been earned at the D. F., and he would retain them. It was clearly explained to the prisoner that the object of calling for these guns was to have them registered; in fact some of these guns were afterwards brought in, registered, and given back to the owners; one gun was so returned to one of the prisoner's sons, Mbombo.'

Mbombo was not a son of Langalibalele, but one of his Indunas, who had worked for Mr. Popham at the D. F. (25). But, in the words italicized above, Mr. Macfarlane has unconsciously passed from Sibanda's sons to other cases, as it is certain that none of Sibanda's five guns were registered. Moreover, Langalibalele did not in this case 'refuse to send the people in' on the ground above stated: but he says, p. 64—

'You, first of all, after hearing where these guns are, go and rouse these people, and, when they are become wild beasts [? wild animals], you come and ask me to arrest them! I don't know where they are, they are wild animals. You should have come to me in the first instance, and allowed me to seize them first, and not have put them on their guard. They never came to me.'

Also it was with reference to *other* guns, and not to those of Sibanda's sons, that, according to Umtiyizelwa, the Chief said, p. 65 :—

'These men [Mr. W. E. Shepstone's] could go down and take their guns; but as to the other eight [reported by Capt. Allison] I must first tell him their names; and even then I must go and seize them myself, and not come to him to have the guns seized. . . . I did not send them to the D. F., or originate the movement. It is the white men who scratch about the ground and look for diamonds; I do not and I will not take away a single gun from any man who has been to the D. F. and worked for it fairly. The white people take the men there, they work there, and then the white people wish to take away the guns they have earned!'

41. The rest of the above extract, however, from Mr. Macfarlane's evidence agrees with that of Umtyityizelwa, as follows, p. 63:—

'On one occasion, when Mr. [G.] Mellersh was acting for the Magistrate, on going to the office, I was sent for, and told by the Acting-Magistrate that five men had arrived on Mr. [R.] Mellersh's farm from the D. F.—that the people there had guns, which they were constantly firing, in order, as he had heard, to learn how to use them. I was ordered to bring in these guns with the powder and the owners. I was ordered to go myself, and went with three men. I went to Sibanda's kraal at Mr. Mellersh's farm.'

Then after stating that he seized and struggled for the guns, but the boys ran away with them, he proceeds, p. 64:—

'I then told Sibanda I was going back to the Magistrate to say I had been killed [*Hibernicè*] and badly treated—that I should not go on to Langalibalele, because I had no orders to do so, but that I should simply report the matter to the Magistrate. On arriving at the office and reporting the matter to the Magistrate, he told me to take Umpiko, one of Langalibalele's Indunas, and go to Langalibalele. . . . We went, and I told him I had been sent to request him to have these boys arrested, and sent down to the Magistrate's office with the guns, in order that such guns might be registered.'

42. He then gives Langalibalele's reply, already quoted (40), viz., that, by going to the young men first to seize their guns, he had made them 'wild animals,' &c.; and after some other statements he finally says:—

'I also had orders from the Magistrate that, if Langalibalele failed to comply with the order, I was to arrest Sibanda, and seize

his cattle, by counting them, on behalf of the Government. I counted the cattle, and took Sibanda with me, he persisting that the boys had gone to Langalibalele and were there. On arrival at the Office, the Magistrate enquired into this question of the behaviour of the young men, and asked how it was. Sibanda said it was Langalibalele's fault, for he had ordered these guns, and all others brought into the Location, to be taken to him before they were brought in for registration. The Magistrate further enquired how Sibanda had allowed a messenger to be ill-used. He also fined him 5*l.*, and told him, if he did not find the boys and bring them in, he would forfeit his cattle, which were not to be removed, but remain where they were. Sibanda paid the fine of 5*l.*'

43. Several statements, however, in the above evidence of Umtyityizelwa and that of Mr. Macfarlane have been emphatically contradicted by Mr. G. Mellersh, the Acting Magistrate, in a letter to the *Natal Witness*, as follows:—

'Fernhurst, March 1, 1874. A great firing of guns had been heard, apparently at a distance of three or four miles from this farm [Fernhurst], which belongs to my brother (Mr. R. Mellersh). On enquiry it was discovered that five men, belonging to the kraal of a head-man named Sibanda, had just returned from the D. F., and were celebrating their arrival by firing their guns. My brother immediately reported the circumstance to Mr. Macfarlane, who (as I learned afterwards) ordered a policeman to be sent, to summon the men to bring in the guns for registration. Unfortunately Mr. Rudolph (the clerk) sent only one policeman, Umtyityizelwa; and, before the policeman returned, Mr. Macfarlane went down to Maritzburg, and the report was made to me when acting for him. The policeman reported that the men refused to bring in the guns, but took them and ran away, and that he seized a bag of powder, but left it behind, owing to the threatening aspect of the Kafirs. I then sent the policeman to summon the headman of the kraal, who came the next day, when I fined him 5*l.* for not reporting the guns. With him came an Induna of Langalibalele, who said that the headman had not reported the guns to the Chief, or he would have reported them himself. The fine was paid without demur. I never, during the time I was acting, either sent a message to Langalibalele or received any impudent message from him. The above occurrences took place on Government land, at some distance from this farm.'

44. On comparing the above with Umtyityizelwa's

evidence just before quoted, it will be seen that Mr. Mellersh directly contradicts the latter on these points.

(i.) Mr. Mellersh did not tell Umtyityizelwa about Sibanda's boys; but Mr. R. Mellersh informed Mr. Macfarlane.

(ii.) Mr. Mellersh did not send Umtyityizelwa to Sibanda's kraal; but Mr. Rudolph sent him by Mr. Macfarlane's orders.

(iii.) Sibanda did not live on Mr. Mellersh's farm, but on Government land, at some distance from the farm of Mr. Mellersh, and three or four miles from his house.

(iv.) Mr. Mellersh did not send Umtyityizelwa and Umpiko to Langalibalele, 'requesting him to have these boys arrested, &c.,' for he 'never sent any message to Langalibalele.'

(v.) Langalibalele did not complain that Mr. Mellersh had by his messenger roused his people and made them wild animals; for Mr. Mellersh 'never received any impudent message from him.'

(vi.) Mr. Mellersh did not order Umtyityizelwa to count Sibanda's cattle, *in the event of Langalibalele's refusing to send in the guns*; for he never sent him at all to Langalibalele.

(vii.) Langalibalele's Induna came with Sibanda to say that, if the guns had been brought to him, the Chief would have sent them in,—about whose coming Umtyityizelwa is altogether silent.

Mr. Macfarlane, it will be seen, is contradicted by Mr. Mellersh as to (ii) and (iv), and he adds also another incorrect statement—

(viii.) 'The Acting-Magistrate, I being absent, received information about certain guns having been brought to certain kraals from the D. F.'—whereas it was Mr. Macfarlane himself who received the information in question from Mr. R. Mellersh.

45. The above contradictions, indeed, are so remarkable that I submitted them by letter to Mr. G. Mellersh, and requested him either to correct or to re-affirm his statements. Mr. Mellersh replied (May 25, 1874):—

'I will begin by stating that everything occurred, during the time I acted for Mr. Macfarlane, as described in my published letter.

Mr. Macfarlane must have forgotten, after the lapse of time, that it was himself who sent to Sibanda a day or two before he left for Maritzburg, and that I only received the report of the policeman.

Umtyityizelwa has evidently confounded together two occasions on which he was sent; as I only sent him to summon Sibanda and

put an embargo on his cattle, until the men returned with the guns, not to Langalibalele.'

So the 'loyal' Induna, Umpiko, says, p. 77—

'I remember being sent to Langalibalele, after Umtyityizelwa had been sent, in reference to some guns. On his return Umtyityizelwa had reported that the young men who possessed the guns had gone to Langalibalele; and *I was ordered by the Magistrate to go to Langalibalele*, and request him to have the young men sent down. I went with Umtyityizelwa. Langalibalele blamed Umtyityizelwa for having alarmed these boys before coming to him, and so prevented him from being able to find them. He denied that they had gone to him, and told us to return, and tell the Magistrate that they had not arrived at his place.'

And, as this agrees thoroughly with Umtyityizelwa's account of his interview with the Chief about Sibanda's affair, it must refer to a time *not immediately* after the return of Umtyityizelwa from Sibanda's kraal, but to a later time, when the two were sent together by Mr. Macfarlane after his return to office. Accordingly Mr. Mellersh says—

'With respect to Umpiko's statement, it must refer to his being sent by Mr. Macfarlane, as I did not send him to Langalibalele.'

46. The importance of the above discussion, which would probably not have been needed if any one had cross-examined the witnesses, consists in this, that, it determines the time at which Langalibalele's alleged 'contumacy' about the guns began. I have tried in vain to obtain from the authorities the date of Mr. Macfarlane's complaint, supposing that the words of the *Introduction*, p. x,—

'Mr. M. accordingly reported to the Government the various instances of insubordination, which in his opinion rendered it desirable that the S. C. should take the matter in hand,'—

implied, of course, that a detailed statement of Langalibalele's offences in Mr. M.'s handwriting must exist in the office of the S. N. A., which would give the date in question. But I have been officially informed (June 10, 1874) by the S. N. A.—

'With regard to the date when Mr. M. first reported to me the conduct of Langalibalele, no document was produced on the Trial; nor did my statement allude to official, so much as private, intimations from that officer of the state of matters between him and the Chief, which induced me, at the Magistrate's request, to require the Chief's attendance at the Seat of Government, with the view of placing their relations on a better footing.'

I am left, therefore, to make my own calculations as follows.

47. The first message to the Chief, it appears, about Sibanda's guns was sent—not by Mr. Mellersh, as generally supposed, and as asserted by Mr. Macfarlane and Umtyityizelwa, but—by Mr. Macfarlane himself *after his return to office*; for Umtyityizelwa says that he told Sibanda on leaving his kraal, when sent at first by Mr. Macfarlane's orders, 'that he should not go on to Langalibalele, because he had no orders to do so, but should simply report the matter to the Magistrate.'—p. 64. He did report it—to Mr. Mellersh, who began to act for Mr. Macfarlane on Feb. 5; and by him he was sent to summon Sibanda, but was not sent by him on any occasion to Langalibalele. He must, therefore, have been sent by Mr. Macfarlane *after his return to office*—that is, after March 3, on which day Mr. Mellersh heard his last case, though he may have acted for a day or two longer.

On March 3, 1873, then, Langalibalele must be held judicially free from blame in the matter of Sibanda's five guns. Mr. Mellersh, indeed, tells me that he 'did not believe the statement of the Induna that Langalibalele did not know of the guns at Sibanda's kraal, or he would have reported them himself.' But this is only suspicion. There is no particle of proof to show that the statement was false; and Mr. Mellersh at all events professed at the time to believe it, since he fined Sibanda (so the old man told me) 1*l.* to the Chief (as well as 5*l.* to the Government) for not having reported the guns to him, which he very reluctantly accepted, as he did not consider that Sibanda was seriously in fault.

Umtyityizelwa's Proceedings at Sibanda's Kraal.

48. For we must now consider Umtyityizelwa's own account of what passed at Sibanda's kraal. But let it be remembered that he is the *sole witness* produced to describe what occurred, that not one of his three comrades was called to throw additional light upon the story, nor old Sibanda himself, though the latter was under *surveillance* close at hand, and that there was no one to cross-examine the witness. Nor must it be lost sight of that Umtyityizelwa had a blood feud with the Chief and his tribe, his brother having been killed by them when they formed part of the Government force against Matyana, and that, when he had been examined, the prisoner Mango, one of the 'loyal' sons of Langalibalele,—

'challenged his statements, and asked him to produce any one who could substantiate any portion of his evidence.'—p. 67.

In short, Umtyityizelwa's statements are strongly coloured against the prisoner, and in this respect they contrast strikingly, more than once, with those of the 'loyal' Induna, Umpiko.

49. This, however, is what Umtyityizelwa tells us about Sibanda's boys, in addition to what has been already quoted :—

'As I passed one of the huts I smelt powder, and, having called Sibanda, the master of the kraal, I entered the hut, because I wanted to see the powder before it was concealed. I had three men with me. I found a small bag of powder and two guns, which they had been recently washing, upon the ground. After ascertaining that these guns were there, I said to one of the boys, "Go and call your father Sibanda." After I had sent this message, one of the boys who remained crossed the hut, and attempted to take up the bag of powder. I said "Wait! Leave that alone till your father comes!" Immediately I stopped him from taking the powder, the boy jumped past me, and seized one of the guns behind me. I said, "Leave the gun also! I am come about this: I am come to take you and the guns to the Magistrate, in order that the guns may be registered." After I had seized the gun, the boy exerted his strength to get the

gun out of my grasp, saying, "If that is your mission, the guns shall never be registered; we are taking them to Langalibalele: in fact, he has sent a message saying we are to take them to their owner, Langalibalele." I asked who had been sent, and they replied, the son of Nkanbayedwa. After this conversation, the boy renewed his exertions, and, dragging the gun towards the door of the hut, got outside; I still remained inside, holding the stock, while he held the muzzle; he brought the barrel against the door, and continued pulling, but I determined it should break before I let go, when the mother of this boy seized me by the waist from behind. While this struggle was still going on, Sibanda entered with several of his boys, who seized hold of me, scratched my hands, and tore my clothes, and I eventually let go the gun. After I had released the gun, Sibanda, who remained standing, asked what was my business, and had I come to fight? He said, "These guns have been sent for by Langalibalele, their owner; and, if you require them to be registered, you must go to him, and, if he chooses to have them registered, he will send them in." Then I went out of the hut, and, it appearing that one of the men who had accompanied me was engaged in a similar struggle with another young man, I called him to leave the gun, and come out of the hut. I and my three companions then went outside the kraal, and sat down on the upper side; Sibanda and Nkonyana accompanied me to the spot. While there I saw the ramrod of a gun lifted in the air, and the boy with whom I had the struggle loading his gun. I called Sibanda's attention to this, and said, "See! one of your boys is loading the gun." Shortly after that the boy came outside and said, "If you want this gun, you can come and get it, and I will put you to rights." I said to Sibanda, "You had better seize that boy, discharge the gun, and bring it to me." His father replied, "I dare not go; he would shoot me; I have no control over him; the boys have no respect for me. I am nothing to them." The other boy, who had had the struggle with the messenger accompanying me, then appeared with his gun. I told Sibanda he had better seize it. The boy replied, "No, I have not loaded my gun." I said, "Fire off that cap you have on;" and as he was cocking the gun, I said "Give it to me, and let me be sure." I fired off the cap and found the gun was not loaded. I handed the gun to one of my companions and said, "Let that man who has behaved badly, come too; he is only bringing trouble on himself; this gun of yours is safe; go with me to the Magistrate, and have it registered." The boy seized the gun, and while the struggle was going on, others came up, and I allowed him to take it. They said I dare not touch the guns; they had been sent for by Langalibalele,

and they dare not let me take them without his permission, and they could not be registered unless sent in by Langalibalele. I asked, "Where are the other three guns?" They said, "In the hut; but you dare not take them; they are also to go to Langalibalele; and, if he requires them to be registered, he may send them in. You may tell the Magistrate that we admit that all five are here." &c. [as quoted before in (41)] pp. 63-4.

50. Now here there are several things to be noticed. Mr. Macfarlane (40) and Mr. Mellersh (43) both tell us that Umtiyizelwa was sent to summon 'the *people* (men) to bring in the guns for registration'—that is, he was sent with a very friendly message, for which one policeman was quite sufficient, though 'unfortunately' the one sent had a blood-feud with the tribe. But Umtiyizelwa takes with him *three men*—N.B. *not* policemen, for Mr. Mellersh says 'unfortunately Mr. Rudolph sent only *one* policeman, Umtiyizelwa'; and, instead of delivering a quiet message to the boys that they were to bring in their guns for registration, Umtiyizelwa and one of his comrades seize two of the guns, and have a desperate struggle with their owners for them. Again, neither the Magistrate nor the Acting Magistrate says anything about an order being given to seize any *powder*. But Umtiyizelwa begins by seizing a 'small bag of powder,' and reports to Mr. Mellersh that he had seized it.¹

51. Moreover, Umtiyizelwa says that he called Sibanda before he entered his boys' hut, and afterwards tells us that he sent one of his boys to call him, and, while he was struggling for a gun with one of the boys, Sibanda came in, &c. But this is the account which I received from the aged Sibanda himself:—

'He was sitting in his hut when his wife came and told him that some policemen were in another hut, where his boys were, rum-

¹ The Fire-arms Law enacts that any gun, pistol, or *gunpowder*, found in the possession of a native without the written permission of the Lieutenant-Governor, shall be liable to be seized or forfeited, whether marked and registered, or not, and the native shall be liable to a penalty not exceeding 50*l.* and imprisonment not exceeding two years. But it is certain that this law with respect to powder was never carried out, any more than that with respect to guns, in Weenen County or any other.

maging about the things. He rose and went to the hut, and found Umtyityizelwa standing with his feet upon three guns, which the owners, Sibanda's sons, were claiming from him, and Umtyityizelwa lifted his sjambok to strike them. Thereupon they closed with him, and a struggle took place. Sibanda reproached him for the gross impropriety of his going into his sons' hut in this way instead of coming to himself; and Umtyityizelwa begged him not to mention it to the Magistrate, as it might bring him into trouble. When Umtyityizelwa left, he went *immediately* and counted Sibanda's cattle, telling him that they were all confiscated to the Government [which apparently he had no orders to do *at that time*, though Mr. Mellersh afterwards told him to do so (45)]. When he went away, Sibanda sent at once to report the matter to his Chief, who expressed his extreme surprise at Umtyityizelwa's conduct in going to Sibanda's kraal about these guns, instead of coming to himself. After a few days Umtyityizelwa came again, sent by Mr. Mellersh, to summon Sibanda, and the latter reported immediately to Langalibalele that he was sent for by the Magistrate; whereupon the Chief sent one of his sons and two Indunas to say that the guns had not been brought to him by the boys on their arrival or he should have sent them in for registration. Mr. Mellersh fined Sibanda 5*l.* to the Government, and 1*l.* to the Chief, for not having reported the guns, both which fines were paid: the Chief wished to remit his fine, as he did not seriously blame Sibanda in the matter; but the latter insisted on paying it, and the Chief received it.

'Nothing more was heard about the matter while Mr. Mellersh acted, for about a month. Then Mr. Macfarlane returned to office, and Umtyityizelwa, whom Sibanda regarded as a bitter enemy to the tribe,¹ called Mr. Macfarlane's attention to the fact that the guns had not been registered. And then it was that Umtyityizelwa and Umpiko were sent for the first time to Langalibalele himself, with an order for him to send in the five guns of Sibanda's boys.'

52. Thus it appears, even on his own showing, that Umtyityizelwa exceeded his orders greatly, and acted in a rude and unwarrantable manner, contrary to all native customs, in entering the boys' hut, instead of calling for the master of the kraal, and seizing violently with the help

¹ So according to Mahoiza, p. 12, Langalibalele said—'That boy (meaning Umtyityizelwa) had a grudge against him, and had given him a great deal of bother on former occasions, and endeavoured to get him into a row in reference to certain prisoners, who had escaped from his (Umtyityizelwa's) custody after they had been arrested'—referring evidently to Sibanda's sons.

of his three men the guns and powder, instead of delivering quietly his message, which in all probability would have led to the guns being sent in without difficulty, if not by Sibanda, at all events by the Chief himself, as in the case of boys known to have brought in guns, who had worked for Mr. W. E. Shepstone.

Langalibalele's personal concern in Sibanda's affair.

53. But we come now to the Chief's own personal concern in this affair. Umtyityizelwa goes on to say, in the words already quoted (41)—

'On arriving at the Office, and reporting the matter to the Magistrate, he told me to take Umpiko, one of Langalibalele's Indunas, and go to Langalibalele, telling him to arrest these boys and send the guns to be registered,' &c., &c.

The above would seem to imply that immediately on his return from Sibanda's kraal he was sent to Langalibalele, and this view would find some support, apparently, in the fact that he goes on to say that he 'showed him how they had hurt his hands.' But in that case *he must have sent himself*, as on his return Mr. Macfarlane was no longer in office, and Mr. Mellersh declares that he did not send him. From the evidence before us, however, we must conclude that he was sent with Umpiko by Mr. Macfarlane after his return to office, *i.e.* after March 3, and that the marks upon his hands were still visible a month after he had received them, and that, as Mr. Mellersh says, he has confounded in his story two different occasions.

54. We have already seen, in the extracts made above from the evidence of the two messengers, how the Chief replied that his boys had become 'wild animals'—that is, had run away to the mountains—and he knew not where they were, and this is his own account of this affair.

'The five sons of Sibanda had just come from the D. F., bringing with them five guns. A great noise was heard of the firing of these guns, till at last Mr. Macfarlane sent Umtyityizelwa to Sibanda. Langalibalele saw now a man arrive sent by Sibanda to inform him that "Five sons of Sibanda had just arrived with guns, when

Umtyityizelwa came, sent by the Magistrate; he at once entered a hut, found some guns there, and trampled them under his feet. The boys, seeing him do this, started up and seized him: at last the sound of this reached Sibanda, who went into the hut and quieted them. The boys went out with the guns, and, when outside, they told Umtyityizelwa to follow them if he liked. And now those boys have all run away; we don't know where they have disappeared.'

Langalibalele was much surprised to hear this. Afterwards Umtyityizelwa was sent again by Mr. Mellersh to summon Sibanda.

Thereupon Sibanda informed Langalibalele, who sent two Indunas with one of his own sons to go with Sibanda, and tell the Magistrate that he himself (Langalibalele) knew nothing about that matter, viz., the arrival of Sibanda's sons with guns; if he had known, he would have reported them at once. They came and told Mr. Mellersh, and said also that Langalibalele hoped that he would take part with Sibanda and deal mercifully with him; because the fault was not his, but that of his naughty sons. Mr. Mellersh fined Sibanda 5*l.* and 1*l.* to Langalibalele, because he had not reported the guns to him. But Langalibalele refused to take the 1*l.* from Sibanda, being sorry for him, and seeing that his trouble was caused by his boys having done wrong. However, Sibanda said that it was right that he should take it from his hand, and so he took it.

A few days afterwards Umtyityizelwa came to Langalibalele, saying that he was sent by Mr. Macfarlane to take those boys and guns, who had been concealed, as he thought, by Langalibalele. But he denied, saying he did not know anything about those boys, and he asked Umtyityizelwa, 'Why did you not tell that matter to me at first? The boys have been driven away by you, and now you demand them from me! I don't know anything about them.'

Umtyityizelwa also said that he saw Langalibalele turn his back to him. But Langalibalele knows nothing whatever about that turning his back upon Umtyityizelwa: he denies it now, as he denied it then, and those also who were present contradicted Umtyityizelwa.

Umtyityizelwa was continually coming to Langalibalele, saying that he was sent by Mr. Macfarlane to take those boys and their guns. But Langalibalele denied always, and this day he denies, that he knew anything about those boys where they were. He first saw them, after the flight, on the top of the Drakensberg; he asserts that most positively.

55. The last statement of Langalibalele agrees with the first portion of Umtyityizelwa's, p. 67.

'I omitted to mention that I recognised one of Sibanda's boys among the prisoners accompanying Langalibalele and his sons. I asked him where he had been, and he said "with Langalibalele," and *half-admitted* the fact that he had ordered them to stop at Maqoba's kraal, near the Entabatabeni kraal, and there they had been hidden.'

On this 'half-admission,' reported by the enemy of the tribe, Umtyityizelwa, the *Introduction* apparently bases its bold assertion, p. x.—

'He is reported on good authority not only to have connived at their concealment, but also to have assigned them a hiding place until the tribe fled from the Colony.'

Can it be believed that five wild youths like these hid themselves in the way here implied for *ten months* together (Feb. 3—Nov. 3) in a single kraal, or that during all that time the matter was kept so close that no hint of it reached Basutos travelling with guns for sale or other out-siders, from whom it might reach the Indunas of Mr. Macfarlane? Langalibalele said that he supposed that they had gone to hide themselves in other tribes, and he had heard that one had gone back to the D. F., but he did not know anything certainly about them.

56. Langalibalele refers in the above extract to his being said to have 'turned his back' on Umtyityizelwa, when sent with a message to him by Mr. Macfarlane, a charge which he utterly denies. The statement occurs on p. 65.

'I found Langalibalele at the kraal Bekuzulu. On approaching near the kraal, I saw a large number of people collected on the hill, some little distance from the kraal. . . . After waiting a long time Langalibalele came. When he came, the men formed a half-circle: I and my companions were sitting in about the centre of the right flank, our backs being towards the east. Langalibalele came into the centre of the half-circle, and stood for some time looking around, and, on seeing, walked towards us. Thinking we might be occupying a stone upon which he wished to sit, we were about moving, when he sat down in front of, and turned his back to, me. . . . We did not see Langalibalele's face from the time he sat down until he went away; he sat with his back to us all the time.'

Now a moment's consideration will show that, if there were a 'large number of people' who 'formed a half-circle,' and the messengers sat in 'about the centre of the right flank,' Langalibalele, if he stepped from the centre towards them, and then wished to sit down facing the great body of his men, *must* have seated himself *obliquely* to the messengers. And this seems to have been all that really occurred; for the 'loyal' Induna Umpiko says, p. 82:—

'I was present at the interview referred to by Umtiyizelwa. It did not occur to me that Langalibalele turned his back upon Umtiyizelwa and sat looking away from him. His back was not quite turned towards Umtiyizelwa, who was sitting a little behind to the right.'

Yet on this flimsy statement of Umtiyizelwa, contradicted by Umpiko and by common sense, the '*Introduction*' bases its charge of the Chief having 'turned his back upon the messenger!' But—what is yet more extraordinary,—the Court in its Sentence has found Langalibalele *guilty* of this charge—'and on one occasion insulted his (the Magistrate's) messenger,' p. 36—though *there was not a particle of evidence before it to that effect*—Mr. Macfarlane not having made the least allusion to such an occurrence, and Umtiyizelwa's evidence, in which it does occur as above, not having been heard till Feb. 10, nearly a fortnight after the Chief's trial ended (Jan. 28), and the day after he was condemned and sentenced (Feb. 9)!! How this can be reconciled with ordinary justice remains to be explained.

57. With respect to the other assertion in the '*Introduction*,' p. x,—

'He subsequently encouraged the young men to discuss the matter, which [as well as turning his back] was a signal mark of disrespect, not only to the messenger himself, but to the authority he represented'—

it is contradicted by the language of Umtiyizelwa himself, p. 66:—

'He then rose, and addressing *the tribe* said they could question me, and then he walked off. . . . As Langalibalele went away, some young men sitting with Mango, one of the prisoners, began to say they had gone to the D. F. and worked for guns, and how could they now be taken away? I called to Mabudhle, saying, I had not come to talk with boys, but to the *Hlubi tribe*, pointing to the *old men*. . . . The young men then made a great row; but I said I would not listen to boys or be questioned by them—that *Langalibalele had told the Hlubi tribe to question me*, and, if this row continued, I should walk away. While these boys were still making a great uproar, a pot of beer came from Langalibalele, and, as we were drinking it, it began to rain, and we dispersed.'

58. We have thus examined thoroughly the whole question about the guns, which was the origin of this disturbance. And really, *as far as the evidence goes*, it is very difficult to see, — when the matters are properly explained, as they might have been in Court if the prisoner had been defended,—what was Langalibalele's great fault in respect of them. It can hardly be expected that the Chief of a tribe shall act as a common detective, prying into huts and searching by himself or his Indunas for contraband guns throughout his Location—more especially when we have deprived the Chiefs of all coercive powers over their clans, except by means of fines, in respect of which also there lies an appeal to the Magistrate, and (*Times of Natal*, June 10, 1874) 'the authority of the Chief, though tacitly acknowledged, and on rare occasions enforced, is generally dormant, and, for all useful purposes, little more than nominal.' As the S.N.A. says (Lieut.-Gov. SCOTT'S DESPATCH, No. 34, 1864, p. 51)—

'Each tribe had [in former days] its own chief, who, although ruling as a sort of patriarch, possessed and exercised the power of life and death.'

But he adds (*Answers appended*, p. 4) that at the present time their power is very limited in punishing offences.

'The Native Chiefs have the right to adjudicate in all civil cases between members of their own tribes, or where one of them is the Defendant in any suit, and to *punish for small municipal offences*.'

59. Nor can it be desirable that the natives should be required to be spies and informers upon each other, so that—

‘Each member of the tribe should be in reality a policeman.’—p. viii. :—

at least, such a state of things would be regarded as abominable in the Army or Navy, or in a Public School. In fact, the concealment of unregistered guns was no offence at all under *Native Law*, but only under the Colonial Law; and it is difficult to see that the Chiefs can be required, and, if they decline, compelled to enforce that Law further than by sending in men when desired by the Magistrate to do so, who would, of course, be liable to the penalties of the Law (50, note), if found with guns not duly licensed.

60. At all events, no other Chief has been required to do this, or has been worried by his Magistrate, like Langalibalele, by being ordered to send in boys, who had brought guns into the Colony, but whose names were unknown, only ‘one of the original party of ten had been bitten by a snake,’—some of whom possibly did not even belong to his tribe, and that tribe so large and spread over so large an extent of country, that, when asked if he knew the names and faces of all his young men, he replied, ‘How can one know all the maggots in a piece of beef?’ It was surely enough if he sent in any who were reported to him by name as possessing guns unregistered, which he did in the case of Mr. W. E. Shepstone’s nine men, and the five others, and would probably have done in the case of Sibanda’s boys. And even then, as he told me, he incurred reproach among the tribe for sending in guns which had been fairly earned by honest labour, and some of which were confiscated, belonging to young men not of his own family, whereas his own 30 sons, having only two guns among them all, were not exposed to this hardship.

Langalibalele reported to the S. N. A. as contumacious.

61. 'Matters ultimately came to a crisis; and, in answer to a summons from the Magistrate to appear before him at Estcourt, Langalibalele for the first time refused to go. This was after repeated warnings from Mr. Macfarlane — warnings which passed unheeded by the Chief.

Much stress has been laid on the fact that the Chief paid a visit to the Magistrate on the gun question when Mr. Macfarlane was away from home. This arises from a misunderstanding of the reported evidence. We may admit, for the sake of argument, that Langalibalele obeyed any number of summonses to visit the Magistrate on the subject. But a time came when he refused to attend. In support of this observation we need not do more than refer to the opening sentence of Mhlaba's statement, recorded on p. 57.

Mr. Macfarlane then felt it to be his duty to report the conduct of Langalibalele to the S.N.A., and sent the Chief a message to the effect that the vessel in which he kept his offences was full to overflowing, and he must refer the matters to the S. C. Mr. Macfarlane accordingly reported to the Government the various instances of insubordination which, in his opinion, rendered it desirable that the S.C. should take the matter in hand.'—p. x.

I have referred, as above directed, 'to the opening sentence of Mhlaba's statement recorded on p. 57,' and I find merely the following:—

'As far as I know, this matter commenced by the Magistrate at Estcourt summoning Langalibalele to attend there, and *his inability to attend in consequence of illness.*'

Thus Mhlaba says not a word about his 'refusing' to go to Estcourt, nor does any other witness, except Mr. Macfarlane himself, p. 29:—

'I at last thought that matters were getting so grave I should report them to the S. N. A. and I did so. He *refused* on that occasion, and I reported the whole matter to the S. N. A., suggesting that he should be sent for to Head-quarters, and the matter all gone into. After my report, and after his *refusal* to appear, I advised him in the strongest possible manner to submit,' &c.

Whereupon at the end of Mr. Macfarlane's examination,—

'Prisoner enquired, in reference to his not having obeyed the summons, whether he had not asked Mr. Macfarlane for medicine and complained of his leg?' p. 31.

And again we are told, *Ib.*—

'Prisoner said he did not know whether it was the correct thing for Mr. Macfarlane to report him *so sharply* to the Government; and he enquired whether it would not have been better if he had sent his clerk to see whether he was ill or not?'

62. It is plain, therefore, that Langalibalele did not on this occasion for 'the first time' *refuse* to go to the Magistrate, but pleaded his inability to do so because of his leg, in which—or rather in his thigh—he appears to suffer occasionally from an attack of sciatica or rheumatism, which quite disables him for the time for travelling, but at other times leaves him free to move about as usual. No doubt, Langalibalele made use at times of this ailment as an excuse, when he did not wish to take an unpleasant journey: but this surely would be a sign of weakness, of cowardice perhaps, but not of rebellion. In the present instance, however, when he was summoned by Mr. Macfarlane, to whom he had never before refused to go when summoned, and had no special reason to dread the consequences of going to him, as he had when summoned to Maritzburg, it is reasonable to believe that he was really ill—more especially as he very soon afterwards did actually go down to Estcourt (30 miles), and there Mr. Rudolph, in Mr. Macfarlane's absence, spoke with him about the guns.

63. The Writer of the '*Introduction*' says above that much stress has been laid on this fact 'from a misunderstanding of the reported evidence.' As he does not, however, help us in the least to understand that evidence rightly, we may be excused for believing that the fact was exactly as stated by the loyal Induna, Umpiko, p. 78:—

'After this—[i.e. after the last message, when the five guns were sent in (34), and the Chief had been, without knowing it, already reported to the S. N. A.]—Langalibalele went down to Estcourt. The Magistrate was away, but Mr. Rudolph saw and spoke to him, and asked him how it was he was so negligent in doing what he was directed to do by the Magistrate, especially in reference to guns, and how it was that, when he was told to do anything, it was with great difficulty he could be got to do it. Langalibalele said 'I do obey.' They then entered the building, and I did not hear what passed. This was a long time ago before the S. N. A. went to Zululand, and before Umnyembe came with the first message.'

Langalibalele, then, must have gone down to Estcourt some time before April 15 (38), having been summoned to do so not earlier than the end of March; in other words, he delayed to go to Estcourt for about a *fortnight*, alleging illness. It is true, neither Umtyityizelwa nor Umpiko refers to the fact of his having been summoned to Estcourt at all. But he admits that he was summoned: and, as Mr. M. reported him immediately after his 'refusing to appear,' and also immediately after Umtyityizelwa's return with the report of the interview which he and Umpiko had with him, when a second time he declined to search for the boys reported by Captain Allison unless he had the names supplied to him (33), it follows that the summons must have been conveyed to him at that same interview, about the end of March (38).

64. Although, therefore, the 'Introduction' speaks of his not having been reported until he had received 'repeated warnings from Mr. M., warnings which passed unheeded by the Chief,' derived probably from Mr. Macfarlane's own statement, 'I repeatedly cautioned the prisoner,' p. 29, it is plain that, as Mr. M. returned to office after March 3 and reported the Chief about March 31, and as during the first week or ten days of the interval he can scarcely have begun to send such warnings, the whole must have been included in two or three weeks. Nay, even a week or so before he came with his last message, when he brought his last but one, Umtyityizelwa had already been ordered to warn him—

'that the Magistrate said he was tired of receiving these messages—that the vessel in which he kept them was full and overflowing—and it would be necessary for him to pick out some of them and send them to the Government.' p. 65.

In short this harsh message appears to have been delivered very shortly after Mr. M.'s return to Estcourt, when Langelibalele had replied that the boys of Sibanda had become 'wild animals,' and he did not know where to find them, and as to Captain Allison's eight boys had said—

'You must give me the names of these people: I cannot do anything unless you give me the names.' p. 65.

Langelibalele summoned to Maritzburg the first time.

65. 'In the month of April, therefore, a native messenger was despatched from the seat of Government to summon Langelibalele to appear in Maritzburg with as little delay as possible. This messenger, having delivered his message, was after a few days' delay dismissed with a message from the Chief, that he would follow him to Head-quarters and overtake him before he reached Town. The Chief did not keep his promise, but sent Mabudhle with a lie in his mouth, to make his excuses to the S. C., and report that he had started to come down, and had advanced about 20 miles on his journey, when pains in an old wound in his leg compelled him to return home again.

This excuse was at the time accepted by the S. N. A.; but he informed Mabudhle and the other messengers from Langelibalele that the business upon which their Chief was summoned was urgent, and that he must manage in a wagon, or some other way, to obey the summons to appear in Maritzburg.'

p. x.

There is no doubt that Langelibalele on the above occasion did 'send Mabudhle with a lie in his mouth.' But this, as already said, was surely a sign of weakness and fear, not of rebellion. Langelibalele admitted to me as follows.

He did not set out from his kraal at all; for, in saying that he would follow after Umnyembe, he said it merely as a pretext

through fear, because he thought that, as soon as he arrived in Maritzburg, he would be killed.

Of course there was no ground for such fear; and the matter would probably have been settled with a severe reproof and, perhaps, a fine, when the Chief would have returned in peace to his kraal again.

66. But, on behalf of Langalibalele, the following facts should be borne in mind.

(i) He lived in an extreme corner of the Colony, 'isolated and at a great distance from the central authority in Pietermaritzburg,' p. xvi; and, as he never moved from his own Location, he had little personal knowledge of the S. N. A. himself, such as other Chiefs had, who were more frequently at the seat of Government.

(ii) His brother had been summoned to the King in Zululand, and killed as soon as he arrived (2), and he expressly mentioned this to Mahoiza as the cause of his dread to go to the S. C. when summoned.

'Langalibalele then said he was afraid to go to the Government; he would turn Bushman and go into caves; he was afraid, because of something which had happened in the Zulu country, when, there having been a dispute among themselves, his brother had been sent for and killed by the Zulu chiefs, and he himself had only escaped alive by fleeing to Natal.' He said 'I am afraid to go, and you can tell the Government that I won't come.' p. 13.

(iii.) He knew that only on very rare occasions were Chiefs summoned in this way: in fact, the S. N. A. said in Court that 'he had not himself sent for Chiefs to see him more than twice these last twenty years.' (*Times Report*, omitted in Official Record.) These were probably the two very serious cases of Sidoi and Matyana, which both ended in their tribes being 'eaten up,' though the fugitives were not pursued out of the Colony, nor were those left behind hunted and taken captive, with the women and children, as in the case of the amaHlubi. He could not possibly believe, therefore, that it was a light matter about which he had been summoned; and he evidently suspected that some great charge had been laid against him by his ene-

mies, *e.g.* of treasonable conspiracy with Basutos and others, on account of which he would be put to death; and, as if the more to heighten his fears, a mysterious silence was kept about the subject-matter of his offence.

67. This appears clearly from the evidence of the messengers, Umnyembe and Mahoiza.

'Prisoner asked what he was wanted for? I replied that he was wanted by the S. C., but I could not tell him for what; he would find that out when he got there. Prisoner said, 'Everything is said in your presence; you know what is going on, upon what business of importance it is that I am wanted, and (on account of which) I must be carried, in case I cannot walk to Pietermaritzburg.' I replied, 'You are a man of position, and have charge of a kraal and people here; and, when you send to any of your headmen requiring their attendance, they never question (?) your messenger as to what you require, but obey your summons.' UMNEMBE, 1st message, p. 7.

'He then asked how he could be taken away from his kraal and place when he was so ill? What was it that was so important? I replied that it was something that had occurred in Weenen County; and I told Langalibalele that it could not be anything very serious, as he had not committed murder, and I advised him to go. All this I said on my own responsibility, in addition to the message delivered to me.' UMNEMBE, 2nd message, p. 9.

'He then said, 'What is the case? Tell me what the charge really is.' I said, 'No! you will hear when you arrive in Pietermaritzburg.' I added that the Government were very much surprised to hear that he had had communications with Molappo and other powers beyond the Colony. Prisoner said that he had heard that he had been accused of doing so. I asked him from whom he had heard it, and said that, when he arrived in Pietermaritzburg, he would find out from the Government who had spread that report. He said that it was not the first time that the S. N. A. had tried to get him into trouble. He had heard that the S. N. A. had stated that he had bought guns, and was trying to get a way for a cannon; but, when about to go into the question and investigate the charge, the S. N. A. had said, 'Let there be an end of that matter; it was simply a report.' Prisoner at the same time stated that it looked as if the S. N. A. had a grudge against him.' MAHOIZA, 3rd message, p. 12.

68. Further, there were some important members of his own tribe, who were in constant communication with

the Magistrate's Office at Estcourt, and heard, no doubt, the talk of the Indunas there, as also of some of the white men, bearing hard against the Chief; and these did their best to stimulate his fears. Thus Langalibalele told me as follows:—

'Mabudhle, Magongolweni, Nkunjana, and Umpiko, these four were Indunas, who continually went at all times to Estcourt, attending to all the affairs of Langalibalele with Mr. Macfarlane, in Langalibalele's name. Those three, however, did not agree with the other, Umpiko, who always persisted that Langalibalele ought to go to Maritzburg. All those three, however, Mabudhle, Magongolweni, and Nkunjana, objected entirely to his going there, saying that they had heard at Estcourt continually that, if he went to Maritzburg, he would be killed. And so a great fear came over him, because he heard this from those confidential men; and accordingly he made a pretext to Umnyembe that he would go after him, but did not go.'

When the Writer of the '*Introduction*,' however, says that Mabudhle was charged with a message by the S. N. A., that, whether in a wagon or otherwise, the Chief must come down to Maritzburg (about 100 miles), p. xi, he should have added that the S. N. A. also said that—

'he should allow a few days to elapse and then send the same messenger again—that they must procure a wagon or horse, and bring the Chief down.' p. 8.

So that the Chief naturally waited for Umnyembe to arrive the second time.

Langalibalele summoned to Maritzburg the second time.

69. Shortly after this Umnyembe was again sent to summon Langalibalele to appear at the seat of Government, and, in case he persisted in his obstinacy, was instructed to inform the headmen that such conduct would inevitably lead to the dispersal of the tribe. On this occasion the messenger had some difficulty in obtaining an interview with the Chief, who was said to be too sick to see anyone. After considerable difficulty, and strong representations on the part of the messenger, Langalibalele accorded them an interview, but said he

was too ill to obey the summons, and would not come down to Pietermaritzburg. We need scarcely say that this alleged sickness was a mere pretence. p. xi.

Assuming this to have been 'a mere pretence,' it was, as before, a sign of weakness, and a great fault, no doubt, but not a sign of rebellion. But the message which Umnyembe had brought, that the tribe would be 'eaten up,' if he did not come down, must have thoroughly frightened the Chief and the tribe, and convinced them that some grave charge was really hanging over his head, through some secret information laid against him, which would perhaps lead to his death or imprisonment, in spite of Umnyembe's assurance that 'it could not be anything very serious, as he had not committed murder,' p. 9. Thus Mango, one of Langalibalele's sons, who went to Maritzburg (making an excuse of illness for the Chief) after Umnyembe's first message, says, p. 50,—

'We then returned home and told Langalibalele that he was wanted in connexion with some business with the Indunas of the Magistrate at Estcourt, and that we had found these Indunas in Maritzburg. Mabudhle and three others, Official Witnesses, were decidedly opposed to his going down, and said Langalibalele must not venture, or he would be made a prisoner. Mbombo, my brother Manaba, and I assured them that nothing of the sort would happen. Umnyembe and the other messengers returned, and objections were again raised; but Mbombo urged that Langalibalele should obey the summons. They then reproached him with being the son of a man who had caused the death of one of their former Chiefs in the Zulu country, his father having urged the Chief to obey the summons, when he having done so had been killed. They said they had heard from the Indunas at Estcourt that, if he came down to Maritzburg, he would be taken prisoner. Under the circumstances, we of course felt we should be blamed if anything happened, and so we ceased to urge our view of the case.'

And Ngwadhla says, p. 59—

'We had also heard that the S. N. A., before he started for the Zulu country, had sent a message to say that the matter was not over, but delayed till his return. That message made us think it was a serious matter, and in fact it alarmed us.'

70. On July 31 the S. N. A. left for Zululand, to instal Cetywayo as King of the Zulus, and returned to Maritzburg about Sept. 16.

'During the absence of the S. N. A. in Zululand no messages or explanations were received by the Government from Langelibalele, who thus contumaciously allowed a period of two months and upward to pass by in silence, though not without preparations for the inevitable conflict. It will be our duty in a subsequent paragraph to refer to the proceedings of the tribe in this interval.' p. xi.

What could the Chief possibly have done 'during the absence of the S. N. A. in Zululand'? It would have been useless to send messages, when he himself was required to appear personally before the S. N. A., in whose absence it would have been useless for him to go to Maritzburg, even if he had been willing to do so. During this interval, however, when the S. N. A. himself, with a large native force and a body-guard of a hundred volunteers, some from Weenen County itself, had gone to Zululand, and would certainly be absent for five or six weeks, and when no preparations had been made to check him, Langelibalele, if he had really intended mischief, would have had the whole district at his mercy; and, after doing all the harm he pleased to the few scattered farms, some of them denuded of their protectors, and at all events, to the 'loyal' portion of his tribe, he might have made his escape from the Colony, in any direction with the greatest ease, without leaving his women, children, and old men behind. Moreover, if he had been really plotting 'rebellion,' he had, from his point of view, abundant provocation to this in the terrible word brought by Umnyembe on his second visit. As to the 'preparations for the inevitable conflict,' which he is supposed to have made in the interval, we shall presently find that the statements about them are merely based on the gossip of panic-stricken people, white and black, without any real foundation in fact.

*Langalibalele's communications with Basuto Chiefs
and others.*

71. Whilst the S.N.A. was absent in Zulu-land information was received from the Cape Government that Langalibalele had been in communication with the Basuto Chiefs, and had asked them to receive his cattle while he resisted an order of the Natal Government. It was the month of July when Mr. Griffith, the British Resident in Basuto-land, advised the Cape Government of the overture made by Langalibalele; and our readers will note that this was before the departure of the S.N.A. for Zulu-land, and some four months before the military operations were commenced. The request was probably a precautionary measure, in case the tribe should be compelled to fly from the Colony.'—p. xi.

As Langalibalele was a great friend of the famous Basuto Chief, Moshesh, and had sympathised with him in all his troubles with the Boers, nothing would have been more natural than that he should request Moshesh's sons to receive him and his cattle, if he intended—not indeed to *resist* an order of the Government, as here stated, of which there is no sign, but—not to obey an order to come to Maritzburg, which he dreaded as equivalent to imprisonment or death. Having had notice that his tribe would be 'eaten up' if he did not obey it, and he and they fearing that he would certainly be imprisoned or killed if he did, it would not have been at all surprising if he had made such overtures as the above to the Basuto Chief, 'as a precautionary measure, in case the tribe should be compelled to fly from the Colony.'

72. But there is no proof whatever that he did anything of the kind. The *Sentence* says, p. 37:—

'The charge against the prisoner of treasonable communication with others out of the Colony has not been enquired into, in consequence of the length of time which it would take to collect evidence, and also because, in the presence of the grave charges proved against him, it was not thought necessary to press this charge.'

Yet surely *this* charge, of treasonable communication with others out of the Colony, was the gravest of all the charges made against him, if only it could have been substantiated. And Mr. Allison and Capt. Hawkins, Res. Mag., were, with their force, in Basuto-land itself, at the very centre where such treasonable practices are supposed to have been carried on, in personal communication with Mr. Griffith, who gave the information to the Cape Government, and with the treacherous Molappo, who basely betrayed his father's friend with professions of friendship, and who would, doubtless, have readily furnished the authorities with positive proofs of such a crime, if any existed, so that the witnesses might have been brought down at the same time with the prisoner.

73. But Langalibalele denied in Court 'having made any treasonable communication with the Basuto Chiefs or any other person,' p. 3, and he repeated positively the same denial to myself.

'He never sent a single message to Molappo, though his father Moshesh was a very intimate friend of his. Nor did he ever send a single messenger to the Zulus, requesting that he might be received by Cetywayo, who, however, was asking for him as a rain-maker. On his own account Langalibalele was afraid of Zulu-land, because his brother was killed there, and he is still afraid. He would go indeed to Zulu-land and settle there, if he could be allowed not to live at the royal kraal, but at a distance, sending messengers to Cetywayo and receiving messages from him, being thus on good terms with him, but not living together. For even at this day his fear is not at an end as regards Zulu-land, because of that brother of his, Dhlomo, having been killed. He says that he never sent a message to Zulu-land, to ask that he might be received. And, as to this Colony, he utterly denies that there is a single chief with whom he has had any communication about deserting. As to that Mqawe, his (Langalibalele's) daughter just fell in love with him, like other daughters of chiefs, and married him: he knows nothing whatever of Langalibalele's doings, nor does anyone else.'

I repeat, if he had notified beforehand to Molappo, Letsea, or any other of the Basuto Chiefs, his purpose of coming to him with his people and cattle, and putting-

himself under his protection, because he did not intend to obey an order of the S. C. of Natal, there would have been nothing at all extraordinary in this under Kafir Law, though he would have been liable to have had his cattle confiscated, if his project had been discovered before he left the Colony.

'When a kraal or clan is rebellious, the custom of "eating up" is resorted to. *If they resist*, they are fired upon or assailed without ceremony. When a Kafir wishes to leave his own chief and join another, he can only do so by flying at night in the most stealthy manner, *if he has any live stock*; for, should his intention be known, he would most certainly be "eaten up."—*Kafir Laws and Customs*, p. 73, 75.

And the very fact that our Government receives refugees even now from Zulu-land, and protects their persons while it sends back their cattle, shows plainly that it recognises this Kafir custom as still in force in Natal, as in the days when Langalibalele himself was received, though flying to us with his cattle and arms, after fighting with the forces of the Zulu king (4). How, after this, could he suppose that he was doing anything 'wickedly, seditiously, and traitorously,' in flying once more, with his arms and cattle, from the Supreme Chief of Natal?

74. But the best proof, that he had no such relations as are suspected with the Basuto Chiefs, is given by the evidently purposeless manner in which he and his tribe left the Colony. If, indeed, 'four months before the military operations were commenced,' Langalibalele had formed a treasonable conspiracy with the Basuto Chiefs or even an arrangement for the reception of himself and his people, is it conceivable that he would not have had some young men of his own going to and fro in order to master the difficulties and intricacies of the way, or else have secured guides from his Basuto friends? Whereas the statements of the prisoners examined on the Trial of the Sons betray in the plainest and most unsuspecting manner that they were wandering about in the wilderness without

any definite plan, though trying to make their way towards Basuto-land, when Molappo's son, Jonathan, met them and enticed them into the snare which his father had laid for them. Thus one of Langalibalele's most 'loyal' sons, Manaba, said, p. 48—

'We then went on until some Basutos under Jonathan, son of Molappo, came to us. . . . Langalibalele said, "Will you really save me?" and Jonathan said, "Yes, we will save you; only come on at once."'

And another equally loyal son, Mbaimbai, said, p. 50—

'We really had no fixed plan. Langalibalele's idea was to get out of the way, and subsequently try to make terms, and return with his family. I do not know of any communication with Molappo before this time.'

And another 'loyal' son, Mango, says, p. 51—

'I know of no other tribes connected with any plan of resistance [? desertion, *hlubuka*]. Our own resistance [? desertion] was entirely impromptu, and arose out of the circumstances of the case. We did not know what to do. Langalibalele said he was Chief and could not obey the summons; and we knew the consequences of disobedience to the order.'

And another son, Ngungwana, highly commended by his master for whom he had worked 'off and on for the last six years,' p. 85, says—

'We went on until we met the Basutos under Jonathan, the son of Molappo; they said they had been sent to conduct Langalibalele to Molappo, to tell him not to go to Adam Kok's country, where a force was now awaiting him. Langalibalele said he had nothing to do with Adam, and did not want to go to his place, he was simply wandering about. The Basutos said Molappo said he was to come to him and he would hide him.'—p. 51.

75. When therefore it is stated on p. 43 that the seven sons of Langalibalele—

'admitted that they had left the Colony with the intention of going to and joining Moshesh's people, and that they had gone to, and been taken in, Basuto-land'—

this does not imply any previously-settled arrangement with the Basuto Chiefs, but merely that in their distress

they turned their faces in that direction, hoping to meet with friendly help. Accordingly, the 'loyal' Induna, Umpiko, says, p. 82—

'I know nothing of the arrangement for going to Basuto-land, and was surprised when the journey was undertaken. . . . I heard from the Magistrate at Estcourt that information had been received in reference to certain proposals which had been made by Langalibalele to Molappo; but I knew nothing of this matter, or of any communication with Basuto-land, from the Chief or any of his tribe.'

I had supposed, indeed, until I saw the Cape Blue Book on Native Affairs, 1874, that there was some substantial ground for the statement that the Chief had communicated with the Basuto Chiefs about receiving his cattle, however unfair it might be to charge him with having had 'reasonable communication' with them. Thus the Governor of the Cape Colony, Sir H. Barkly, says—

'Mr. Griffith had reported to the S. N. A. in Capetown the arrival of messengers from the Zulu Chief, the tenor of which report was at once duly communicated to Mr. Shepstone by Mr. Brownlee, who, receiving no reply, *thought no more of the matter* (1) *Parl. Blue Book*, p. 16.

And again he writes, p. 17—

'This step would have been taken at a much earlier period if the communications, dated Aug. 8 [? 5] and Sept. 3, from Mr. Brownlee to the S. N. A. in the Colony of Natal, informing him of the messages sent by Langalibalele to Molappo and Masupha, had not remained unacknowledged.'

But Sir B. Pine writes still more positively, p. 6—

'A few weeks ago, emboldened by the long impunity which they had experienced, the Chief and tribe sent messages to the Chiefs in the Basuto Country on the other side of the Mountain, asking them to receive their women and cattle, telling them that they were about to *fight the Government*.'

Yet it now appears that Mr. Griffith had no certain information whatever, but merely reported 'a rumour current among the Basutos,' as appears from the following letters in the Cape Blue Book, which are apparently those referred to by Sir H. Barkly in the above extract:—

Office of S. N. A., 5th August, 1873.

The Hon. the S. N. A., Natal.

Sir,—I have the honour to transmit herewith copy of a letter, with enclosure, from the Governor's Agent at Basutoland, having reference to *a rumour current among the Basutos*, to the effect that a Zulu Chief intended to resist [? disobey] an order from the Natal Government to deliver up a number of guns, and that he had asked two Basuto Chiefs to allow him to send his cattle into their country for safety. I have conveyed to Mr. Griffith the approval of the Government of his having forbidden Molappo and Masupha to permit the Zulu cattle to be brought into their country, and requested that officer to inform me of the name of the Zulu Chief, in order that I may communicate it to you.

I have, &c.,
C. BROWNLEE.

Office of S. N. A., 3rd September, 1873.

The Hon. the S. N. A., Natal.

Sir,—With reference to the concluding paragraph of my letter of the 5th ultimo, I have honour to inform you that the name of the Zulu Chief, who *it was rumoured* intended resisting [? disobeying] an order of the Natal Government, is Langalibalele.

I have, &c.,
C. BROWNLEE.

No wonder that Mr. Brownlee, receiving no reply from Mr. Shepstone, dismissed the rumour as of no importance and 'thought no more of the matter.' On the other hand Sir B. Pine converts this mere rumour into a positive assertion that 'the Chief and tribe' had told the Basuto Chiefs that 'they were about to fight the Government.'

Langalibalele summoned to Maritzburg the third time.

76. 'On Oct. 4, therefore, Umyembe was sent for the third time, and accompanied Mahoiza, who on this occasion was the principal messenger. The evidence of Mahoiza will show the great difficulty which the Messenger had in fulfilling his mission. This statement was confirmed substantially by Umyembe, and shows further with what great disrespect the messengers of the S.C. were treated.'—p. xii.

'The treatment received by Mahoiza is so clearly stated in his evidence, recorded in the pages which follow, that we need do no more than point out that the Messengers who left Pietermaritzburg on Oct. 4 reached Langalibalele's kraal Epangweni on Oct. 11th, but it was not until the 28th of the same month that he had the interview with the Chief.'—p. xv.

It is a singular fact that Umnyembe's evidence breaks off exactly where Mahoiza's begins, being confined to an account of his own two missions, and there stopping, ending, in fact, with the words—

'These are the only occasions on which I went alone. A short time after this I went again for the third time with Mahoiza.'—p. 9.

Thus Mahoiza's statement was *not* 'confirmed substantially by Umnyembe,' or even confirmed *in the slightest degree*, by him, and it was very materially contradicted by him in the office of the S. N. A., as will presently appear. And it did seem rather extraordinary that the oldest, and most sober-minded, and experienced of the two messengers who went together, was not examined at all, to see if his statement would 'confirm,' or not, that of the other.

77. But it is necessary to notice that the date assigned above for the sending of this message, though it is the date mentioned also in the *Sentence*, p. 35, is certainly incorrect. It is the day, no doubt, on which the message of the S. N. A. was *dated*, and perhaps communicated to the messengers; but the day, on which they—Mahoiza and his party—started, appears to have been Oct. 11 for the following reason. They started, as I find from Nofihlela, one of the party, from the land at Bishopstowe, on which Mahoiza lives, on a SATURDAY, but went across the country, and *did not pass through the City*, Mahoiza having already received his message, and taken some days to collect his men. This shows that they cannot have started on Saturday, Oct. 4, on which the message is dated; but either on that day, or during the week following, Mahoiza received the message, and then he collected his party and started on Oct. 11. Mahoiza seems to have

taken it very easily, being 'continually supplied with goats and oxen at all the kraals until they arrived at Mr. Macfarlane's on Thursday,' as Undabezimbi, one of the party, says (see *Appendix*), from which they reached Epangweni on Saturday, thus taking seven days for a journey of 100 miles, which might have been easily accomplished by natives on foot in three or four. But they reached this kraal on Oct. 18 (not Oct. 11, *Introd.* and *Sentence*, p. 35); on Tuesday, Oct. 28, they left Epangweni, and slept at Singcungu's, three miles from Nobamba, where the Chief was; on Wednesday, Oct. 29, they had the interview with the Chief (not Oct. 28, *Introd.* and *Sentence*, p. 35), and slept again that night at Singcungu's on their return; on Thursday night they slept at Sabulawa's, where they 'found plenty of beer'; on Friday night they slept at Umtyityizelwa's, stopping to eat an ox, and merely sending on a message to Mr. Macfarlane at Estcourt; on Saturday, Nov. 1, they reached Estcourt, and on the same day the S. N. A. with his Native Force arrived.

78. From the above it will be seen that Mahoiza was detained only *ten* days at Epangweni, and not *seventeen*, as the *Introd.* and *Sentence* represent. And indeed it is incredible that he should have stayed a whole fortnight eating beef at Epangweni, without sending one of his party of twenty men and boys to notify the delay to Mr. Macfarlane—it was but a day's journey on foot—which he did at last, and was ordered to go on instantly to Langalibalele: see also (166, 136, note). Accordingly Nofihlela says (*App.*) 'he *thought* it was ten days they stayed at Epangweni, though he would not speak certainly'; while Undabezimbi says 'they stayed there a fortnight.' But it was not a 'fortnight'; it was either 10 days or 17, and it seems plain that it was the former. But, whatever the length of their sojourn, they were, says Undabezimbi (*App.*)—

'getting slaughter-oxen continually, coming from the Chief and from the people, and ate comfortably during all those days and were

filled, having such food cooked for them as they liked, together with meat. Only they got no beer from Epangweni; for the women were sleeping abroad, being in fear, because they had seen the white people running away, and there was no grain steeped for making enough beer for them to drink all the time.'

Langalibalele and his Tribe offer to pay a fine for his faults.

79. But what was the Chief doing all this while? He was evidently in a state of great perplexity—at one time saying 'though he is ill, he will come and speak with Mahoiza' (UNDAB.)—at another saying, 'Mahoiza had better come to see him' (UNOF.),—then, on hearing a report that Mahoiza had a pistol with which to assassinate him, sending to say that 'Langalibalele no longer wished to speak with Mahoiza, and that Mahoiza had better now go down and go home' (UNDAB.),—and at last consenting to see him, though with great hesitation and evident apprehension of an attempt on Mahoiza's part to shoot him with a concealed weapon, and so end the difficulty. But in all this delay, I repeat, when properly explained, whatever signs there may be of weakness and fear, there was none of rebellion. Still less was a rebellious spirit implied in the fact that during those ten days he was sending Indunas to Mr. Macfarlane to say—

That Langalibalele together with his tribe wished to pay a fine to Mahoiza, because of his refusal in not going to the S. C. when Umnyembe was sent previously, and on account of all the coming of the Indunas of the S. C., and that Langalibalele did not wish to go down even now, and that the whole tribe of Langalibalele was running away. . . . As to that paying a fine, however, Mr. M. said to Langalibalele's Indunas that he did not wish to thrust himself in and interfere with an affair which was not his own, but belonged to the S. C.; and he told the Indunas to go to Mahoiza, and speak with him about that matter, as he had been sent by the S. C. So the Indunas went and spoke to Mahoiza, and told him that the tribe together with the Chief desired to pay a fine to the S. C., because their Chief had refused to go to Maritzburg, since he was ill; they were also very much afraid that their Chief should be carried and borne thither. But Mahoiza refused that, and said that he was not sent to make him pay a fine, but only to summon Lan-

galibalele, and that Langalibalele must come and speak with the S. C. about the matters concerning which he had differences with Mr. Macfarlane; so Mahoiza refused to speak about a fine.

80. But 'hoping against hope,' the poor fools, it seems, were not content with these rebuffs of Mr. Macfarlane and Mahoiza, and with their refusal to receive a fine which might atone for the offence of their Chief, or at all events propitiate the S. C. towards him. They sent also a bag of gold to Maritzburg, as an offering to the S. C., and as the earnest of a much larger amount which the tribe had collected for the purpose, all which—a large sackful of gold and silver, as much as a horse could carry—eventually became the prey of Molappo. About this last message, so plainly evidencing the submission of the Chief and the tribe, and the absence of any intention to rebel, not a word is said in the 'Introduction,' though the messengers are mentioned on p. 29. But the following allusions to it occur in the course of the Trials:—

'I arrived at the Kraal Empihlweni the day after Mahoiza left. . . . I heard that the matter was likely to be settled by the payment of a fine by the Tribe, and I returned home to visit my friends, and so became involved in this matter.'—SITOKWANA, p. 43.

'I was sent for by Langalibalele to go to the Amahendeni Kraal, with the rest of the people, to talk about getting some money together in order to offer it to the Government instead of Langalibalele going down to Maritzburg. Mbombo was sent down to make some terms of that kind. After this, when the report reached us that Mbombo had been made a prisoner, for it was so reported, we had another meeting. At this meeting the people discussed what should be done.'—DEKE, p. 99.

81. Mbombo was not exactly 'made a prisoner,' but he was detained and put under *surveillance* for a day or so, in order (apparently) to prevent his giving timely notice of the force leaving the city, which notice, however, was carried to the tribe by his two young men. This is Langalibalele's account of this matter.

Mbombo, an Induna, was sent to Maritzburg to the S. N. A. with money to pay a fine, which was rejected. There was a little bag,

about as large as a man's hand, full of money, all in gold; but he was sent back with it, without having even produced it, because he saw the force [about to start]. He heard, however, the S. N. A. speaking about it, saying that he had been told by Nkosebomvu (the late Chief Justice Harding)—‘Why, Mbombo, I have been told by Mr. Harding that you have come here with money: I don't know how money will help here. However, we shall meet again at Estcourt [*i.e.* when the force arrives there], and then we shall hear about that matter.’

Mbombo was ordered to go and sleep at Zatsluke's (Head Induna of the Government). The boys who accompanied him set off with their horses and got home. On Friday (Oct. 31) Mbombo was allowed to go, and reached home on Saturday evening: he sent a man to Langalibalele early on Sunday morning, and went himself at midday, and reported that the force had now come, and they had now only to run away. So Langalibalele ran away on Sunday.¹

Thus the interval of ten days, during which Mahoiza and his party were comfortably eating beef at Epangweni, was anxiously employed by Langalibalele and his tribe in sending messengers, first to Mr. Macfarlane, then to Mahoiza, and then to the S. N. A. at Maritzburg, to ask to be allowed to pay a fine for the fault of their Chief! There is surely not much sign of rebellion here.

The False Statements of the Messenger Mahoiza.

82. ‘The evidence of Mahoiza has been called in question, more particularly that part which relates to the manner in which he was made to undress, before appearing before Langalibalele, when after tedious delays he was accorded an interview. We shall, therefore, endeavour to place before our readers a summary of the evidence on this point; and, be it remembered, this confirmatory testimony does not come from friendly, but from hostile, witnesses, whose sympathies will induce them to extenuate the circumstances of the case as much as possible.’

¹ He slept on Sunday night at the foot of the Bushman's River Pass, mounted on Monday morning, and passed on; whereas the Volunteers under Major Durnford arrived on Tuesday morning.

Then Mahoiza's evidence is quoted at some length, from which the following extracts will suffice for the present purpose :—

'A messenger arrived saying I was to be taken to Langalibalele but I must be stripped. . . . They then came up, *took all my things from me*, and asked what I had about me. I said they could search for themselves, but I had nothing about me. . . . I considered it very bad conduct to strip me, and take me *naked* into the Chief's presence, but they persisted in doing so . . . We were told to *leave our clothes where they were* and go to see the Chief. . . . After entering the hut, I requested that another of my men might be called in, so that there might be more witnesses; he was also stripped before he was allowed to enter the hut. . . . I asked him (the Chief) if he had any more to say—if so, to tell me to return the next day—but if not, to let me go away altogether, and *cover my nakedness*. . . . *After we had dressed*, I sent back Umhlolo on leaving, to dilly-dally about the place where we had been stripped.'

83. 'Where we had been stripped!' 'After we had dressed!' 'They took all my things from me!' And it turns out that the 'stripping' in question amounted merely to this—that Mahoiza himself put off his two coats at one stroke, and remained in his waistcoat, shirt, trowsers, boots, and gaiters! As he certainly would not have kept on his great coat in the stifling atmosphere of a crowded hut, the 'nakedness' in question consisted simply in the fact that he had his coat off! And his 'dressing' means that he put on his coat again—and, as it was now late in the day, probably his great-coat also! 'We were told to leave our clothes where they were' means, it seems that his two coats, without the pockets being searched at all, were left in charge of his body-servant Undabezimbi, while Mahoiza was conducted to the Chief's hut; and this man, when summoned himself to *have some beer*—(Mahoiza says 'so that there might be more witnesses,' p. 13, but there were two witnesses already of Mahoiza's in the hut, Umnyembe and Gayede)—gave them to another to hold. It is from this very body-servant, UNdabezimbi, that I first heard the simple truth as above, in the following statement (see *App.*), which was read in the office of the

S. N. A., before himself and some twenty Native Chiefs and Indunas, on Jan. 27, 1874.

As they (Mahoiza and Umnyembe) were about to go [to the Chief], there was heard a word saying, 'I say, Mahoiza, what is that thing you have got hidden?' Mahoiza denied; they said, 'Take off, and let us see.' For Mahoiza wore trowsers and shirt and waistcoat, and jacket, and another large warm coat, which he had put on because he thought it would rain, though it was not needed because of their being no rain. Well! when they said 'Take off!' he took off those two coats; there remained trowsers and shirt and waistcoat only [and boots and gaiters, as appears below.] When Mahoiza had stripped off those two coats, they were held by Ndabezimbi; and, when Ndabezimbi was called, he called another of their party, and left them [with him], and went into the Chief's hut. . . . Before he entered the hut, Langelibalele told him to take off his jersey, and leave it outside; so Ndabezimbi took off that jersey, and entered with nothing on but his *umutya* [probably in the same state as Langelibalele himself]. He found there Mahoiza by the entrance, together with Umnyembe and others, sitting and drinking beer, Mahoiza drinking out of a vessel of handy size, but his beer was in a great calabash, which a man could not lift to his mouth, and Langelibalele had just such another.'

And Nofihlela another of Mahoiza's men says (*App.*):—

'So Mahoiza took off his two coats, and there remained his shirt and trowsers and waistcoat. And Umnyembe too took off his coat, and there remained only his jersey. And another also, the son of Magedama [Gayede], took off his jersey, and there remained only his white shirt. But Umnyembe had on also his *umutya*, and so had that son of Magedama.'

84. The testimony of the above two, being Mahoiza's own men, and one his body-servant, cannot be weakened by the crafty remark that they were 'hostile witnesses, whose sympathies would induce them to extenuate the circumstances of the case as much as possible,' by which the writer tries to diminish the force of the following five statements made in Court by *prisoners*:—

'Mahoiza opened his arms, his clothes fell off, [the action of throwing off his two coats], and one of his own people picked them up.'—MHLABA.

'Some one of our people said, "What makes you so stout, Ma-

hoiza? Put your clothes down, and take off your jacket, that we may see." He took off his jacket, put it down, and went to talk to Langalibalele.'—NGWADHLA.

'I was present when the order was given to Mahoiza to undress: he himself took off his own clothes.'—MALAMBULE.

'Langalibalele sent an order by Pangele that, as he was alarmed, Mahoiza must take off his clothes. After that I saw Mahoiza enter the hut *with his jacket off*.'—MANABA.

'Mahoiza then came in *without his jacket*.'—MBAIMBAI.

The above are plainly straightforward statements, the correctness of which there is no reason whatever to suspect.

85. But if there was any doubt at all on this point, in the minds of the members of the Court, why were not these witnesses cross-examined on the spot, and made to contradict themselves and each other? Above all, *why were not Umnyembe and Gayede called*, one himself a messenger, the other a son of a Chief,—who were not only present at the 'stripping,' but were themselves 'stripped,'—to confirm or correct Mahoiza's story? Umnyembe's evidence, as already observed, stops short with his own doings, *before Mahoiza with the 'stripping' came upon the scene*: Gayede, curiously enough, is made to begin his story in Court just *after* the affair of the 'stripping.'

86. Here, however, it is necessary to observe that on the Fourth Day Mahoiza had already materially modified his statements made on the First Day. I had mentioned to Mr. Hawkins, Res. Mag., one of the members of the Court, as also to Lt. Beaumont, the Lieut.-Governor's Private Secretary, as well as to the S. N. A. himself, previously to the examination which took place in his office, that there were grave doubts as to the correctness of Mahoiza's story; and in consequence of this the following interrogation took place in Court.

H. E. requested Mahoiza to describe to what extent he had been stripped.

MAHOIZA said: When they delivered the message that I was to be stripped, because they thought I had a gun hidden away in my possession, as Mr. John Shepstone had at the arrest of Matyana, I opened my coat and said, You can search me and see if I have.

While I was making these remarks, they came up and *took off my clothes*. They intended to strip me altogether, but I said I had no other dress to wear [i. e. no *umutya* or tail-piece underneath], and I was allowed to retain my *trowsers and boots*. They took off my coat, *waistcoat, shirt, and gaiters*.

H. E. enquired: Did they offer to allow you to put on your clothes again when they found you had no gun?

MAHOIZA: I suggested that I should be allowed to put on my clothes again,¹ but they would not consent: they said, 'Let us take him to the Chief as he is,' and in this guise I went before the Chief. Anyone acting under fear would never treat a messenger from the Supreme Power in this way.

Mr. Hawkins asked: Did they give you any beer?

Mahoiza replied: About a quart of beer was handed round, according to Kafir custom; but when I said I was hungry, Langa-libalele said, 'What will you eat? The cattle are all gone!'—p. 26.

Here then Mahoiza admits that he had 'about a quart of beer,' whereas his own body-servant says he had a large calabash of beer before him, just the same as the Chief himself had, more than a man could lift, out of which Mahoiza and his two companions were drinking by means of a smaller vessel, and out of which he himself also had a draught. But Mahoiza also now admits that he was not stripped *naked*, though he says they meant to do so, but at his request they allowed him to retain his trowsers and boots, and *themselves* 'took off his clothes,' viz. his 'coat, waistcoat, shirt, and gaiters.'

87. Now in the Office of the S. N. A. Umnyembe and Gayede were for the first time examined, by the S. N. A. and his body of Chiefs and Indunas, and these were their statements:—

¹ Mhlaba, Langa-libalele's Induna, and Ngwadhla, one of his headmen, and also Nofhlele, one of Mahoiza's party, declare positively that 'on the day when Langa-libalele's people said that Mahoiza was to take off his jacket (his two jackets), as soon as he had done so, he gave them to Ndabezimbi, his man, and went on to the Chief's hut, *without ever asking to put on those clothes again*; he just left them and went, until on his return from the Chief he took them again.'

From what we know of Mahoiza's character, it is most probable that his reply to H. E. is another falsehood, drawn out by the question put to him.

² I had mentioned to Mr. Hawkins that Mahoiza had had a large vessel of beer given him, which he had not mentioned in his evidence in chief.

GAYEDE said that 'Mahoiza himself took off those garments of his, viz. *two coats*, and the rest remained.'

The S. N. A. asked Gayede who took those things off Mahoiza's body. Said Gayede, 'Mahoiza took them off himself.' Said the S. N. A., 'Were Langalibalele's men standing far off or near him?' Said he, 'They were near him.' 'But they did not touch him?' 'No, they did not touch him.' 'By whom were those things taken when he had put them off?' 'They were taken by Langalibalele's people, who gave them to ours.' 'To whom did they give them?' 'I don't know.' The S. N. A. asked Nofihlela, 'By whom were those things carried?' Said Nofihlela, 'By Ndabezimbi.'

UMNYEMBE said, '*Mahoiza* took off his *two coats*; there remained his trowsers, *shirt*, and shoes.' Said the S. N. A. to Nofihlela, 'Did you see them take off his *gaiters*?' Said Nofihlela, 'I did not see it.' The S. N. A. asked Gayede, and he too denied that he had seen it.

Mahoiza began now to speak a pretence and said, 'I had on my shirt also; but, in taking off my two coats, the shirt came up here in front, and my stomach was exposed.' Said the S. N. A., 'Do you also know that, Nofihlela?' Said Nofihlela, 'Sir, I think it was as the Induna says.' Teteleku answered him and said, 'What do you mean, Nofihlela, by saying that now? Did you not tell us plainly at first? And now do you wish to contradict your own words?' The S. N. A. enquired strictly of Nofihlela, saying, 'I desire that you tell me truly whether you saw that exposure of the stomach.' Said Nofihlela, 'I did not see it, Sir.' The S. N. A. asked Gayede, and he too denied having seen it.

Then Mafingo [Induna of the Durban Magistracy, one of the Members of the Court] replied and said, 'Sir, I perceive this day that Mahoiza is a liar. For he told us there, in the presence of the Supreme Chief, that he was stripped of everything, there remained only his trowsers. Again he told us that he was stripped by the people, and did not strip himself; but now we find all the witnesses, who went with him, contradicting him; for we hear that he stripped himself with his own hands, and was not stripped by anyone. Well then! his truth where is it, since he says he was stripped of all his clothes, except his trowsers only, whereas to-day all just say the contrary? He is a liar.'

After that the S. N. A. said, 'I am at a loss, men, because Mahoiza told me a different story at Estcourt, and said he was stripped of all his clothes. And, when asked by the S. C., he said that he was stripped of all his clothes except only his trowsers and

shoes, and that all the upper part of his body was bare. But now he says that his shirt remained and his stomach was exposed. I no longer understand clearly about that.'

Mahoiza's Sensational Story at Estcourt.

88. But a further remark must now be made to show the extent to which Mahoiza's lying has misled the Authorities and the Colony generally. The S. N. A. speaks above of Mahoiza having 'told him a different story at Estcourt,' on Saturday, Nov. 1, on which day both Mahoiza on his return from Langalibalele, and also the S. N. A. with the native force, reached that place, as already stated (77). The 'Introduction' says—

'Exception has been taken to a statement that Mahoiza was driven into the Chief's presence, prodded by, or at the point, of the assegai. We find no such sensational story in evidence, and need not refer to the treatment, further than to mention that he was conducted by an armed guard to the door of the Chief's hut.'—p. xiv.

But the above is not a creditable mode of evading this question. It is perfectly true that Mahoiza dropped in Court this more sensational part of his story; but it is equally certain that he did make such a statement to the S. N. A. at Estcourt—that Langalibalele had kept them waiting a long while, and had ordered his young men to strip them, and they stripped them naked, taking away their assegais and all their clothes, which they threw down and trampled with their feet, in sign of contempt for the S. C.—that they threatened the messengers, pointing their assegais at them, and even went so far as to prod Mahoiza with one from behind, on feeling the point of which he cried, 'Stick it in further! Why don't you kill me at once?' I am confident that the S. N. A. will not deny the substantial accuracy of the above statement.¹ Accordingly the *Natal Mercury*, Jan. 24, says—

¹ Since the above was written, the *Parl. Blue Book* has reached my hands, which contains (p. 33) the following official report from Mr. Shepstone of the

'These messengers were treated in the most ignominious manner. They were stripped (ostensibly to see if poisoned spears were not

'sensational story' which he received at Estcourt from the messengers—or rather from Maboiza; for unfortunately he did not examine the other messenger, Umnyembe, or their companion, Gayede, or any others of the party, consisting of 20 men and boys. It will be seen how much Maboiza's lying braggadocio contributed to convince the S.N.A. of the rebellious spirit of the Chief and his Tribe.

'I have seen the messengers and heard their story. They have behaved with wonderful pluck and propriety, and have settled the question of Langalibalele's defiant and rebellious position. Finding that they were thwarted in every way and put off from time to time, they determined to go and seek him out. [Not so; but after a week or ten days of good living, when the beef began to run short, they sent to report matters to Mr. Macfarlane, who reproved Maboiza for loitering, and ordered him to proceed at once to the Chief (*App.*)]. They were warned that they would be put to death, but they said they would not return without having delivered their message personally. Accordingly they started, and travelled a whole day in charge of some of the Chief's Indunas. Word was sent on to tell the Chief of their approach. They were told to go the next day. When they arrived, they found a large force of armed men, guns, assegais, and battle-axes—guns all loaded. They were subjected to every possible insult, until at length Maboiza said, "Why not kill us at once, rather than insult us in this way? We are messengers from the S. C. to his subject. You insult him, not us. It would be more dignified in you to kill us." On their arrival they were immediately surrounded and made prisoners of. They were stripped of their clothes, and then marched under a strong armed guard, *prodded every now and then with the points of assegais*, to the hut where the Chief was. The hut was full of armed men, and was surrounded outside by others. When they got in they were told to speak. Maboiza said he must see the person he was speaking to, and, if the Chief was there, he must see him while he was speaking. The Chief then ordered him to speak, he being concealed behind his men. Maboiza refused until he could see him, and at last he came forward and scolded Maboiza for having so persistently sought him out—said he would not obey any summons to appear—reviled the magistrate, me, and you—said he wanted to have, and would have, nothing to do with any of us, that, if we wanted him, we could go to him, and even then he would not meet us, but go into caves and live like Bushmen. He said he was afraid to meet us, and then that he would fight for two days, the first with the natives, and especially Pakade, and the next with the whites, and then he would make peace by sending some cattle and money. His conversation seems to have been made up of boasts and expressions of fear, the first of which were applauded, the last rejected, by his people, who were with difficulty kept from killing the messengers there and then. Three of the Indunas exerted themselves to the utmost to save their lives, and succeeded; but they could not save them from the grossest insults and the most provoking conduct. The alleged reason for stripping them was to ascertain whether they might not have about them some means of doing the Chief mischief, such as pistols or poisonous charms.

'A great deal more occurred that I cannot spare time to write, and they

upon them), pricked with assegais, and subjected to every insult. At one time their lives were in danger.'

89. If there is one thing more than another, which excited (very justly) the indignation of the colonists—of myself, at one time, among the rest—against the Chief and the Tribe—which, in fact, set the whole Colony on fire, to demand that the severest punishment should be inflicted on these audacious rebels—it was just this (supposed) outrage committed on the messengers of the S. C., which nothing would have excused. Up to the moment when the S. N. A. reached Estcourt, as Mr. Shepstone says himself, the offences of the Chief were pardonable :—

'If he would only meet H. E., and explain his conduct, *no harm whatever would happen.*'—p. 23.

But from the moment it was believed that he had treated the messengers with such indignity, the cry was raised, very naturally, that he must be dealt with very sharply and summarily. Now, however, it appears that the above sensational statements are utterly false. And, as to his being 'conducted by an armed guard to the door of the Chief's hut,' this probably means merely that the men, with whom they had been seated, quietly talking, about half a mile from the hut, while awaiting the summons to go to the Chief, and who were armed for a reason which appears below (90), followed in a crowd after the messengers to the door of the Chief's hut, as they would be certain to do under similar circumstances, were it only out of curiosity, to see what the end would be.

90. Thus the body-servant of Mahoiza says :—

'So Mahoiza and his party went on straight to the Chief. When they arrived, the men (*amadoda*) were sitting without, a long way

were taken away, as they had been brought, under an armed guard. *Nothing was given them to eat, and they had to do without for some days.* I am glad that they succeeded in seeing and speaking to the Chief, because his conduct and that of his people *have removed from my mind every lingering doubt* that it is absolutely necessary to put him down with a strong hand. If we do not, we may as well throw up the reins of Government altogether : the necessity is laid upon us, and we must discharge our duty, however painful it may be to us to do so.'

—about half-a-mile—from the kraal. Well! Mahoiza and his party sat down there among the headmen. Now all those *amadoda* were carrying assegais and shields; the young men were all mounted on horses, carrying assegais in sheaves on their backs, but none in their hands, with powder-horns bound upon their shoulders, but no guns, except, perhaps, one or two. . . . This was just like the expedition of the S. N. A. to Zulu-land, when the soldiers, who went with him, having loaded their guns with bullets, stood quiet with them, not firing at all, only watching what might be done to their Chief, so that, if they attempted anything, they might shoot them immediately. Well! so those people of Langalibalele did just the same; for it was said that there was a little trick in hand, like that in the attempt to seize Matyana, and then Mahoiza told the story of his mission. There was nothing done but sitting there, and answering one another with words. We never saw many other things [which are talked about]; they did not lift their assegais against us; they did not make feints at us with the assegais, and, as to the sitting upon our weapons, I saw nothing of it; I don't know about others of our party; for myself I am certain as to that.'

91. The Chief's own words, however, are quoted, as confessing his guilt in insulting the messengers.

'The prisoner Langalibalele further admitted that he had treated the messengers with disrespect, in that he had caused them to strip and undress; but he said that this proceeding was a matter of precaution caused by fear. The other indignities offered to the messengers were so offered outside the hut, he being at the time inside.'—p. xiii.

And again after Mahoiza had given his evidence—

'The prisoner was asked if he had any questions to ask these two witnesses [Mahoiza and Umnyembe]. He replied that the only thing he admitted was the stripping the witnesses of their clothes.

'The S. C. asked the prisoner why he had allowed the messengers to remain undressed, when he found they had nothing?

'The prisoner evaded the question, but said the messengers were in the hut, and they were afterwards allowed to put on their clothes again.'—p. xiii.

How did he *evade* the question? He was not himself present, he says, when 'the other indignities were offered

to the messengers,' taking for granted that they had been really offered as charged against him in the Indictment, which said that he had 'insulted them and *treated them with violence and contumely.*' He admitted that he had treated Mahoiza with 'disrespect,' so far as the 'stripping' was concerned. But, when Mahoiza entered where the Chief was sitting, who had probably nothing on but his *umutya*, he was abundantly clothed for the inside of a crowded hut, and would hardly have cared to put on his coats till he went out into the open air again.

92. But, when it was enquired of Langalibalele if he had anything to ask the two witnesses, the mockery of such an invitation can only be appreciated when it is remembered that Langalibalele had been kept in *solitary confinement* from the day when he arrived (Dec. 31), and was so kept till after sentence was passed upon his sons (Feb. 27), not being allowed to speak to one of his sons or his other fellow-prisoners, or any other members of the tribe, or to receive help from anyone outside the gaol, whether white man or black.¹ It was only in the most stealthy manner that the Chief contrived to send a message to Mr. J. B. Moodie, who speaks the Zulu language thoroughly, and had been known to him of old, that he wished to secure his services as an advocate; Mr. Moodie, however, was not allowed to see him or to lend him any assistance on his trial. He was, therefore, totally unaware of the fact that Mahoiza's evidence was in many respects false, and must have fully supposed that the 'indignities' in question really did take place, as stated by Mahoiza, though not committed in his presence and exceeding his order. And how little could he have imagined that Umyembe and Gayede, if asked, would have contradicted Mahoiza on some material points, or that the fact of Umyembe's evidence being cut off *before* the 'stripping,' and Gayede's

¹ Incredible as it may seem, this is literally true, except that twenty women saw him on the day after his arrival and two women on some day afterwards. His three younger sons were employed in emptying his cell, &c.; but the one who went for that purpose was not allowed to speak to him.

taken just *after* it, would be a matter of so much importance to himself!

93. Zatsshuke also is quoted, p. xiii., as saying that the prisoner's treatment of the messengers was 'insulting the S. C. in the grossest possible manner.' But then it must be remembered that Zatsshuke said this on the First Day, before any evidence had been produced, and that he had been present when Mahoiza told his sensational story at Estcourt, as the S. N. A. said in his Office (*App.*)—

'What! don't you perceive that these witnesses all contradict Mahoiza? Why, when I was at Estcourt, did not Mahoiza tell me that he was stripped of all his clothes, there was nothing left on his body, he remained perfectly exposed? Were you not there with me, Zatsshuke? and you, Manxele?'—

that at that time he thoroughly believed Mahoiza's story, and held the Prisoner guilty for the 'indignities' committed by his men. Thus it is simply untrue when the '*Introduction*' says—

'Not only is there, therefore, the admission of the prisoner Langalibalele, but a mass of evidence, as to the gross insults offered to the messengers of the S. C.'—p. xiv.

There is no such evidence, and when it is added—

'If proof as to the observance of punctilio is considered necessary, let us remember that Langalibalele himself expressed his dissatisfaction that Mabudhle sent him word, as to the action at the Pass, by a young man, instead of by a man whose age would have better entitled him to an audience with his Chief'—

it would seem only proper that the Chief should have desired to hear the details of so grave an occurrence from a staid man of experience instead of from a mere youth, without any reference to the 'observance of punctilio.' But I can find no proof in the evidence of his having expressed any dissatisfaction, as above; and he has assured me that the statement was utterly false—that he knew that under the circumstances a young man must have been sent, as the Indunas were occupied in getting the cattle up the Pass.

94. I have no wish to bear too hard upon Mahoiza. He has been—for the last fifteen years, I think—a small tenant of mine, and in former days I regarded him as a slippery and doubtful person, and certainly, from my own knowledge of him, he is not one whom I should have thought especially fitted—except as being a ‘sterner’ man than Umnyembe—for a difficult business like this, involving such grave responsibilities, and, as it has turned out, ending in the ruin of a tribe of 10,000 people, besides Putini’s tribe of 5,000, also dragged into the abyss. But in those days Mahoiza was a mere petty policeman. A few years ago he was made Induna to the Magistrate in Maritzburg, on the removal of Ngoza and his tribe to Matyana’s vacant territory, Kwa’Jobe, in the North of the colony, not without strong remonstrance, however, from some of the people then put under him, who had no confidence in his integrity. However, the S. N. A. examined into those objections as soon as he returned to Maritzburg from publishing the Marriage Law, and when Mahoiza had been already for some months seated in his post, and discharging his duties, no doubt, to the satisfaction of the Magistrate. The objections in question were overruled by him, as arising from mistake, or perhaps due mainly to prejudice and jealousy; and from that time, of course, I have felt it to be my duty to show all proper consideration for Mahoiza as Induna to the Magistracy. When, moreover, I heard how bravely he had borne himself amidst the ‘insults’ and ‘indignities’ heaped upon him by Langalibalele’s people, I felt rather proud of my tenant, and began to think that I had done him injustice in my former low estimate of his character.

95. Even now, when his false statements have been fully exposed, I do not wish to represent Mahoiza as worse than many another among his fellows. The people were, no doubt, in a state of alarm; their language was probably more or less excited, suspecting, as they did, that he meant, perhaps, to try to assassinate their Chief; and it would be absurd to suppose that there were no head-

strong and violent spirits among 10,000 people; though, in point of fact, they did no harm whatever to the messengers, who had been kindly treated and liberally supplied with slaughter-oxen and other kinds of food all along. But Mahoiza it seems was terribly frightened, as a friend in Weenen County writes—

‘ A Kafir of Langalibalele’s, who was present, and who is now at large, told a neighbour of mine that he (Mahoiza) was so frightened that he could not deliver his message properly.’

And he was glad to start at daybreak on Thursday, and get safe away out of the Location; though, instead of hastening with all speed to Estcourt to report the treatment he had received, he loitered on the way (77), drinking beer the first night, and eating beef the second, and only reaching Estcourt on Saturday, in time to tell his exaggerated story to the S. N. A. on his arrival. The Chief had refused to come, when summoned; the *impi* had arrived, and the tribe was to be ‘eaten up’: a few more falsehoods thrown into the scale, by which his own courage would be shown in bold relief, would not matter much under such circumstances; and assuredly he never expected that his story would be closely questioned and the truth brought to light.

96. But, when it appears that, instead of his being stripped stark naked, deprived of his arms and all his clothes, prodded with an assegai, &c., as he said at Estcourt,—or stripped naked, and insulted by the people pointing sticks and assegais at him, and trampling and sitting upon his assegais, as he said on the Second Day in Court,—or stripped to his trowsers and boots, and supplied with a quart of beer, as he said on the Fourth Day in Court,—or stripped to his trowsers, boots, and shirt, only the shirt came up over his stomach, as he said afterwards in the office of the S. N. A.,—he only himself put off his two coats, which were not trodden upon, but taken by his body-servant, who saw nothing whatever of the trampling and sitting upon his weapons, or the pointing

of assegais at him, and who had his draught of beer out of the large calabash, from which, by means of a smaller vessel, Mahoiza and his two companions were comfortably drinking in the Chief's hut,—it is plain that any statements of Mahoiza, which may bear against Langalibalele and his tribe ought to be received with very great caution, or rather ought to be in all fairness rejected, unless confirmed by other more trustworthy evidence.

The Story of Matyana.

97. But *why* were the coats taken off? Was not this act in itself an insult to a messenger from the S. C.? Undoubtedly it would have been, had it been merely a wanton proceeding, and not, as the Chief said in his plea, 'a matter of precaution caused by fear.' It is strange—most strange—that throughout this whole '*Introduction*,' as also in the somewhat lengthy '*Judgment*' or '*Sentence*,' there is not the least allusion to the real reason for this act, which was probably well known to every Kafir in the Court and in the surrounding crowd of auditors, and of which the European members of the Court, except perhaps the S. C. himself, were more or less cognizant. Moreover, the fact in question was several times referred to in the Trial itself:—

'They were afraid he might have the same pistol which Mr. John Shepstone had *when he arrested Matyana*,' p. 112.

'He was afraid we might have a gun or pistol about us, as Mr. John Shepstone had *when he arrested Matyana*,' p. 13.

'They thought I had a gun hidden away in my possession, as Mr. John Shepstone had *at the arrest of Matyana*,' p. 26.

Now it is certain that Mr. John Shepstone never did arrest Matyana: the above statements therefore in the Official Record would for ordinary readers, in Natal or in England, be utterly misleading. Not a question, however, was asked by any member of the Court in order to ascertain more clearly to what the above passages referred, nor, as

above mentioned, is the slightest allusion made to the matter either in the 'Introduction' or the 'Sentence.'

98. What Langalibalele meant, however, and what is undoubtedly believed and asserted by the natives to have taken place, is given here in Langalibalele's own words as follows.

Statement of Langalibalele.

'When Mahoiza came, Langalibalele remembered the old story of Matyana. For Matyana was said to have had a hand in killing a man, and, when summoned, he was unwilling to come. At last an *impi* was led against Matyana, and his cattle were eaten up. Matyana was summoned again and refused to come, and at last a trick was contrived by Mr. John Shepstone, who had led the *impi*, so that he should be cleverly summoned by enticement. And, when he came, Mr. John told all the *impi*, part to take post by their (Matyana's) arms [which were ordered to be laid down some distance off], part to await the sound of Mr. John's fire-arm, and, when he had hit Matyana, to come and seize him. So Mr. John concealed a fire-arm under a mat by his feet. When Matyana came, he sat down with a long staff in his hand; and, while they were talking, there! Mr. John fired at Matyana, but missed him! So Langalibalele, when he saw that Mahoiza had come, remembered that he too, like Matyana, had long been summoned and had not gone [to Maritzburg], and therefore wished that Mahoiza should take off his jackets, lest he should fire at him as Mr. John did at Matyana. For he heard that story from his own people who had marched against Matyana. However, the word did not originate with himself, that Mahoiza should strip. It was Mabudhle and Mbombo who suggested it, remembering that affair of Mr. John and Matyana: they said, "Don't we know how cunning the white men are? Take off, and let us see! We, too, were there at Matyana's affair!"'

99. This again is the statement of an eye-witness, Madhloi, son of Putini, now an elderly man.

Statement of Madhloi.

Matyana having once killed a man, the Authorities made him pay a fine [500 head of cattle] for that. Some time afterwards a man [Sigatiya] was killed by some people of Matyana's. When that matter came to the knowledge of the Authorities, Mr. John was sent with a force of Langalibalele, Putini, and others. They marched

against Matyana [and ate up his cattle], but found that he had escaped from among his kraals, and was now living in the mountains. Mr. John summoned Matyana, but he refused to come. The great men of the tribe, however, consented to go to Mr. John, because he promised that, if they would all come, he would treat them kindly, and not do any harm to them or to their Chief. At last he sent a great man, Nogobonyeka, to go and summon Matyana, and say that he had better come and talk over the matter, and promise that no harm would be done to him through his coming. Nogobonyeka went and severely scolded Matyana, saying, 'Why did he refuse to come, when summoned by the Inkos'?' But Matyana refused, saying, 'I don't quite understand what is spoken by the Inkos', viz. that the matter is at an end and there is no more fault. If it were at an end, why should I be sought for?' However the men agreed with Nogobonyeka, and so Matyana consented, and started with his force and went to Mr. John.

As Matyana was on his way, armed with his weapons, Mr. John sent messengers to him to say, 'Let the weapons be left there, and all the people come with one stick only.' Matyana took note of that. But, when he came, he sat down in one place and the Inkos' in another, at a little distance from each other, and it was said to Matyana, 'The Inkos' asks why you did not come at once when you were called.' Immediately Mr. John fired at Matyana, but missed him. Matyana started up and ran away, escaping from among his people; and Mr. John fired at him a second time, with a gun about as long as the arm from the elbow downwards, and missed. The people fled, and Nozityina, Mr. John's Induna, tried to seize Matyana; but he fell down, and injured his knee. Madhloi saw this with his own eyes, and he and the rest of Mr. John's force sprang up and poured themselves upon the people of Matyana.'

This is the statement of another eye-witness, Ncamane, described in the '*Introduction*' as 'an old man of the tribe who took an active part in politics,' p. xv.

Statement of Ncamane.

'Ncamane had long been a dependant of Mr. John [Shepstone], some time before the march against Matyana. And so on the day when the force of Langalibalele's and Putini's men, and those of some other black Chiefs, went against Matyana, under Mr. John's command, Mr. John, as soon as he saw Ncamane in the midst of Langalibalele's force, took him, because he knew him, and made him Induna over Putini's people.

When Matyana was summoned, he refused for a long time to come. Thereupon the Inkos' called him by enticement, and at last he came. While on the way he was told to lay down his arms on the other side of a hill, for they were coming armed. Now the Inkos' had told Ncamane that he was going to kill Matyana, and that they must hasten instantly and stab, at the flash of his gun.

Well! Matyana's people with their Chief arrived, having no longer their arms, and sat down. Mr. John was sitting with his Induna, Ncamane, and Mbalekelwa, and Nozityina, and some others, nine in number altogether. Madhloi, Putini's son, was not among those, but with another part of the force, which was divided, part staying with the Inkos', and part where Madhloi was, and part taking post by the arms on the other side of the hill.

While they were all sitting, Mr. John asked Ncamane and the other Indunas, 'Are you all ready?' On their saying 'Yes!' Mr. John fired at Matyana; the bullet went past him, and hit a head-ringed man of Matyana's, Deke, in the knee, and he fell. Mr. John cried out 'Away with the villains!' [*bambani abatakati!*—the words used by Dingane when he ordered the massacre of the Dutch Boers, and still used in Zululand to order the execution of criminals] and fired again; the bullet hit another head-ringed man in the side [of the head] and he died; for that gun was a short one with two mouths. Matyana fled, and Nozityina tried to seize him, but broke his knee and fell down. Ncamane stabbed one man at that place, and his two sons also stabbed two people.

The rest of Matyana's force ran straight for the place where they had laid down their arms, but found Mr. John's already there, and many of Matyana's people, being unarmed, were killed. Matyana escaped and went to Zululand and outwitted them.'

This is the statement of Deke, another eye-witness, the man spoken of above as wounded in the knee by the bullet meant for Matyana.

Statement of Deke.

The words which Deke knows are those which concern the day when Matyana was summoned by Mr. John Shepstone to Izituli, a kraal of Matyana's. This, however, was not the beginning of his being summoned; he had been summoned long before, though Deke himself was not present on any other occasion, as he stayed at home, being a man who was continually invalided, as he still is to this day.

Well! on the day when they went to Izituli, Matyana having been summoned thither, all Matyana's people arrived armed with

their weapons. When they had arrived, Mr. John said to them, 'Where are you going with these weapons? Would you have done this in Zululand, eh? Is there anyone who carries arms when summoned by his Chief? Go back! I will summon you to come another day, and come without arms.' So they went home.

They were summoned accordingly on another day, and they were ordered to leave their arms; but they went with them. While they were on the way, there came Nogobonyeka and Ncunjana; and said Nogobonyeka to Matyana, 'Where will you be received? Has Makaza's daughter, whom you have just taken to wife, put you up to this? Where are you taking your petty weapons to, which you are continually carrying? The Inkos' says, Lay down your arms all of you, and go to him without them.' And so after that they all set off and went there, all of them leaving their weapons, except three assegais of Matyana which were carried by his man Nomqoza; all the people carried sticks only.

When they arrived there, they sat down. The three young men, who had killed Sigatiya, were ordered to tell their story, and so they told it saying, 'We did not kill Sigatiya; he was killed by our Chief (Matyana).' Then Matyana was ordered to tell his story; whereupon Mpako got up and contradicted those three young men who had killed Sigatiya, saying they were liars. After that, almost immediately, there was heard a great sound of horses, and they stared around. Says Deke, 'I was startled—for we were sitting down, and were surprised by that sound of horses hidden from sight, Matyana sitting in front of me a little, and I in front of the row of men with whom I was sitting—I was startled to find Matyana suddenly climbing over me, and, as I was rising, the bullet was already in me, and I fell and swooned for some time, and, when I was just about rising, having come to myself, they stabbed me with an assegai here in the side, and I fell back again on the spot. While I was still in my senses lying there, I saw our people snatching up rubbish, and driving back Mr. John's men, who were driven back by our men saying "Ah! the liars!" There died the son of Mben-gana and the son of Gwaisa, and Sondhlovu, and others: I did not see their death, for I had now swooned; I heard of it from our people, when I was sitting with them after I had recovered from my swoon. But I saw Sondhlovu brought in wounded.'

Such, says Deke, was the overthrow of Matyana's country. It was on that account they died, because they had no arms; for, if they had had them, they would have fought resolutely. He himself was brought down by that wound above the knee, caused by the bullet of the fire-arm which was fired, as he believes, by Mr.

John, meaning to fire at Matyana. Afterwards they stabbed him in the side with an assegai while still lying, before he had risen. Those two wounds are still to be seen to this day.

Dekc also shows where Matyana set his foot upon his knee as he sprang over him. He was sitting about three yards off, and, springing (he supposes) when he saw the gun produced, he set one foot midway on the ground between them, and then the other on his knee, just above the mark of the bullet-wound.

Lastly, this is the statement of Noju and Mabona, two Indunas of Matyana, who were sent by the Zulu King from Zululand to give information about this matter.

Statement of Noju and Mabona.

In the first instance Matyana killed Vela, his father's brother, and his two sons. The Authorities fined him 500 head of cattle, and that matter ended.

At another time Ntwetwe was sick, and the wizards were consulted, who smelt out Sigatiya, saying that he was an evil-doer who was killing Ntwetwe with a medicine. They went to report to Matyana that Ntwetwe was very sick, and was being killed by Sigatiya. Matyana said he ought to be expelled from his land. A great man of Matyana, Mpako, said, 'Chief, we ought to manage to bind him with cords, and then he will show us the poison with which he kills.' Matyana refused, saying, 'There is no person who, if a man, and not a woman, would confess to his poison; for even a woman practising witchcraft does not confess: he must just be expelled.' Thereupon Mpako went, not having secured Matyana's consent; and, without his knowledge, he took four young men, and went with them to Ntwetwe's and said they were to catch and bind Sigatiya. So they bound him, and after a little while Ntwetwe died; and on his death three young men, connexions of Ntwetwe by birth, set upon Sigatiya, bound as he was in both arms, and tortured him severely, till at last his shoulder-blades were dislocated.

The next day Matyana heard that and was very angry, because he had told Mpako that he was to be sent away, and must not be bound; he now sent a man to say that he must be released immediately. Thereupon he was untied; they carried him still alive and took him to his kraal, but on the way he died. After his death his wife went to the Authorities at Ladismith, to inform them about her husband. She came and told the Authorities, 'I have come to report that my husband has been killed by Ntwetwe's people.' Again and again she told the story to the Authorities, until several

days passed without her receiving a satisfactory word from them. Thereupon certain five of the police, Jantyi, and Luqutyululu, and Nsimbini, and Bejana, and Halmansi, advised the woman, saying, 'You had better not say that your husband was killed by Ntwetwe's people; you should say that he was killed by Matyana: then you will obtain a satisfactory word, and the Magistrate will cease to be continually inquiring closely of you again and again.' Through that advice the woman consented, and said that word to the Authorities.

After that policemen were sent to fetch Matyana. Said the police, 'We have come to summon you about the dead man, that you may explain to the Authorities whether he was killed by you or not.' Said Matyana, 'Why, did I not say that the man was to be expelled? Well, then! if he has died in this way, how do I know?' Thereupon he took those three young men who killed him, and gave them to the police and his Induna, Mtikazana, who took them to the Magistrate to say for him that he knew nothing about the matter of killing Sigatiya. Those three young men were bound with cords, and taken by the police and Mtikazana, while Matyana remained at his kraal.

When the young men came to the Magistrate, they confessed that he died through their act, because they had bound him seeing that their relative was dying. Several days passed while those young men were examined continually, and repeated the same thing. Afterwards those same five policemen said to the young men, 'You ought not to say that Sigatiya was killed by you; you should say that he was killed by Matyana; then you will get off.' After that they agreed to what the policemen said, and, when the authorities examined them, they said, 'Sigatiya was killed by Matyana.'

Policemen were now sent to fetch Matyana. But Matyana said to the messengers, 'I don't know for what I am summoned by the Authorities, since I have sent in the young men who killed that man.' He then assembled all his great men, and told them that they must go to the Magistrate, and explain clearly that Matyana knew nothing about the death of Sigatiya. The men went, and finished all those words of Matyana, that he was not in fault, and that he had said the man was to be expelled, not killed. The Authorities said, 'Since Matyana has not come to account for himself about this matter, go and tell him to get ready his weapons, for we have now come; go you night and day, and tell him this.' So those great men returned, and came and told Matyana. And, in point of fact, in a very few days the force came, and ate up the cattle; but Matyana escaped and crossed to Zulu-land.

After a while Somtseu (Mr. Shepstone) arrived in Matyana's country, and spoke with all Matyana's great men saying, 'Men! what do you mean that, being such great men, you are overcome by just a little matter? Is there any great matter which overcomes men? Since I assembled you together, have you performed your word?'—meaning that they ought to contrive some plan for inducing Matyana to return, that the charge might be talked over. So some men went to Zululand and told him that he must return to his men, and set right his house that it might not be ruined; and Matyana consented and crossed over to this side. For the men were lamenting much after the spinach in their deserted kraals (*imbuya*, which grows in such places). After a while Somtseu returned before Matyana arrived, and left there his brother, Mr. John, at a kraal in the country of Matyana. All the cattle were by this time eaten up: the greater number had already been removed, but a few still remained behind.

When Matyana arrived in his country, Mr. John sent to call him. The messenger was sent with words to this effect, 'The Inkos' says Matyana must come that they may talk over the matter of Sigatiya; for the Inkos' also sees no fault in Matyana; therefore his cattle ought not to be dispersed for nothing. When they shall have talked that matter over, the Inkos' will restore all his cattle.' So Matyana went to the Inkos'; and, when he came, Mr. John said, 'I cannot talk with you to-day; you had better return, and I will send a letter to Maritzburg, and, as soon as I get an answer, I will send a policeman to tell you its contents without your coming.' So Matyana went back to his kraal.

A few days afterwards there came a policeman and summoned Matyana. He said to the policeman, 'Did not the Inkos' say that he would send and tell me the contents of the letter? Well! why then am I to go?' Said the policeman, 'Never mind! he says you are to come, but without your assegais.' So Matyana went, but he and his people took their arms; and on his arrival Mr. John said, 'It's no matter; go back again to-day; I will send a policeman for you.' So he returned; and after that the policeman came again to call him saying, 'Don't bring your assegais.' Said Matyana, 'Is there any man who, when he thinks he shall be killed, leaves his weapons behind?' However Matyana went to Mr. John, he and his people taking their arms, as before; and on his way Nogobonyeka came and said, 'The Inkos' says you are to come.' Said Makaza, another man who was going with Matyana, 'What do you mean by summoning the Chief into (a force) danger?' Sondhlovu, Matyana's father's brother, struck with his staff a man, Ncunjana,

who was going with Nogobonyeka. Said Nogobonyeka, 'Do what you will, before the sun is down you will have had enough of the force, since you desire to fight.' Matyana answered, 'Men! you are leading me into danger, and it is very much against my will; for we shall die without ever rising again; else I would have called you to account sharply.'

Well! Nogobonyeka called Matyana and said he was to come. Then there came another message, by two men of Matyana's, Ngudu and Nguza, who were staying with Mr. John, and these two were sent by him to call Matyana. They came and said, 'The Inkos' says, you must leave your arms and not bring them with you; but, if you bring them with you, you had better let him know that he may fire also.' So they left their arms, about a mile away, and went on to the Inkos'.

When Matyana arrived without his arms, they all sat down a few [about 20] yards off. Mr. John's wife was there outside, together with Mr. John. Afterwards she went to the hut. Then there came a son of Makasi (half-breed or Bastard) to look attentively at Matyana; he came and stood a long time, and then returned to the hut, and when he came back he had put on a shot-belt. The people began to complain at this, thinking they were to be killed. He came to Mr. John's wife, and returned and mounted his horse with the police. The lady went to the hut again, and then Mr. John called to her in the white men's tongue.

Matyana was sitting in front of his people, with a man on each side of him, Deke on the right, and the son of Mbengana on the left a little behind them. While Matyana was sitting, because the sun was very hot, he took the travelling-shield of Noju to protect his head from the sun. Noju and Mabona [the two witnesses] were sitting a little behind him, with the other head-ringed men. The young men were sitting on the sides, the great men sitting with Matyana in front.

Well! when they had arrived, those three young men were ordered to tell their story. They said, 'Sir, we know nothing about it: Sigatiya was killed by Matyana.' Then Matyana was told to speak. Whereupon Mpako started up and said, 'Not so, Sir! Sigatiya was killed by those three young men: Matyana knows nothing about that matter. Moreover, I was the person who was the cause of that; for Matyana had forbidden that the man should be bound; but I ordered that he should be bound, and then he would tell us what poison he used for killing. Those boys say that he was killed by Matyana; he was killed by them.' After those words all Matyana's people heard a great clattering of many horses

galloping by, without being able to see them; they started, but saw nothing, those horses being hidden from sight. While they were still staring about, Mr. John's fire-arm sounded, and the bullet entered Deke's knee and he fell. As they all sprang up from the ground, Mr. John fired again, and the bullet entered the head of the son of Mbengana, and he died on the spot. All then ran off, Noju and Mabona and many others not even stopping to pick up their sticks: Matyana leapt up among his people two or three times, and left them all behind. When they ran away, and saw Matyana jump up, they thought he was dead by his springing as if he would fall, and jumping up again. For seeing at the same moment the smoke, and the falling of those two men, Deke and the son of Mbengana, and his leaping over several rows of men, they thought he was light, because he was dead and the bullet had killed him [in accordance with native belief in such a case].

While thus running they saw Mr. John's people stabbing Sondhlovu, who had called out to them, 'Have you left my child?' meaning Matyana; 'Go back and fight; don't run away.' For a while they were for returning, borrowing sticks from one another, and picking up stones, for their hands were empty; Mr. John fired a third time, but the bullet missed, and then they finally ran away. Nozityina ran and tried to seize Matyana, but he hurt his knee badly and fell. Matyana ran and got upon the hill iLenge, and when on the top he shouted, 'There's your fine spinach [*imbuya*] which you said you would eat in your old kraals!' [such herbs growing freely on the sites of abandoned kraals]. All his men, who rushed for their arms, found Mr. John's force already posted, having got there just before them. Sicanulo, brother of Mahedeni, just managed to snatch an assegai or two, and ran off with them; but one of the police shot at him, and grazed him with the bullet, and he still lives Kwa'Jobe with the mark of the wound in his body. Mr. John's force stabbed many—about a hundred—of Matyana's people, old and young, indunas and common men, as they came up with them worn out with running, and without arms, for the force cut them off from their arms. Mr. John killed one man; another, Deke, recovered and lives here Kwa'Jobe to this day.

When they had now run away thus, one of Matyana's men, Homoi, took off his *umutya* and gave it to Matyana, and he put it on, while the other took Matyana's, that so they might not see that it was he, but think it was only a common man. And when they fled, Mr. John following them on horseback with the son of Makasi (a half-caste), wishing to see Matyana and kill him, there came out of the bush a head-ringed man named Mudemude, now dead, and

stabbed Mr. John in the stomach. He had a very short assegai (*isingindi*) which he had hidden without Matyana's knowledge, as had one or two others; the rest had none.

There was a skin spread on the ground before Mr. John; and some say that a fire-arm was hidden under it.

100. It is painful, for many reasons, to revive a matter which occurred many years ago; and only the necessity of the case, in order to do justice to the prisoner and explain the reason of the precaution in question, compels the allusion to it here. Whatever the truth may be, it is certain that the above was most fully believed by Langalibalele and his people, and that the act in question was not, as would appear from the '*Introduction*' and the '*Sentence*,' a mere wanton insult, but was dictated by a very genuine fear that, being in exactly the same situation as Matyana, Langalibalele was in danger of similar treatment, and of an attempt being made to kill him unawares. Of course, if a recognised agent of the Government could make such an attempt, they would only conclude, and no doubt many natives throughout the Colony at this day believe, that it was done with the knowledge and connivance, if not by the express order, and with the full approval, of the Government. And what one such agent had done might be done by another. And this fear was heightened by the report being brought to the Chief that a pistol had actually been seen concealed about Mahoiza's person. Thus Umpiko tells us,—

'When I got there, I found Langalibalele had been startled by the very hard words used by Mabudhle, Nkunjana, and Magongolweni. I found they had reported that Mahoiza had *something with him*, and therefore Langalibalele said he would not go, but the great men must go down to Mahoiza.' p. 79.

'I went to where Langalibalele was, and, on reaching the Entabatabeni kraal, I found a story current that a pistol had been seen under Mahoiza's coat. I protested against this being believed as true, because a large number of us had seen Mahoiza and all he had about him, and how was it possible that one boy [*i.e.* young man] alone should see this pistol when all the other eyes had not seen it? Surely all the other eyes were not blind!' p. 80.

' How was it possible that, on the assertion that some boy had said Mahoiza had a pistol, they could act in that way? Had not they themselves seen Mahoiza, I asked, and had they seen any pistol? They admitted they had not seen the pistol, but had heard the rumour.' p. 81.

101. I repeat, it is strange that both the '*Introduction*' and the '*Sentence*' should omit all allusion to the circumstance that the Chief and his tribe were possessed with the idea than an attempt might be made to shoot him, as had formerly been made, they believed, in the case of Matyana,—which at once explains the fact of Mahoiza's having been required to take off his coats, lest he should have a pistol in his pocket, and relieves that act from the appearance of being a wanton insult, as implied by the bare statement that the messengers were stripped by the Chief's order. Of course, the amaHlubi, if they must leave the Colony, desired to take with them their Chief alive; and, when he consented, much against his will, to have the interview with Mahoiza which the latter pressed upon him, they very naturally took the precaution in question; and, if it was 'disrespectful' to the messenger, as the Chief allowed, yet there is not only much to explain, but much to excuse, such an insult, if there was any ground at all for the belief, which certainly possessed their minds, as to any kind of treachery having been practised in the case of Matyana.

Langalibalele's supply of Slaughter-cattle to Mahoiza.

102. 'Another point, which has been called in question, is the number of cattle furnished to the party under Mahoiza. At the meeting with the Chief, Mahoiza complained that he had only received three head of cattle. It must be remembered that his party numbered about twenty, and that he arrived at the chief kraal, Epangweni, in the Location on Oct. 11, and was not allowed an interview until Oct. 28 at Nobamba, so that the complaint appears on the face of it to have some foundation in fact. Ncamane, an old man of the tribe, who took an active part in politics, volunteered the statement, p. 62, that

Mahoiza had only been furnished with three head of cattle, and further adds, that only one of these was the private property of the Chief.' p. xv.

I am not aware that anyone has 'called in question' the number of cattle furnished to Mahoiza, beyond what occurred *privately* in the office of the S. N. A., when no whiteman but myself, besides the S. N. A., was present. Mahoiza and his party, however, arrived at Epangweni on Oct. 18 (77), *not* Oct. 11, and therefore stayed there only 10, *not* 17, days (78). Now during those 10 days those twenty men and boys ate up *five* head of cattle, *viz.* four of Langelibalele's, three oxen and a white heifer, and an ox of Putini's, at the rate of a whole beast in two days—and even had their stay lasted 17 days, they would have eaten at the rate of two head of cattle a week,—besides other kinds of food, as maize and *isijingi* (porridge mixed with pumpkin), with which they were supplied abundantly. Moreover, they had a *fifth* ox of Langelibalele's given to them, which ran away from them, and a *sixth* was coming, from which they themselves ran away, through starting at the first peep of day on the morning after the interview with the Chief. As Mahoiza was sent on a public affair, and not on a private message to the Chief, there was no reason to expect that he should expend his 'private property'¹ in entertaining so very unwelcome a visitor.

103. In proof of the truth of the above assertions, I make the following quotations from *Statements (App.)* made, or read, in the Office of the S. N. A., which, after the experience we have had of Mahoiza's character, may be regarded as more trustworthy than his evidence.

'The next day they set off and reached Epangweni, a kraal of Langelibalele, where they slept, and had a young three-year-old ox killed for them. . . . On the *second* day they slaughtered another ox.

¹ We observe that, when the argument against Langelibalele requires it, a chief may have 'private property' in cattle, as well as other members of the tribe; whereas elsewhere, when it suits the argument, all the cattle and property of the tribe are the Chief's.

. . . On the *third* day they slaughtered another third beast. On the *morrow* they slaughtered another fourth beast. And the *next* day they slaughtered a white heifer which came from Langalibalele. That fourth one came from Putini, having been asked for by Mahoiza. The others came from Langalibalele and his people.' NOFIHELLELA, who also told me that one ox given to them ran away.

'Langalibalele had slaughtered for them three oxen previously, *i.e.* a young three-year-old, and then two oxen; and there was another from Putini's, and lastly a white heifer, besides that which they left by running away at day-break on the day they went to Mr. Macfarlane.' *Ib.*

'But, Sir, during our stay there, we slaughtered a three-year-old ox at Mahlala's at whose kraal we slept. I was told to go and ask for another ox from the Induna, Macaleni; I went, and Macaleni said, 'Have you already finished the other?' . . . I turned, intending to go to our kraal, and lo! there arrives another three-year-old ox coming from the Induna, which was slaughtered the next day. After that we heard that the Chief had said that Macaleni should find us a fine beast, and the Chief himself would find us another, that Mahoiza might be honoured with the slaughter of those oxen. While we were still looking, Macaleni was already bringing a small three-year-old ox; and there came also a heifer which was said to come from Langalibalele himself. What then, men? Why do you say that we are not to say that those cattle came from Langalibalele? I, for my part, considered that they did come from him, because they came from his Indunas; they were cattle of the Chief's place.' NOFIHELLELA, before the S. N. A.

104. The following Statements are by Undabezimbi, Mahoiza's body-servant (*App.*)

'They started from Maritzburg on Saturday. As they went, they were continually supplied with goats and oxen at all the kraals until they arrived at Mr. Macfarlane's on Thursday. They slept at the kraal of one of his Indunas (Umtiyizelwa). Mr. M. gave them a sheep for food, and sent an order to that Induna to find an ox for them; but that ox never appeared. Well! they proceeded and reached a great kraal of Langalibalele named Epangweni. The Induna took them to a small kraal beyond, and they slept at that kraal (Oct. 17).

They stayed there a fortnight [10 days], getting slaughter-oxen continually coming from the Chief and from the people, and ate comfortably during all those days and were filled, having such food

prepared for them as they liked, together with meat: only they got no beer from Epangweni [because the women were running away, and there was no grain steeped.] The cattle, however, which they ate were three oxen and a heifer, besides a fifth which Mahoiza asked for from a man of Putini's. But when that heifer, the fourth beast, came, the man who drove it told Mahoiza pleasantly that he had better eat slowly that heifer's meat, because another ox would not soon arrive, so that he should eat it slowly, and not be in a hurry to finish it.

105. The following is by Mhlaba, the Induna of Langalibalele (*App.*)

'Langalibalele gave Mahoiza three young oxen for food, and lastly a white heifer—four head of cattle. Also at those kraals, where he lay, he was supplied with food and ate comfortably. The fifth ox, however, was that which was sent for by Langalibalele on the day when he conversed with Mahoiza. . . . It arrived upon his footsteps when he was already gone.'

And this is the statement of Langalibalele himself.

'Mahoiza slaughtered four oxen; one other ran away while he was at Epangweni; another he left behind at Singcungu's, by rising so early the day he started; it was to have been fetched for him from some distance that he might slaughter it. This would have made *six* head of Langalibalele's cattle, besides one of Putini's.'

106. Thus it appears that Mahoiza so magnified his office that he was not content with killing one ox in two days, but he must be supplied at the rate of an ox a day, until at last he was requested not to eat the fourth—the white heifer—so fast; whereas his more sensible comrade, Umyembe, had made no complaint though he had received only one beast on each of his two visits, p. 7, 9. But the fact that, according to the above statements from Mahoiza's own men, on the first five days of their stay at Epangweni, they slaughtered five oxen, and then had no more given them, shows conclusively that they only stayed 10 days there, and not 17, as stated in the '*Sentence*' and '*Introduction*.' Mahoiza would certainly not have remained 14 days 'with nothing to eat,' as he says—that is, as he means, without getting another ox, which would have

been the case, if he had reached Epangweni on Oct. 11, and killed his five beasts (as stated above) on the 11th, 12th, 13th, 14th, and 15th, and had the interview with Langalibalele on the 29th [not 28th]. On the contrary, he complained to the Chief that 'for *three* or *four* days he had had nothing to eat,' p. 13, which agrees with our view that he reached Epangweni on the 18th and killed his fifth ox on the 22nd, and made it last to the 24th or 25th, as advised to do, but is wholly at variance with the official statement.

107. As to Ncamane's statement that Mahoiza 'had only been furnished with three head of cattle,' how did he know this, as he was not living at Mahlala's kraal, where Mahoiza was staying, but 'at my kraal near Epangweni'? He merely says, 'I know of three cattle being killed by Mahoiza, but I know of no others.' But surely the evidence of Mahoiza's two men, who helped to eat the five cattle, must be regarded as more conclusive; and the attempt to make out a charge against the prisoner, by such flimsy arguments as the above, shows only the weakness, as also the *animus*, of his adversaries.

Langalibalele and the Magistrate's Messenger.

108. 'Umtyityizelwa, a messenger from the Magistrate of Weenen County, was also obliged to make the same complaint on a former occasion, but received a far from satisfactory reply.' p. xv.

Umtyityizelwa's statement is as follows.

'We entered Langalibalele's hut and sat down; he called me by name, I answered him, and he gave me some more beer. He said 'Have you seen now?' and I said 'Seen what?' and he said 'Did you see what took place to-day?' 'Yes,' I said, 'I have seen,' and he said 'And what did you see?' I replied, 'Well! I saw that you came in, passed all your own people, and sat in front of us, and with your back towards us.' He said, 'And what do you think?' I said, 'I thought this, that we were dead men, and, when you turned your face, you would say with the back of your hand, Take these people away and have done with them.' He

laughed, and so did the other men, and he said, 'You are a wise man; you are quite right; you speak right.' After this I told Langelibalele I had come to say good-bye; but I said I did not know whether anybody else would be sent, inasmuch as they could not get any food along the road. He asked who had refused to give me food? I said I alluded to Mahololo, who had killed two head of cattle and had not given us any. Langelibalele said, 'Mahololo was quite right; he should have reprimanded him had he given me any meat; for meat was never given to spies who came to spy out where the cattle were; they would have enough to eat the day they came to seize them.'

109. This is Langelibalele's own account of the matter.

Umtyityizelwa had come about those five boys of Sibanda. And Langelibalele wondered very much to hear him talking of Mahololo having stinted him of meat, and expressed his surprise that, after Umtyityizelwa had come to eat up Sibanda [by numbering his cattle as confiscated, and, it would seem, of his own mere motion, without having received any order from the Magistrate to do so (51)], he should complain about not getting meat from Mahololo, instead of killing one of Sibanda's oxen which he had eaten up; they had some sharp words with one another.

But he speaks falsely when he says that Langelibalele asked Umtyityizelwa 'Did you see me?' and, on his assenting, asked again, 'Did you see what I did?' and that, on his saying, 'I saw that, when you entered, you passed along your men, and sat down with your back turned towards me,' Langelibalele assented and said, 'Yes! you are right there!' and asked him again, 'What did that mean?' and that, on his replying, 'It means that, if you liked, you could have made an end of me,' Langelibalele assented saying, 'You are wise.'

'All that is false, an invention of Umtyityizelwa's, for the purpose of killing him. He never turned his back upon him as he states, and he never spoke with him such words as those.'

The 'loyal' Induna, Umpiko, says on this point, p. 82:—

'Although I was in the hut afterwards, there were so many there, all talking together, that I did not hear any special conversation between Langelibalele and Umtyityizelwa, although such may have taken place. I did not, however, hear what took place, for a great deal of conversation was going on in the hut.'

But Umtyityizelwa says 'He laughed and *so did the other men,*' as if those in the hut generally heard what passed. His own words, if really uttered, only serve to illustrate the wild notions as to Langalibalele's blood-thirsty intentions, which seem to have possessed the minds of some, white and black, at Estcourt, and which have partly helped to cause this misery. *If* the Chief and his men 'laughed,' they probably laughed at the fears of the messenger.

With respect to the charge of insulting the Messenger by turning his back to him, see (56).¹

Langalibalele during some months before the end.

110. We come now to one of the most extraordinary passages of this 'Introduction,' p. xv, in which the writer professes to give a summary of the indications of rebellion manifested by the tribe during the months preceding the final movement. We shall consider each separately.

Let us endeavour to trace the action of the tribe for some time prior to the disturbance.

The people had held several meetings in various parts of the Location to discuss the situation of affairs, and at these meetings the action of Langalibalele in refusing to obey the summons was approved by the tribe.

Nothing could have been more proper than that meetings of the tribe should be held, to consider the serious aspect of affairs; and, doubtless, the amaHlubi, as a whole, did decide rather to abandon their splendid Location, with all its advantages, than to give up their Chief, who they supposed would inevitably be imprisoned or perhaps put to death, if he went to Maritzburg. Thus Ncamane says, p. 62—

'The meetings held in the low country, of which I spoke, were

¹ Umtyityizelwa says at the end of the conversation, 'These four guns, belonging to the men of Mr. W. E. Shepstone's party, then went with me.' But there were *nine* young men belonging to that party (24), and Umpiko says, p. 78, 'We took *nine* young men with their guns down with us.' I cannot explain this discrepancy.

held by order of Langalibalele, who wished the people to give their decision as to what he should do, seeing he had been summoned to Pietermaritzburg, and was not well. I remember Mbombo coming to me and saying he had placed himself in some danger, because he had advocated Langalibalele's obeying the summons, and had been reminded that his father had induced a former Chief of this tribe to obey a similar summons in the Zulu Country, and he had been killed in consequence. The question submitted by the messengers of Langalibalele to these meetings I have referred to was, "What was he to do, seeing he had been summoned, and was sick?" and the answer which the people gave was, "Seeing you are summoned, when sick, what can you do?"

111. Rather than have their Chief exposed to such danger, they preferred to leave the Colony, which was no act of 'rebellion' at all, but in accordance with Kafir Law, and even the *Sentence* notifies, p. 36—

'It cannot be too clearly understood that any tribe in this Colony is at liberty to remove itself and its cattle out of our jurisdiction, if it does so peaceably, and with the cognizance and previous consent of the authorities.'

They did so 'peaceably' enough, for they did not injure whiteman or black, nor carry off any of the flocks or herds of their neighbours, even of the 'loyal' members of the tribe, who stayed behind when they left the Colony. But to suppose that they must quietly wait for the 'cognizance and previous consent of the authorities' is simply a mockery in such a case as this, where such consent would never have been given, without (as they expected) the severe punishment of their Chief. According to the Kafir Law of the Cape Frontier (73), they were perfectly at liberty to quit the Colony, and carry off their cattle if they could; and to such Law the tribe was subject, not to the savage system of Zululand. For Natal was once a 'portion' of the Cape Colony, and for nearly three years—from May 31, 1844, to March 2, 1847—received all her laws from the Cape—the Roman-Dutch Law for Europeans and the Kafir Law for the Natives. Not, of course, that the 'Kafir Laws and Customs' of the Cape Colony were formally

established by Law in this District, as the Roman-Dutch Law was for the white inhabitants. But, when Natal came under British Sovereignty, as a 'part or portion of the Settlement of the Cape of Good Hope,' it fell under civilised government, and the savage system of Chaka, being a mere innovation on the Native practices as previously existing, was at once abrogated. The Natives of this District then fell back upon their primitive 'laws, customs, and usages,' as previously maintained among them, which, with many differences in detail, are substantially represented, as regards such points as those we are now considering, in the 'Compendium' published under the authority of the Cape Government, as appears from the following extracts from a statement made by the S. N. A. in Lieut.-Governor Scott's *Despatch*, No. 34, 1864.

'It has been a received doctrine that they [the Natal Kafirs] are naturally bloodthirsty and savage in their character. . . . This belief has evidently originated from the imperfect acquaintance which most whitemen have with their past history, and from judging of the events which transpired so shortly before their contact with civilization, and the cruel policy still pursued by the Zulu Chiefs. No doubt, the Zulus show an utter disregard of the value of human life. But investigation has shown that this was a peculiarity which was introduced by Chaka.' *Answers*, p. 2, appended to the above *Despatch*. See also the passages quoted below (166).

This, therefore, was the 'Kafir Law' introduced by the Ordinance, No. 3, 1849, before which time only Roman-Dutch Law existed *legally* in the Colony, both for whites and for blacks. No act of the Crown or of the Legislature has abrogated in Natal that milder law, and replaced it by the despotic system of Chaka.

112. 'The cattle accustomed to graze on the lowlands had been driven up to the highlands for security.'

The Writer ignores altogether the following statements in the evidence.

'The cattle went to the Berg about the middle of August, and ate the first Spring grass under the Mountain.' NOMYACA, p. 55.

'My cattle had already gone, not for purposes of flight, but to

get better grass near the Tafel-Kop, at the time when Mahoiza arrived. Mahoiza found only a few milch cows retained for the use of the family.' MHLABA, p. 58.

'The cattle were under the Mountain for a long time; but that is to be accounted for partly by the fact, that it was very dry below, and the people were in the habit of sending their cattle up when the grass grew.' UMPIKO, p. 83.

'It is true that, in consequence of the bad grass down where I lived, I had sent some of the poorest of the cattle up to the highlands of the Location to my friends there for grazing purposes.' KOLWANE, p. 100.

'I sent up my cattle with my son to the highlands for grazing purposes.' NTSIMBI, p. 100.

Every colonist would understand the necessity of sending cattle up from the lowlands at this particular season, the month of August, at the end of winter, to the highlands where the grass is green and fresh, while it is still parched and brown below. And this, doubtless, was one main reason why the cattle went at that time, long before Mahoiza's coming, whatever other motive may have operated from the panic which existed in the tribe even at that early time, as appears below (142). Very probably, after his coming, when it was seen that the crisis was at hand and the tribe would almost certainly have to leave the Colony, other cattle might be sent there, or those already there might not be brought down again: and, if so, it was a very natural, and perfectly lawful, proceeding under the circumstances.

113. 'The tribe had manufactured gunpowder, having learnt that art from a Basuto.'

The only evidence of gunpowder having been manufactured in the tribe is given by Umtyityizelwa, a very doubtful authority, and his friend Baleni.

'When I returned—[i.e. from his mission to Langalibalele to require the eight unnamed boys with guns, at the end of March, when Mr. Macfarlane on his representations at once reported the Chief to the S. N. A.]—I saw that the Hlubi tribe meant mischief,—war in fact. After that, they manufactured powder; a good many of them knew how to make it; they used saltpetre, willow-charcoal,

and sulphur. During the expedition, whilst traversing the Location, we found saltpetre ground and unground, and willow coals ready for use.' p. 67.

'I saw powder being made by a Basuto. He was drying it in the sun at one of the kraals.' p. 68.

As Umtyityizelwa (it seems) was never sent to the tribe again when he had made his 'report' about the end of March, *his* statement that 'after that they manufactured powder' can only be hearsay evidence.

114. Now there was nothing whatever unlawful in their manufacturing gunpowder; though, if held without a license, it would be liable to confiscation, and the holder be subjected to fine and imprisonment (50, note). But, if they were licensed to hold 48 guns, of course they might fairly expect to be allowed to use them, and whether for hunting, or practice, or any other purposes, they would have needed gunpowder. And probably the coarse powder, which they might have made themselves, would have been less formidable than the fine European powder, which they might have bought in any quantities at the Fields. But, in point of fact, the old men of the tribe declare that they never knew of any gunpowder being made among them. It might have been made in one or more kraals; but these must have been special instances; there was no general manufacture of it going on. And, as we shall presently see, when the Chief distributed powder on one occasion, he poured it out of the usual red flasks—that is, it was English, and not Native-made powder. Accordingly we find the following statements in the evidence bearing on this point—

'We obtained all our powder from the D. F., and none from anywhere near here.' MANABA, p. 48—

'We obtained all our powder from the D. F., and from no other place.' NGUNGWANA, p. 52.

Mr. Allison tells us, p. 60, that 'very little ammunition' was taken from those captured in Basutoland. And one of the prisoners, Umgebisa, says, p. 71—

'I was armed with a gun which I had taken from Wohla, who said he was going to throw it away, because he had no ammunition for it.'

And Col. Durnford says (*Parl. Blue Book*, p. 12) that at the Bushman's River Pass,

'The firing was never heavy, and their ammunition soon became exhausted.'

115. 'The Chief dealt out powder to his men, with instructions not to use it in shooting game; and this had occasioned considerable anxiety to his neighbours, the Basutos' [i.e. the small tribe under the Chief Hlubi in Weenen County].

This seems to be a very flimsy charge. Stoffel, an old Basuto under Langelibalele's next neighbour, Hlubi, was called and gave evidence to the following effect, p. 61 :—

'A messenger came to our Chief Hlubi, stating he had been sent by Langelibalele to say he was in a difficulty with the Government, but did not know what it was about. Hlubi wanted to know what the particulars of the difficulty were and what it was Langelibalele wanted of him. The messenger said he really was not quite sure—in fact, he did not know. Hlubi then sent me to Langelibalele, and I went. I was sent to ask him what he wanted, and what was his difficulty with the Government.'

Langelibalele, however, for whom Stoffel used to act as ploughman, did not choose to talk with him about such important matters, and did not believe that he was sent by his own chief for the purpose, but told him he had come as a spy. At last Stoffel says—

'I slept there that night. At daylight the next morning I found a party of horsemen had arrived during the night. . . . After a little while I saw the young men get their horses together. Langelibalele then gave each of these men a supply of gunpowder, and ordered his men not to shoot game with it. This is all I know. I went back and reported all I have now said to the Chief and great men. This was before the S. N. A. went to Zululand. The supply of powder, which Langelibalele gave to his men, was not large: there were two canisters divided amongst them. I don't know what he meant his men to shoot when he prohibited them from shooting game. All these young men were armed with guns, and had powder-horns.'

116. No member of the Court thought it worth while to ask how many young men there were among whom this

stock of powder was divided, and how large were the canisters. But, happening to meet Stoffel one day in town, I put these questions to him, and I found that they were two common red pound-flasks, which he distributed among *about a hundred* young men, pouring into each of their palms as much therefore as would make *two small charges*, since a pound is reckoned to contain 80 charges. And this is paraded as a sign of rebellion! It took place, it seems, 'before the S. N. A. went to Zululand'—that is, in the month of July or earlier. Very probably, it was a hunting party, going out to shoot elands, which splendid animals exist in the Mountains bordering Langalibalele's Location, and were frequently hunted by his men and Teteleku's. If we knew the exact phrase used by the Chief, we should probably find that he advised them not to waste their powder upon small game, as ordinary bucks, but to keep it for elands.

117. This, at all events, is Langalibalele's own account of this matter.

'Yes! he says he used frequently to give his boys powder to shoot elands. But he altogether denies that word of Stoffel's, to wit, that he told them not to shoot game (*innnyamazana*), because he gave it for the very purpose of killing game. But those game were elands, which they were in the habit of shooting. That Stoffel was quite at home with him: it was he who used to plough his ground for him. But he does not at all remember the day when he spoke such a word.'

According to the writer of the '*Introduction*,' however, we are to suppose that Langalibalele, suspecting Stoffel to be a 'spy,' in his presence gave his young men powder, which they were to keep for *men*!—for that is, of course, the insinuation. The writer must be greatly at a loss for valid proofs of 'rebellion' when he appeals to such evidence as this—not to speak of these young men being sent out apparently without any leader or chief Induna to direct their rebellious proceedings!

Again the writer says that this distribution of powder 'had occasioned considerable anxiety to his neighbours the Basutos.' But Stoffel himself says nothing of the

kind: he speaks of their being alarmed at some report brought home 'after this' by a man who was out looking for horses.

'After this [*Natal Witness*, 'some time after'] one of the Basutos was out looking for horses, which had got intermixed with those of Langalibalele. When he came home, he reported that he had found the men assembling, and, in consequence of what he reported Langalibalele had said to these men, we were very much alarmed, and thought that *possibly* they might be intending to make some attack upon us, seeing he had called me a spy. They caused us such alarm that we thought we had better put our cattle in a place of safety, and we did so. This was at the time of the Volunteer Meeting at Estcourt, and before the S. N. A. went to Zululand.' p. 61.

In other words, it was at the time when Langalibalele and his people were 'very much alarmed' at the notion that the 'Great Northern Camp' was being formed to attack them 'and eat them up.' (142.)

118. 'They had endeavoured to purchase as much lead as possible, and make other arrangements for the campaign.'

There is not a particle of printed evidence to show that they purchased 'lead' at all, or made other 'arrangements for the campaign,' though for hunting purposes they would, of course, need lead, and very probably purchased it to some extent. But the best proof that they had acquired no very great quantity of lead is the fact—not only that those taken prisoners in Basutoland had 'very little ammunition,' as Captain Allison says, p. 60—but that one of the four who followed the volunteers on foot from the Bushman's River Pass, was killed at the Giant's Castle Pass, p. 70, and his gun was captured, and found to be loaded with stones. And so the man at the well-known 'Cave' is said to have 'loaded his rifle with stones.'¹

¹ The *Natal Mercury* (July 9, 1874), in its 'Heads of News' for England gives prominence to the statement—'Sixty rounds of ammunition were found in the celebrated cave where the lurking rebel—about whom so much was said—was shot.' But the question is *when* and by *whom* this ammunition found its way into this cave, which was doubtless a place of retreat for fugitives *before* and *after* the affair in question? It is well known that the cave was thoroughly searched at the time.

119. 'The regiments had been drilled and solemnly strengthened for war (by *intelezi yempi*) by the Innyanga, or Doctor of the tribe, on two separate occasions.'

No doubt, Langalibalele's regiments had been drilled at various times during this eventful year (1873), as they had probably been drilled every year since he had been in the Colony, and as in every large tribe in Natal—especially the Zulu tribes—the men would be regularly 'drilled,' that is, taught their native songs and dances, at certain times. And, if they further practised firing at a mark, though this is not mentioned, what possible proof of 'rebellion' can be found in this, if they were to repel from the Colony the Bushmen with their poisoned arrows, and were licensed by the Government to hold 48 guns? Does any one suppose that at this present time Zikali's men, with their 108 licensed guns, are not also drilled and practised?

But as to Langalibalele's men being 'solemnly strengthened for war,' and sprinkled with war-medicine (*intelezi yempi*) 'by the Innyanga or Doctor of the tribe on two different occasions,' I must be more particular, as a most unfair use has been made of certain portions of the evidence to wrest this meaning out of them.

Langalibalele's 'sprinklings' not 'preparations for war.'

120. The passages in question occur on p. 67-8 of the Official Report of the Trial of the Sons. Here first Umtityizelwa says:—

'After it was generally known that the S. N. A. had gone to the Zulu Country, Langalibalele came down from the high country to Epangweni, collected his whole army together, and had it charmed by the doctor. . . . I heard this from my brothers, who were sent up to see the doctor relative to some case coming on, and I also asked Umpiko about it.' p. 67.

Here, again, then we have only *hearsay* evidence, and Umpiko tells us, p. 82:—

'I was not present at any of those ceremonies which are usually

used for strengthening the men; but I heard that they had taken place.'

So Baleni, Umtyityizelwa's friend, says, p. 68 :—

'I saw the forces assembled at Epangweni, but *I was not present*. I saw the men who were assembled there, and they said they were being prepared for war in the usual way.'

Then we read that :—

'Manaba [one of the 'loyal' sons] admitted [N.B. *Natal Witness*, 'volunteered the statement'] that he was present at the assembling of the tribal forces at Epangweni. It was true there was a regular doctor there, named Umkinimdane, and he made his decoctions, and sprinkled the people with medicine, *in order to strengthen them*. The object of this ceremony was to *strengthen the knees of the men*, as is the custom of black people. Sometimes it is done without any particular or definite object; but this time what has happened has disclosed the object. These ceremonies took place before Mahoiza's arrival.'

121. It does not appear from the above *how long* before Mahoiza's arrival this 'sprinkling' took place, whether *immediately* before, so as to stand in close connexion with it, or some time previously; but we shall presently see that it was at least *three months* before it. But we may notice that Manaba would hardly have 'volunteered' this statement, if he had thought that this ceremony would have been regarded as a 'rebellious' act, a 'preparation for war.' And further we observe that he states that the ceremony is 'sometimes done without any particular object,' merely to 'strengthen the knees of the men'; 'but *this time what has happened has disclosed the object*.' By this last expression, he may, of course, be held to have meant that the object was 'war with the Government'; but in point of fact (as we shall see) he most probably meant only that a great trouble was before them, a terrible march through an unknown wilderness, and other dangers and difficulties of the most serious character, which they had yet hardly begun to realize, and that their 'knees were strengthened' to bear themselves gallantly like men through all their trials. It was this very son, Manaba, be

it observed, who remarked, when Mahoiza had arrived, that 'it would be better for the cattle of the tribe to be given up than to proceed to extremities,' p. 75, and whom Umpiko, the 'loyal' Induna, describes as having with his brother Mango 'remonstrated against the proceedings involving the despising or defying of the Government,' p. 82.

122. Lastly, his 'loyal' brother Mango says, p. 68:—

'I was not present at that ceremony; it was performed on men from the low country. I was present at Amahendeni when the ceremony was performed on those from the high country. It was done by the same doctor in both cases. The force was *strengthened for war by the use of intelezi* [the *Natal Witness* says, 'there also the same *war-preparation* was going on,' the *Natal Times*, 'the same doctor as before-mentioned *put the stuff on witness's knees.*']

'I was strengthened by the same process. These ceremonies took place *before* Mahoiza's arrival. On the occasion of the assembling at the highlands, at the Amahendeni kraal, I had just returned from Pietermaritzburg with Mabudhle, on the occasion when the S. N. A. blamed him for having brought a false message. . . . These were the only occasions on which the regiments were got together for the purpose of *strengthening them for the war.*'

Here, then, we have at last the full-blown expression, 'strengthening them for the war!' But I venture to assert that neither this, nor the other phrase 'prepared for war,' 'war-preparation,' was used in Court by any of these witnesses, and certainly the expression 'war-medicine' (*intelezi yempi*) was not used.

123. The above are all words employed by some one *interpreting*—not necessarily the 'Interpreter of the Court'—in rendering (correctly, of course, as he supposed) the phrase which was most probably used by the young men, 'they were sprinkled.' We have a clear sign of this in the *Witness Report* of Manaba's evidence, in which we find:—

'A doctor was present, who made a decoction, and sprinkled the people with it, in order to strengthen the knees of the men, *this being the common preparation for war.*'

And this appears in the *Times* Report as—

'It consisted of a doctor putting a certain preparation on the knees of the men to give them strength. *It was generally done before a fight.*'

In a letter to the *Witness* at the time I drew attention to the fact that the clause, 'this being the common preparation for war,' was manifestly an addition to the original evidence, which ended with the words 'in order to strengthen the knees of the men,' and was probably called out by some question in Court, *e.g.*, 'Is not sprinkling usually employed as a preparation for war?'—to which Manaba innocently answered 'Yes,' and so the statement appears as a substantive statement of his own. But the words italicized above, in both the *Witness* and *Times* Reports, do not appear in the Official Record.'

124. The fact is, that the phrases 'strengthened for war,' 'prepared for war,' 'war-preparation,' are not the usual Zulu phrases, and would not proceed naturally from the mouth of any native. And the prisoner Malanibule, one of the Sons, who was also on his Trial on the occasion, but said, p. 68—

'I was not there: I was at work in Pietermaritzburg'—

assured me that his brothers had never said anything of the kind, but, when pressed to admit that the 'sprinklings' in question were for war purposes, most positively denied it, and said they were only 'to strengthen the knees of the men,' *on account of the death of their uncle Uncwane*, not a word of which, however, appears in any of the Reports.

125. The real reason for these sprinklings was this. Shortly before the time of the Umkosi (Feast of First-fruits), which was celebrated in my presence at Pakade's, rather later than usual, on Feb. 23, 1854, Uncwane, half-brother of Langalibalele, died unexpectedly, after a short illness, by some to them unknown disease. Uncwane was the elder of the two, and was consequently looked up to by the Chief, who called him 'Father'; but Langalibalele had succeeded to the office of Chief, as Son of the Great

Wife of his father Mtimkulu. As Langalibalele informed me—

'The Umkosi was not kept that year because of the recent death of Uncwane, son of Mtimkulu, and Langalibalele also was sick with his leg. Only some young men came together, and the first-fruits were eaten in the usual manner, but the people were not sprinkled at that time.¹ The people only ate the first-fruits (*etywama*), Langalibalele being at Nobamba and Mabudhle down below at Epangweni.'

At three different times, however, not long afterwards—in order to call back to the tribe the spirit (*buyisa idhlozi*) of Uncwane, and to charm the people from the supposed consequences of his death, the cause of which was unknown, and which was therefore regarded as an *umhlola* or mysterious event, the usual ceremonies, of which 'sprinkling' was one, took place at certain kraals, which were regarded as belonging to the ancestors of the tribe and not to Langalibalele himself, *vis.*, at Epangweni first, in 'full Autumn,' *i.e.* about the end of February, then at Nobamba, 'at harvest-time,' *i.e.* about April, and lastly at Mahambehlala (called also Amahendeni, from the name of the regiment living there) 'at the change of season,' *i.e.* about the end of July or beginning of August, which agrees with the note, p. 68, 'say about the end of July.' And these harmless ceremonies were the 'preparations for war,' on which so much stress has been laid, for want of some more definite and tangible proofs of 'rebellious' action on the part of the tribe!

126. Thus Langalibalele informed me as follows:—

'There were three of his fifteen kraals, which were great kraals, not called by his own name.

'Mahambehlala was the kraal of Mpangazita son of Bungane,

¹ In some tribes, the ceremony of sprinkling takes place regularly at the Umkosi in each year; thus a man of Musi's tribe, being asked by me one day suddenly in his master's presence, said that he had always been sprinkled at the Umkosi, when at home. But the custom varies in different tribes; and I have ascertained that this was not the rule in Langalibalele's and Putini's tribes, though it often did take place with them at that festival, just as the Chief willed.

Langalibalele's grandfather. Bungane had three sons, Mtimkulu, Mpangazita, and Mahanqa, of whom Mtimkulu was the Chief; Mpangazita was next, the left side (*ikohlo*) of the Chief; whereas Mahanqa, though son of the Chief, was merely a common man.

'Nobamba was the kraal of Mtimkulu,—not Langalibalele's, but the kraal of his House, of his father.

'*Epangweni* was the kraal of Dhlomo, and the principal kraal, where the Umkosi was always kept, for Dhlomo was Chief in the line of Mtimkulu. Langalibalele was Chief only as representing his brother Dhlomo, who was killed by Dingane.

'*Endhlalweni* also was the kraal of Mahanqa, who, however, was merely a man, and had no name in the heritage of Bungane. Hence Endhlalweni was insignificant compared with those two, Nobamba and Mahambehhlala. But Epangweni was of most importance, being the kraal of Dhlomo, the Chief of the amaHlubi, son of those three, Mtimkulu, Mpangazita, and Mahanqa; it was exalted above the rest because, as the saying is, 'dignity goes forward, not backward.' At that kraal of Mahanqa there was no sprinkling because of its inferiority, though that also was the kraal of a father of the tribe.

Well! that sprinkling took place in order to 'bring back the spirit' (*buyisa idhlozi*) according to the native custom, that, when the master of a kraal has died, an ox is killed, a mixture (*ubulawu*) is rubbed together, the people are sprinkled with medicine (*intelezi*), and strengthened to be firm, and so the spirit of that dead man will be brought back home. It is not true that they were prepared for war. There is no force (*impi*) which, when once sprinkled for war, is allowed to go and stay at their kraals or mix with women.

The ceremony took place at those three great kraals, which rule the whole House of the amaHlubi; for Nobamba is still Mtimkulu, and Mahambehhlala is still Mpangazita, the two Chiefs, sons of Bungane, the fathers of Langalibalele, and Epangweni is the kraal of that Chief (Dhlomo), who sprang from those two. The sprinkling began at Epangweni, where a red ox was slaughtered; at Nobamba was slaughtered a black ox with white stripes on the flank; at Mahambehhlala was slaughtered a red ox which came from Cetywayo.

According to native custom the spirit was charmed (*lungiselwa*) in the great kraals. Therefore, since Uncwane had died because those three willed it—the ancestral spirits of the tribe through whom he had lived—in all those kraals these were addressed (*bongwa*)—*viz.* those three, and the late Uncwane—that he might return home to the tribe.

This was the manner of their sprinkling. The doctor was called to rub together *ubulawu*, that Langalibalele might be sprinkled with it, and be white, as he had long been black with fasting. The people—that is to say, only the *men*¹ of each kraal and the neighbourhood—were summoned and sprinkled with that *intelezi*, after the spirits had long been addressed; for the addressing of the spirits begins with speaking, then the ox is slaughtered, and the act is called *ukuluma* or *ukulumisa*, to sprinkle the men, so that the evil is taken away and they are strengthened.

The war-medicine (*intelezi yempi*) differs essentially from the *intelezi* for death, and for any mysterious event (*umhlola*), and for the sky (lightning-stroke). That *intelezi*, with which the men were sprinkled when the spirit of Uncwane was brought back, was the same as that used for the sky. Langalibalele knows well the composition of that *intelezi*; and he knows well too the war-medicine, *i.e.* its component parts, being himself a doctor. And those doctors whom he called—he called them because it was very necessary that they should charm, and he too was continually helping them by pointing out the necessary herbs. [He began to describe the plants used for the war-medicine: but, as his nomenclature was not very scientific, I could not identify them.]

The sprinkling with war-medicine takes place outside the kraal, not within it.² Again, men who have been sprinkled with it, must never return to their kraals and mix with their women, since thus, it is said, the *intelezi* loses its power. There is also a special vessel which the Chiefs keep for war-medicine, and which is always used for that purpose. Langalibalele had his own, which he brought from Zululand, and which was always kept for that ceremony. It was taken out, and the people were sprinkled by means of it, at the time of the expedition against Matyana and also when he went against the Bushmen. It was not used on that day [when he sprinkled for the death of Uncwane]: but, when he fled, he took it with him, and it was never used till he came to Basutoland, where it was left behind when he was taken prisoner. It never went out of his possession till that day from the time he quitted Zululand. That vessel would have been used on the day when the spirit of

¹ At the time when I wrote my reply to the Durban Manifesto I was under the impression that 'men, women, and children' were sprinkled on these occasions in Langalibalele's tribe: but the Chief was very positive that 'only the men' were sprinkled. And I have subsequently found—as appears below—that this was perfectly right: in the case of any other *umhlola* (mysterious event) it is true that *all* are sprinkled, even the infants on the women's backs, but not in such a case as the death of Uncwane.

² The custom in this respect varies, I find, in different tribes.

Uncwane was appeased if he had been 'sprinkling for war.' That was an *imbenge* (basket-work); but an *ukamba* (large earthen pot) was used at the sprinkling for the death of Uncwane.'

Zulu accounts of different kinds of 'sprinkling.'

127. I shall now confirm the above by the following statements, premising that each powerful tribe has some variations of its own, according to the notions of its doctors, and that the practices of the amaLala tribes (along the Coast South of Durban) appear to differ considerably from those of the Zulu tribes, to which the amaHlubi belonged, as stated in the following letter from the Rev. Canon TÖNNESEN, who was for some years a Missionary in Zululand, but for the last fifteen has lived among Umnini's tribe (amaTuli) on the Coast in Natal, and is thoroughly conversant with the native language.

'In regard to your questions about the ceremony of 'sprinkling' as practised among the Zulu tribes, I am afraid I can give you no reliable information. Umnini's tribe are not Zulus, and, as you know, they only escaped extermination by keeping away from the Zulus and hiding in the bush at the Bluff. Their information would therefore be only guess-work and hearsay. I question if among any of the amaLala tribes living along the South Coast the ceremony would so exactly correspond to that used among the Zulus in every particular, that it would serve as evidence in a Court of Justice. It is only a real Zulu, or one who has lived long enough among them to have repeatedly and under different circumstances witnessed the ceremony, whose evidence you can rely on in this case.'

The following statements are derived from men of Zulu origin.

128. Answers given by Mbozamo to questions put by F. B. Fynney, Esq., who has been much in Zululand and is thoroughly master of the language.

I am a true-born Zulu, of the tribe of Uqwabe, and I belonged to the Zulu Regiment Tulwana. I have been out to fight on two occasions—once against the amaSwazi, and another time when Mbulazi and Cetywayo, Panda's sons, fought for the succession.

Do you understand the custom of sprinkling (*ukucela*)?

Ans. I do.

Were you ever sprinkled before going to war?

Ans. Yes, twice. When we went to fight with the ama-Swazi, we (the warriors) were all congregated at the King's kraal, Umlambongwenya: none but warriors were present. The 'doctor of the forces,' Manembo, with his son, then came among the different Regiments with an earthenware pot carried by a young man, Manembo having the tail of a gnu, which he dipped in this pot, and then sprinkled us all with it.

Did you return to your kraals after this sprinkling?

Ans. No! When the sprinkling was finished, we went straight off to fight. It would not have been sprinkling for war, if we had gone again to our homes, as we should never think of returning again to the women, having once been sprinkled.

[N.B. It is not pretended that Langalibalele's men 'went straight off to fight' after either of the three sprinklings, or even thought of doing so. They went to their homes again as usual.]

How many times were you sprinkled on each occasion?

Ans. We were only called up once to be sprinkled, just before we went to fight.

Have you known warriors to return home after they have been sprinkled?

Ans. I never heard of such a thing as warriors returning home after they had been sprinkled.

On the occasion of the fight at Endondasuka, when the two brothers fought, I was still in the Tulwana Regiment and one of the uSutu (Cetywayo's men). We were all congregated at one of King's kraals, Uqwikazi, where we were sprinkled by the same man, Manembo. And then all the warriors went to the King's kraal, Engulubeni, where the ceremony of 'tasting beef' was gone through. An ox was killed, a black one with white tail; it was skinned, part of it boiled, and part roasted, but not allowed to be cooked thoroughly. Manembo then brought the pieces of meat amongst the warriors: we bit a piece off, and then threw the remaining portion into the air for the other warriors to catch and bite pieces off. We were then drafted off to fight, without being either sprinkled again or going through any other ceremony.

As I said before, I am a true-born Zulu, and so was my father before me; and I know the custom of 'sprinkling' well. And I state most positively that no such a thing was ever heard of in Zululand as the warriors to be sprinkled and then return again to their women. And I am sure that, if they did so in any case, it would not be sprinkling for war.

Are there any other occasions on which people are sprinkled, besides when they go out to war?

Ans. There are other kinds of 'sprinkling' besides that for war—such as when a great man dies. If a Chief, like Masipula or Mapita, dies in Zululand, all his men would be sprinkled, and a large hunt called, to wash away the stain of death.

I have now told you all I can.'

129. The following is the statement of Mqawe, a Zulu by birth, Chief of the amaHadi, living on the North Coast, who had taken to wife a daughter of Langalibalele. Mqawe was sent for by J. Vacy-Lyle Esq. M.D. at Durban, as an old acquaintance, to give him information on the subject of 'sprinkling'; and, knowing nothing beforehand of the reason for which he had been summoned, he was examined, through a native interpreter, in the presence of several gentlemen, who put to him what questions they liked. Being asked to say on what occasions 'sprinkling' is practised among the natives, Mqawe replied as follows.

'First, sprinkling is practised on the occurrence of any *umhlola* (mysterious event), e.g. a dog climbing on the top of a hut, an epidemic, a lightning-stroke, &c.

Secondly, there is sprinkling when a force goes out for war.

When people are sprinkled for an *umhlola*, they are all sprinkled together, women and children, as well as men—except when a Chief dies of a sudden or unknown disease, and then only the men are sprinkled. But, if the Chief dies of old age or of some well-known disease, no one at all is sprinkled, because that is not an *umhlola*.

When people have been sprinkled with the war-medicine, they go on the war-path immediately, and stay no longer at their kraals. Or, if an enemy is coming, the people, when sprinkled, remain there at their Chief's kraal where they have been sprinkled, and must not return to their kraals and their women. If the enemy delays to arrive even for a month or two, they will not go out from that kraal of their Chief: they will stay there till the foe arrives, and not return to their kraals again.

When people are sprinkled for war, they are all armed, carrying their shields and assegais. But, when they are sprinkled for an *umhlola*, not one will carry shield or assegai; they will only have each a stick.

As to the ox-slaying, that is done to bring back the spirit of the dead man. We don't know how it helps: we only do it according to custom.

When a force is going out to war, a bull is slaughtered, and its flesh mixed with medicines and eaten by the people, in order to give them courage. But the ox for 'bringing back the spirit' is not mixed with medicines.

Also that for war is killed with the assegai: it is only that of the Umkosi, which the young men seize with their hands and kill [i.e. by main strength, without an assegai].

Mqawe says there may be other practices about which he is ignorant; because there are probably little differences on some points among the natives. But there is one word as to which all tribes are agreed, viz. that, when a force is sprinkled to go out to war, it must go forth at once, and have no further intercourse with women.'

130. The following is another statement from a Chief of Zulu origin, Mpokopoko, Chief of the amaNyuswa.

'Sprinkling' takes place on account of (*abatakati*) evil-doers, for we, black people, poison one another at times, or if an *umhlangwe* (species of brown snake) enters a hut, or if a man hears dogs barking continually at night, or sees the mark of an unknown footstep made in the night, or if the sky (lightning) strikes, in which case also pegs are driven in, or if there is an epidemic, &c.

Sometimes a Chief will summon all his people and the doctor of the tribe, and have them sprinkled, and the next morning they will go to the river, and drink medicine mixed with water of the river, and will then return to the Chief's kraal, and vomit at the gate, in pits made on each side by the entrance-posts, and then go home. By this it is supposed that the people are strengthened to attach themselves to their Chief, and, even if they desire to go away, their hearts will cleave to him.

If a Chief dies, all the people are sprinkled and then go to bathe in the river. The ceremony begins with a hunting-party going out, after which they are sprinkled and bathe. But, if the party kills very much game, that is looked upon as a bad omen.

As to war-sprinkling, the *impi* starts as soon as it is sprinkled, and must not return home or mix with women; that is utterly forbidden. There is no such thing as 'preparing for war' (*lungisel' impi*):¹ there is no war-medicine which can be sprinkled on people

¹ That is, there is no such practice as calling up the people once and again, some time beforehand, and sprinkling them with war-medicine, and letting them go home, to be called and sprinkled once more at the last moment, as has been suggested in Langalibalele's case.

so that they may go away again and stay at home. The *intelezi* used for war is different from that used for *imihlola* (mysterious events), or for charming when people have been killed by evil-doers.'

131. Once more, I quote the statement of two of Cetywayo's Indunas, Mfunzi and Mkisimane.

In Zululand people are sprinkled with *intelezi* if any *umhlola* occurs, e.g. if lightning strikes a kraal and kills a man or anything or if there is an epidemic. In such cases men, women, and children are all sprinkled.

If a son of the King dies of any sudden or unknown disease, the men alone are sprinkled, not the women and children. But there is no sprinkling if the disease is known.

If the King dies, the men are sprinkled, not the women and children.

In the last two cases, the men sprinkled carry each one stick, but are not armed with shield or spear, until at last they are armed on the final occasion on the day when the new King is appointed.

Thus when Mpande (Panda) died, some time was allowed to pass, and then all the people were assembled first at Nodwengu, Mpande's Great Kraal, where he kept his Umkosi, and were sprinkled, but not under arms. After a few months more they were assembled a second time at Ondini, Cetywayo's chief kraal, and were sprinkled again, but not under arms. After that they were finally sprinkled for the third time, a few days before Cetywayo was installed; and then all were sprinkled, armed with shields and spears. In the course of all that sprinkling many cattle were killed, and the spirit of Mpande was addressed. All this was done that their knees might be strengthened, because their King was dead. Only the men were sprinkled.

If at any time there is a war-sprinkling, all the people are armed with shields and spears, and put on their war-*imitya* (tail-dresses), which are never worn in time of peace at the kraals.

Among the people of Zululand it is never allowed that a force, once sprinkled, should return to live at their kraals and mix with their women. There is no such thing also as 'preparing for war' months beforehand by means of *intelezi*. Sometimes, if the King pleases, he will call his people, and procure emetic herbs, and they will go to the river and vomit at the King's kraal, and then return home. This is called 'strengthening the land' (*ukuginisa izwe*), that the people may be firm; it is not 'preparation for war'; for in Zululand the *impi* is never summoned [to be sprinkled] except when just about to set out, and then must not live again at their kraals,

With respect to that vomiting, the ceremony is called *ukubizwa y'inkata* 'to be called by the coil'; for all the people vomit at one spot. It is supposed that by this they will be gathered and bound together and love their King, and, even if a man wishes to go away, he will be held back. This is attributed to that medicine which they drink, because it is mixed with the body-dirt of the King of all kinds. That coil of matter, vomited by all the people in one place, is called the (*inkata yomuzi*) 'coil of the House.'

132. I hope that I have now, for all unprejudiced readers, sufficiently vindicated Langelibalele from the charge of having had his people 'prepared for war' by means of these 'sprinklings,' which has been very strenuously pressed against him, based only upon a few words of the evidence which a question or two from a member of the Court—much more from an advocate or friend of the Prisoner—would have relieved at once from the false interpretation put upon them. I repeat, it only shows to what extremities the writer has been driven, in trying to make out a case against the Prisoner and find support for the foregone conclusion that the Chief and his tribe *must* be rebels, as they had been all along treated as such, when he found himself obliged to take refuge in such evidence as the above, which in any case was uncertain and doubtful, but upon enquiry is shown to have been mistaken and misunderstood. We proceed now to consider the remaining 'indications,' which are supposed to make out by accumulation, if not by their inherent force, a proof of the 'rebellious' spirit of the tribe. As a native very justly observed—

'All these are but as so many dried-up weeds carried away by a full stream, which have formed a large bank by the river side; and one, who merely looks at it, may be surprised at the height of the river. But, if he approaches near and puts his hand to it, he will find at once that there is very little water underneath; there is merely a heap of rubbish piled up.'

In short, the case is very much this—'Give a dog a bad name,' &c.: call the man a 'rebel,' and you may then say what you like, and persuade other people to believe any evil whatever, about him.

Langalibalele's other alleged 'preparations for war.'

133. 'The members of the tribe, who did not possess firearms, received a contemptuous nickname.'

The above is shown at once to be false, in the sense in which it is here meant to be understood, *viz.* that such a 'nickname' was sanctioned by the Chief and the tribe, by the simple fact, that, of his seven sons captured with him, only one (Manaba) possessed a gun, p. 45, and, of his thirty adult sons (25), only two (Manaba and Ratya) had guns. It can hardly be believed that these twenty-eight young men would be willing to be called by a 'contemptuous nickname,' or that their father would have allowed it. The statement, on which this charge is based, however, occurs in the evidence of Umtiyizelwa, a witness of the same class apparently as Mahoiza, but having in addition a bitter blood-feud with the tribe (48); and even he gives it merely as *hearsay*. Thus, speaking of what took place at the Epangweni sprinkling, he says, p. 67—

'The men were divided into two divisions, those with guns forming one division, and those without, another. A beast was charmed and then killed, and the flesh was only to be eaten by those who possessed guns. Those without guns were contemptuously called *Impara*. I heard this from my brothers, who were sent up to see the doctor relative to some case coming on, and I also asked Umpiko about it' [who says merely, 'I was not present at any of the ceremonies for strengthening the men, but I heard that they had taken place.' p. 82].

134. Now it is very natural that 'birds of a feather' might be classed together on such an occasion—those with guns, and those without. But the old men of the tribe (Mhlaba, Ngwadhla, &c.) utterly deny that they ever heard the name used in the tribe, and they cannot even explain what *Impara* means. Ngwadhla told me that he supposed it meant *Impahla*, 'baggage,' but Langalibalele gave me the following account of it:—

'This nickname was invented by the Indunas of Mr. Macfarlane, Umtiyizelwa and others, who said of Langalibalele's people having

guns, "they fire at *impara*," meaning "at a plank." For it was said that they were continually learning to fire, in order to be good hands at it, so as to be able to fight. All that was the evil suspicion of Mr. Macfarlane's Indunas against Langalibalele's people. And thus they managed to slander him with the Authorities and bring him to death. It was they who set on foot this word. It was not a nickname among Langalibalele's own people, as Umtyityizelwa says: it was invented by Umtyityizelwa and Co.'

135. 'The caves were stored with corn. . . When Mahoiza arrived in the Location, there was much bustle and commotion, and preparations were being made to place cattle, women, &c., in places of security in anticipation of the coercive measures of which they had received warning.'

There is no doubt that the women and children and old men, who could not bear the fatigues of the forced march through an unknown wilderness, fled hurriedly to the caves and bushes from the approach of the terrible Government Force—those 'Government devils,' as a white farmer (Mr. Hulme) calls them, of whose actions the letters of Mr. R. Mellersh and others have given painful instances, to which I could add a number of others. They had carried thither stores of corn and other food, and collected some cows and goats for the use of the fugitives, and a few younger men stayed behind for their protection. But these things were done in frantic terror, and such fighting as took place in the Location occurred on the spur of the moment, and not from any deep-laid plan of 'rebellion.'

136. This is sufficiently plain from the following extracts from the *Statements* in the *Appendix*.

'There were many people, women and children, who were continually going and carrying their goods, to hide them in caves abroad. Mahoiza, seeing that, sent Nofihlela to ask the Induna Macaleni what was the meaning of this running away. Macaleni said, "I don't know myself; it is merely the women; I don't know where they are going." . . . On the morrow of the third day there was the same running away of women and children. Mahoiza sent for Macaleni, who came and said the same as before, but added, 'Do you see that I have run away? Or my womankind, have

they run away? I don't know what it means. Only I know they do it because the white men have run away. We saw them taking their goods, their cattle, and their sheep; they went off and ran away immediately, and so we too are running away, because we don't know what the white people are running away for."

Well! Mahoiza stayed there several days, and people were continually carrying off their goods to hide them. So Mahoiza sent to tell Mr. Macfarlane that people were running away with their goods, he did not know why. Mr. M. was much surprised to find that Mahoiza was still staying there, and said 'Was not Mahoiza sent by the S. C. to go to Langalibalele, and yet Mahoiza is still staying here? Let him hasten and go directly thither and utter the words of the S. C.!' So Mahoiza started to go to Langalibalele.¹—NOFIHLELA.

'During all this time, however, they continually saw many people carrying loads, others driving cattle, and goats, and sheep, taking all off, to hide it abroad far away. Whereupon Mahoiza asked the Indunas at last why they were going off. The Indunas said, 'They were running away because they had seen the white people living near them running away.'

It is quite true that those people of Langalibalele [at Epangweni] had no 'food' [Kafir-beer] at that time; for at the arrival of Mahoiza and his party they were sleeping abroad, being in fear because they had seen the white people running away. There was no grain prepared for making enough beer for them to drink all the time; so that, when they lived in inability, we too believed that they spoke the truth.'—UNDABEZIMBI.

137. The following extracts from Natal Journals will show what this 'storing' and 'commotion' really meant.

'Parties out in different directions have captured small numbers of men and women, hidden in caves, which were found to contain supplies of different kinds.'

'Only a few goats have been captured, and no good whatever done.'

¹ Since Mahoiza's messenger would take a day in going to Estcourt, we may allow him *three* for the journey to and fro. And, as Mahoiza started from Epangweni immediately on his return, it would follow that, supposing him to have stayed *seventeen* days altogether at that kraal, he must have waited fourteen days before sending one of his twenty men and boys to tell Mr. M. that 'people were running away with their goods,' though he saw them doing so on the 'second' and 'third' days, and, in fact, continually! If, however, he stayed only *ten* days (77-81), then he sent his messenger on the sixth or seventh, when the beef had almost come to an end. In other words the statement in the 'Introduction' and 'Sentence,' that he left Maritzburg on Oct. 4, is erroneous: it is plain that he started on Oct. 11.

'Only a few old men are left in the kraals, or rather hid in the holes and caves.'

'We found only one native whom we shot, took a lot of eighty-seven goats, &c. One fellow in a cave loaded his rifle with stones, and slightly wounded, &c. We, however, got him out, and shot him through the brains.'

'All the prisoners that we have taken up to the present time seem to be the scum of Langalibalele's tribe, a poor miserable lot of beings, and they are all hunted out of caves, like turning rabbits out of a warren.'

'It is by no means an honourable warfare, a few wretched men and women in holes and bushes, offering little, if any, resistance, attacked by hundreds,' &c., &c.

138. 'And blankets and great coats were purchased to enable the men to brave the inclemency of the weather across the Mountain.'

If the Chief and his tribe had determined to cross the Mountain, it would have shown very good forethought on their part to have provided themselves with 'coats and blankets,' and very good sense in the Chief to have recommended his men to do so; and, at all events, it would have shown that they intended only to *run away*, and not to fight with the Government Force. But, unfortunately for the writer's argument, he tells us immediately afterwards (145) that they had no fixed plan whatever. And one witness distinctly says, p. 99—

'It was not then intended to go over the Mountain. But, when we heard that a black force was coming too, and that it was coming from all directions, we were obliged to go up the Mountain.'

The fact is that there is only *one* man who says, p. 99—

'I came down to Pietermaritzburg. . . My object was to buy a blanket and coat, because the fact that we were going to leave the colony had already been made known. I came down before the force left Pietermaritzburg. I started with Mbombo, and, when I got back, the cattle had started, and I found all the women of our kraal had gone.'

Thus his 'blanket and coat' were bought—not long before, but—at the very last moment, when Mbombo had

been sent with the bag of gold to offer the payment of a fine (79-81), and reached Maritzburg at the time the force was about to start. It is true, Umtyityizelwa says, but only on *hearsay* evidence (113)—

'Immediately after my visit, about July, the Hlubi people purchased coats, saddles, and bridles in large numbers; the young men and middle-aged purchased.' p. 67.

The Writer may make the best of this information.

Langalibalele and the 'loyal' natives of his tribe.

139. 'The members of the tribe, whose loyalty to their Chief was suspected, were threatened.'

This rests chiefly on the statements of Umtyityizelwa.

It was after this meeting, and in consequence of it, that a great deal of alarm was caused to those who were loyal to the Government; for, whenever they went up there, they were called spies, were accused of belonging to the Government, and communicating what they heard to the Government authorities. In consequence of this, a great many slept in the bush away from their kraals. The tribe said Mr. Rudolph, Uzibulale, and I should be the first to be killed. This we *heard* from some of the tribe who remained loyal to the Government. Several people ['loyal' natives, apparently] went intending to pay their respects to Langalibalele; but the young men pointed at them, and called out that they did not belong to them, but were traitors and had turned their back upon the tribe. These felt they were under a ban, and told others who became alarmed at it. The alarm was serious for some time before Mahoiza came. There was a belief that a plan had been laid by Langalibalele for an attack on those residing in the neighbourhood of Estcourt, and this was only warded off by the accidental meeting of the Volunteers there. The general report was, that this attack would be made, and then Langalibalele would go up the Mountains with his tribe.' p. 67.

This was in July, *some months before Mahoiza went up*; and one of the 'loyal' Sons, Mango, immediately 'challenged the statements made by witness, and asked him to produce anyone who could substantiate any portion of his evidence.'

140. Accordingly Umtyityizelwa called Baleni, who testified—

‘It was a very common thing, *when they were assembled at a beer-drinking*, to say that, when they had to go, they would settle with Mr. Rudolph, Uzibulale, and the last witness. They took it for granted that they would leave the country; but, before doing so, they would settle certain accounts. I heard this said so often that I thought it necessary to give a warning to the persons concerned, and I did so. I belong to the Hlubi tribe, but reside on a private farm, and remain loyal. . . Those belonging to the Hlubi tribe, who remained loyal and resided in the low country, left their kraals and fled, and so did the white people. This was *after Mahoiza’s arrival*. The same cause influenced the white people as well as the blacks; it was rumoured, and generally believed, that Langalibalele intended to make an attack upon them all; and, when the white people saw that all the cattle of the Hlubi tribe were being driven towards the Drakensberg, they also thought it necessary to place their cattle in some situation of security.’ p. 68.

It is likely enough that some of the hot-headed young fellows of the tribe, when the beer was in and the wit was out, may have used such language against the supposed enemies of their tribe, who were believed to be doing their utmost to compass its destruction. But what had the tribe generally, or the Chief, to do with this? At any rate, Baleni is speaking of a totally different time, ‘*after Mahoiza’s arrival*’; whereas Umtyityizelwa speaks of what happened long before, ‘*after this meeting*’ at Epangweni, when the force had been ‘*charmed*,’ &c., as he had *heard* from his brothers. Now it is certain that there was no such ‘*charming*’ at all at Epangweni, *i.e.* in the *low* country at that time. The ‘*sprinkling*’ in July took place in the *high* country, at Amahendeni, as Mango states, p. 68, agreeing in this with his father, who says also that they were sprinkled at Epangweni in February (125); and Mango states ‘*These were the only occasions on which the regiments were sprinkled.*’ There was, however, that also at Nobamba in April, which his father mentions; but the above evidence suffices to show that there was no *second* sprinkling at Epangweni. But was there any considerable ‘*meeting*’ at that kraal?

141. Perhaps the solution of the matter may be found in the following extracts from the *Natal Witness*.

'At the time when the Volunteers were learning brigade drill at the Northern Camp (July 7-16), Langalibalele close by was reviewing his men, under the pretence of a great hunt-meeting. . . It is not likely he will obey the summons to go to Maritzburg, which means giving up the guns in the hands of his people, when these were worked for at the D. F. by his express orders [thirty adult sons of his own having only two guns among them (25), one a present from his father, the other earned at the D. F.!] We understand the people of the tribe are eager purchasers of sulphur and saltpetre.' July 22, 1873.

But then in the *Witness* of July 29, 1873, we read :—

'A correspondent in Weenen County says that the gathering of Kafirs there, to which we lately alluded, was merely 170 men met together at the Chief's kraal, to pay the hut-tax !'

I may as well add here the following from the *Witness*.

'As a finale I may state that on Saturday night the sentries caught two Kafir spies, and speedily pulled them off their horses, bound them, and consigned them to durance vile. One was a nephew of Langalibalele. They were tried by Court-Martial on Sunday, and fined 10*s.* each, and, had they got two dozen besides, many say it would have served them right.'

How far this 'Court-Martial' and punishment was *legal* for these two unfortunate natives, who rode up to see the 'Great Northern Camp' and were treated as above, is a question which I leave to the reader's judgment. But the above shows the sort of *canards* which were propagated at the time throughout the Colony, and have now been greedily caught at by the writer of this '*Introduction*,' in order to swell the charges against the Chief and his tribe.

142. There is no doubt, however, that at this time the formation of the 'Great Northern Camp,' July 7-16, by the union of the Weenen, Karkloof, and Ladismith Volunteers, frightened greatly Langalibalele and his tribe, conscious, as they were, that he had not obeyed the two summonses by Umnyembe to go to Maritzburg. They

began even then, it seems, to take refuge in the caves and bushes, thinking that this force was being collected to 'eat them up'; and *their* fears reacted on some white people and 'loyal' natives, who perhaps heard some hard words from the rougher spirits of a tribe numbering about 10,000 people, at 'beer-drinkings' and elsewhere. But, in point of fact, no injury whatever was done to them or to their cattle—not even during the six weeks when the S. N. A. had left the Colony for Zululand, and the whole district lay at their mercy, if they had been rebels.

143. Thus Umpiko says, p. 79 :—

'Just about the time of Umnyembe's second visit, we were startled at hearing that some white men had become alarmed at reports that some force was coming up, and had begun to move their cattle and wagons. Some of Langalibalele's tribe were also afraid. This was caused by the assembling of the Volunteers at Estcourt for drill. We were surprised that this should cause any alarm, because we knew that they had only come for the purpose of practice, as was their usual custom; but there being alarm among the white men caused it to be among the blacks likewise. Langalibalele sent for me that he might hear the truth of the matter. I went to him, and he asked me what was the cause of the alarm, inasmuch as his people on the Little Tugela and the white people there had fled, and whether there really was any force intending to do harm. I said, 'No! it was the usual annual gathering of the Volunteers.'

Umpiko, however, was mistaken, and the tribe had more ground for their alarm than he imagined. This was not the 'usual annual gathering of Volunteers,' which had already taken place, May 9-11; but it was the assembling of the 'Great Northern Camp,' which for the first time had been formed at Estcourt, and the presence of which seems to have caused considerable excitement among whites and blacks in the neighbourhood. Strange that, if Langalibalele was really believed to be such a desperate 'rebel,' a large number of men from this very Camp volunteered on the second day to accompany the S. N. A. to Zululand, and did so at the end of July, two or three weeks afterwards, leaving their homes and the whole County of

Weenen very much at his disposal, if he had any evil intentions, for six weeks.

144. The following statements also occur in the evidence :—

‘After Mahoiza’s arrival, a man called Umhlopekazi went to most of the kraals in the Low Country that had made up their minds to remain loyal, and said that he had been sent by Langa-libalele to warn them that, if they did not adhere to him, they would be first attacked. This man did not come to my kraal, but the message was brought to me from a neighbouring kraal, [that is, it was *hearsay* evidence]. There are persons to whom this message was delivered, and every one was alarmed at it. That was one of the most definite reasons on account of which the people round Estcourt were alarmed.’ p. 75.

And on p. 100 mention is made of another man, Moyeni, coming down, two months or more before Mahoiza came, with an order from Langalibalele that the cattle were to be sent up to the highlands, and ‘to say that, if any of the people changed their minds [did not remain loyal to him] he would know the reason why.’

But Langalibalele himself utterly denied that he had ever sent such messages.

‘He is surprised that anyone should be bold enough to say that he had sent upon so important a matter a mere youth about whom he knows nothing. If he had sent anyone, it would have been one of those whom he always sent, Mabudhle, or perhaps Mbombo, or Umpiko. He knows nothing of a number of men whom he is said to have been sending besides these; for he was not in the habit of sending boys; he used to send responsible men. Therefore he denies that utterly; he never sent anyone with such a message.’

145. ‘Several plans, some wild, some feasible, appear to have been discussed; but it is difficult to know what particular proposal it was ultimately decided to adopt. Things were apparently left much to chance, and whatever happened would be regarded as their fate, which no action or forethought on their part could arrest. One thing is known, that their cattle were at an early date sent to the fastnesses at the sources of the Little Tugela, where it was then evidently intended an attempt should

be made to defend them, and they were only recalled when the flight over the Mountain had been determined upon.' p. xv.

Could anything more clearly show the utter absence of a 'rebellious' purpose, than the above description of the complete uncertainty as to their future movements in which the arrival of the Government force found them? *Just before* the writer has told us that 'blankets and coats' were bought 'to enable them to brave the inclemency of the weather across the Mountain.' *Now* he tells us that they 'evidently intended' to make their stand in the fastnesses of the Little Tugela, whither the cattle were driven, and from which 'they were recalled when the flight over the Mountain had been determined upon,'—that is, as the evidence shows, only two or three days before the Bushman's Pass Affair, since some of the cattle, so recalled, reached the foot of the Pass on the day of that conflict, p. 93. No doubt, as the same witness says—

'The *first intention* of a large portion of the tribe was to go to the upper part of the Little Tugela, and they went there with their cattle. An *order* to go over the Mountain was afterwards given, and the people had to go back along the base of the Drakensberg in order to reach the Bushman's River Pass.' p. 93.

But the above language shows that the original 'intention' was that of some of the people, and the 'order' was that of the Chief. And so says Deke,¹ p. 99—

'The arrangement then was that the cattle should be taken to the fastnesses of the Little Tugela: it was not then intended to go over the Mountain. But, when we heard that a black force was coming too, and that it was coming from all directions, we were obliged to go up the Mountain. The cattle did first go to the sources of the Little Tugela. But all these plans were set aside by the news which was brought by Mbombo to the effect that the forces were coming from all directions.'

146. The following is the statement of Langalibalele himself.

¹ This is not the Deke who was shot in the knee in the affair of Matyana (99.)

He admits about the hiding of the women and children; but he denies about the hiding of the cattle; he says that his orders were that the cattle should make their way towards the Pass, but the women and children remain behind in the caves of the Little Tugela, that so they might be safe.

' At first Mabudhle and others advised that they should go to their old kraals across the Buffalo, because they saw that they were not living comfortably here, and the S. N. A. was continually fining them for nothing at all, and they therefore wished to leave this land. And Langalibalele was very willing to do so, wishing himself to go thither. But, at the time when Mabudhle advised it, he refused to go, hearing that the *impi* was close at hand. But in this proposal there was no idea whatever of fighting with the whitemen; it was merely a running away from the harsh treatment they had experienced, and a hiding themselves from the face of the Government, hoping that, when they had got there, they would not be followed. So, when Mbombo made that journey to ask for peace and pay a fine, they wished after paying it to be allowed to go and no longer live here. For they saw that they were fined continually more and more by the Authorities without their fault appearing. When they were removed from Emlhwanini, they were fined a large number of cattle, and Langalibalele alone paid 40 head, with which he was about to *lobola* a wife from the amaSwazi. Again at Ladismith, because he said to the Indunas, "Did you suppose that I should cross and go back again to Zululand?" the S. N. A. fined him an ox, and he paid it, not having said a word more, but speaking only with the Indunas. Then he fined him 10*l.* about the girls, when he had never said a word except to Somhashi's Induna, that "he should speak louder." After that he was continually worried by Mr. Macfarlane and his Indunas and Interpreter. All this convinced him that he would not live comfortably here, and he wished to return to his old mealie-grounds. It is quite true that he wished to go thither. But there is not a man who wished to fight with the whitemen; for who was Langalibalele that he should fight with the whitemen, when the whole Zulu Nation would not desire to do so? He utterly denies those words of Deke which imply this. p. 99.

Moreover, no cattle ever went by his order to be hidden at the Little Tugela. He cannot say whether there were any who went thither of their own accord without his order. What he does know is this, that all the cattle made for the Pass by his directions; for who could think of *hiding* such a multitude of cattle?'

147. 'There is another point to which we have referred elsewhere—the overtures to the Basuto Chieftains.

There is also the mysterious message sent by Langalibalele to the Chief Hlubi, whose people rendered such loyal service during the recent operations.

And there is no reasonable doubt that messages, with a view to obtain assistance, and secure the cooperation of other native tribes, were sent to the Chiefs in this Colony, who were at any rate deemed to be disaffected to the Natal Government.

Langalibalele had also been in communication with Cetywayo, Paramount Chief of the Zulu nation.' p. xvi.

There is not a particle of proof (72) that he made any 'overtures' of any kind—much less of a treasonable nature—to the Basuto Chiefs; and the fact, that he wished to settle in his old mealie-grounds across the Buffalo (146), but took at last his way over the Mountain, and wandered in that dreary waste without a guide and without knowing whither to go, sufficiently confirms his own statements that he had made no such communications. Thus the old headman, Ngwadhla, says, p. 60—

'Langalibalele left his women and family behind him, not knowing where he would be able to take them.'

Hlubi was a petty chief with 58 huts, whereas Langalibalele had 2,244, and Hlubi and his people were 'loyal' to the backbone. But, had it been otherwise, what possible aid could Langalibalele expect for his supposed 'rebellion' from such an insignificant potentate? It is simply childish to talk of his 'mysterious message' to Hlubi, the meaning of which seems perfectly plain, *viz.* to get some advice from him in his perplexity:—

'He was in a difficulty with the Government, but did not know what it was about.' p. 61.

As to the other Chiefs in this Colony, there is not a shadow of proof that he sent any messages to them, as above described. And surely after the examination of more than two hundred prisoners of the tribe, besides those who

remained 'loyal,' it would be strange that not one weaker vessel should be found to betray their Chief, if such proceedings were known to the tribe—more especially when he and his sons had been already condemned, and nothing that might be said could make matters worse for them.

Nor is there the least sign of his having been in communication with Cetywayo for any such purpose as the Writer insinuates. It is notorious that Langalibalele was regarded by the Zulus as a great rainmaker (*Sentence*, p. 33), and Cetywayo appears to have sent to ask him to exercise his skill on his behalf, and he sent his own rainmaker to supply his place. But this was a long while ago, about the middle of 1872; for Umpiko says—

'Moreover the rainmaker went to the Zulu country. He remained there a *whole year*, and returned before the S. N. A. went to Zululand (July 31, 1873).'

And it appears that Langalibalele, though on friendly terms with Cetywayo, had no desire to place himself in too close relations with him (73).

148. Thus all these ingenious suggestions of 'constructive treason' are not sustained by a particle of proof. It is not my province to suggest what better steps might have been taken by the Government to 'vindicate its authority' under the circumstances, more especially if it was really believed that—

'some of the other tribes were implicated in these proceedings, and ready at the first favourable moment to do their utmost to put an end to the English rule,' p. xvi—

and even that 'the black population hardly concealed their joy' when our three young men fell at the Bushman's River Pass, p. xxiii.

But certainly this was not the view held as to the feelings of the Natives when the S. N. A. wrote his memorandum, so late as April 7, 1873, in reply to Mr. Ridley, M. L. C., who had stated in a letter to the Secretary of State 'that the Chiefs were manifesting a spirit of oppo-

sition to the Government,' that 'a variety of circumstances had combined to make the Kafirs dissatisfied with the Government,' that 'feelings of antipathy were entertained by the Natives towards the Government.' To this the S. N. A. replied—

'It is doubtless true that changes in the feeling of a people sometimes take place very suddenly. But it seems unlikely that those described by Mr. Ridley, so thoroughly the reverse of what they are proved by circumstances to have been for more than a quarter of a century past, should at once have become so strong and so universal, and yet be unknown to the Magistrates, to the Missionaries, and to me, all of whom are in daily personal contact with the people themselves. But *in truth there is no such change*, although how soon it may come depends upon the success which Mr. Ridley and his co-workers may meet in their attempts to bring it about.'

I can only repeat that no evidence whatever has been produced to show that any other tribes were implicated in Langalibalele's proceedings, not even its next neighbour, the tribe of Putini, though closely bound to the amaHlubi by intertribal relations. And the fact that, immediately after the termination of active proceedings against the tribe, the only two Magistrates in that part of the Colony, who were both prominently engaged in those proceedings—Mr. Macfarlane and Capt. Lucas—were allowed to leave the Colony for England (the former on the ground of ill health)—that the Lieutenant-Governor went to Capetown for four or five weeks, and the Secretary for Native Affairs has also gone to England,—sufficiently shows that there were no real grounds for any serious apprehensions on this account.

The causes of Langalibalele leaving the Colony.

149. The causes which led to this rebellion are not, we think, far to seek.

Of course, setting out with the assumption that there was a 'rebellion,' instead of a mere 'running away,' it is easy for the Writer to assign a number of causes as being likely to have given rise to it, *e.g.* 'increase in numbers,

wealth and influence'—'occupation of a large extent of country, not only fertile, but abounding in natural fastnesses,'—'isolation from the central authority,' from which 'the Chief conceived a great idea of his power and position, and this was fostered by the adulation and flattery of his attendants and the ambitious designs of his counsellors'—the small external show of power at the Magistracy—the small number of European farmers near him. And so they would begin to talk of casting off the yoke, 'a yoke, which as lovers of liberty, of freedom, they must cast off at any price,' and such talk was encouraged by the moderation of the Government in delaying to punish. The old men had forgotten the past; the new race knew nothing of it, and were allowed to have too much weight in the tribe, and were found in possession of numerous guns.

p. xvii.

150. No doubt, there is more or less of truth in the above statements; though the assertion that—

'Langalibalele found himself almost an absolute monarch in everything but the power to kill his subjects,'—'the almost absolute ruler of about 15,000 natives,'—

is mere verbiage, and the statement, that the Chief's not going to Maritzburg when summoned was an act of *defiance*, is disproved by the evidence, while the mention of—

'the insults offered to the messengers—insults which were intended to be a direct challenge to war'—

while all reference to the reason for the 'stripping' is carefully suppressed, can only be characterised as a disingenuous falsehood. Nor has a particle of evidence been produced to justify the writer in saying that—

'Langalibalele undoubtedly expected that, if once a successful blow were struck, the neighbouring tribes would have rushed to his standard, and aided him in resisting the authority of the British Government.' p. xvii.

151. The only passage, in fact, throughout the whole Official Record of the three Trials, which even approaches to

the idea of the tribe striking a 'blow' at the British Government, is on p. 99, where Deke says—

'When the report reached us that Mbombo had been made a prisoner, for it was so reported, we had another meeting. At this meeting the people discussed what should be done. The original intention had been for the whole tribe to escort the women and cattle straight from Weenen County to *their old place across the Buffalo*. The plan was that one force should go before and clear the way, and another bring up the rear; but the failure of Mbombo's mission made the time too short. And then the idea was that English soldiers only would come, and the men said, as to them, that they did not much care about them, because Langalibalele's people had a great many guns and would be mounted on horseback, and those who had not guns had assegais which they carried in a quiver—that those who had guns would fire upon the soldiers, and create confusion, when those with assegais could go in and finish them off.'

But even here there is no thought of voluntarily attacking the British Government. They wished simply to leave the Colony with their women and cattle, and they would have done so, if this plan had been carried out, and gone straight 'to their old place across the Buffalo,' quietly and peaceably, if allowed to do so. But, if interfered with on the way, the Chief's orders were, at the Amahendeni Meeting, as early as July, that they were not to fire, or use any force, against the Government.

'Langalibalele was then under the impression that force would be used against him; and he gave his orders to the Regiments assembled there that they were not to fire, or use any force, if the Government sent any force; but they all said, if any thing did come, they would fire; they would not allow any force to come without firing upon them. Langalibalele remonstrated, but it was of no use.' MANGO, p. 66.

152. Many, however, of the Writer's assertions might be predicated of other tribes in the Colony, and others of equal weight might be added. Twenty-five years of comparative peace within our borders—though it is difficult to understand the statement that 'authority has been enforced without blows,' p. xvii, with the cases of Sidoi and Matyana before us, when commandoes were led against

the respective tribes,—have, no doubt, increased the ‘numbers, wealth, and influence’ of the Natives generally; and close contact during all that time with Europeans has not in all cases tended to raise their estimate of the whiteman’s character, for honesty, sobriety, chastity, truthfulness, justice, or even to increase their dread of his power; for, now that guns are licensed, they must be expected to use them, and by practice will soon become good marksmen, as indeed many are at this moment, who have acquired their skill in shooting game for white masters, or in such an expedition as this, when on Oct. 30, as the *Natal Witness* says, 5,000 of the S. N. A.’s Kafirs left Maritzburg, ‘every twelfth man armed with a rifle.’ If Langalibalele had been on the right side, as he was in the case of Matyana, how gladly would the Government have welcomed a number of skilful marksmen from his tribe! We cannot wonder, then, if Baleni tells us, p. 67—

‘I was herding sheep when the Volunteers had their meeting at Estcourt, and a man of Langalibalele, named Ncwabazala, and others, were returning from witnessing their evolutions. This man said, if that was the way they managed their shooting, and those were the plans upon which they shot, Langalibalele’s people could easily manage them.’

153. Nor has this state of things been mended by the fact that multitudes of natives, from all parts of the Colony, have been taken or drawn to the Fields, and have there been familiarised with white men of all classes and nations, and had their eyes opened to white men’s weaknesses and vices beyond all previous experience. It would be idle to suppose that the amaHlubi tribe were free from faults which pervade more or less all the tribes in the Colony—more especially as Langalibalele’s young men were in great request as excellent servants, both in the Colony and at the Fields. It is to his credit that he kept them in order so well and so long. But the facts in question require undoubtedly very serious consideration by those who would consult for the future peace and safety

of the Colony. Whatever remedies may be applied for these evils, certain it is that they can never be checked or controlled—except through a mere momentary triumph, as now—by mere brute force. With 350,000 natives around us (p. xvi) and only 18,000 Europeans, it is plain that the Government can only expect to maintain its authority among them when all its actions are guided, and, in case of need, its small force brought to bear, in accordance with strict principles of justice.

154. But now let us, on the other hand, sum up from Langalibalele's own point of view 'the causes which led to this' running away. From the time of his first arrival it has happened, most unfortunately, that he has scarcely seen the S. N. A. except to be reprimanded and fined by him, as he considered, without any just reason.

(i.) A force was led against him, and he was fined 40 head of cattle, and the tribe, as he says, 4,000 or more (though natives make great mistakes in numbers), for not having moved with his people at once to their late location from the land at Emhlwanini, which they had cultivated for one season, and wished to crop a second time, that so they might recover the strength they had buried in it.

(ii.) He was fined an ox at Ladismith for 'asking the S. N. A.'s Indunas if they thought he meant to cross again into Zululand.'

(iii.) He was fined 10*l.* at Estcourt about the marriage question, because he 'had told Somhashi's Induna to speak louder, that all might hear,' and had never tried to evade the Marriage Regulations.

(iv.) He was asked by the S. N. A. about some idle story about his trying to get a way for a cannon to be brought down the Drakensberg; 'it looked as if the S. N. A. had a grudge against him.'

(v.) His man Sibanda's kraal was invaded in a rude way by Mr. Macfarlane's Induna in search of guns—the result of which was that his five boys ran away with their guns, and the father was fined 5*l.*—while other tribes around, though swarming with unregistered guns, were, and are still, left undisturbed.

(vi.) He finds that he is worried by Mr. Macfarlane to send in guns, when not one of his brother chiefs around is troubled at all.

(vii.) Mr. M. was not content with his sending in guns belong-

ing to owners whose names were known, but insisted on his sending in eight young men with their guns, whose names were not given, and who were probably at first unknown to Mr. M. himself, and who might not all have belonged to the Hlubi tribe.

(viii.) Mr. M. next required him to send in *all* the guns in his tribe for registration.

(ix.) When some of the names of the eight boys unknown had been ascertained and reported to him, and he had immediately sent in the five guns in question, these guns were confiscated.

(x.) Although he had sent in these guns without delay, he found that he had been already reported to the S. N. A. as contumacious.

(xi.) The messenger twice sent to him from the S. N. A. observed each time a mysterious silence about the offences of which he was accused.

(xii.) The second time a terrible word was sent that the tribe would be 'eaten up' and destroyed if he did not come.

(xiii.) The 'Great Northern Camp' was formed at Estcourt, as the tribe supposed, in close connexion with this threat.

(xiv.) Mahoiza was sent, a 'stern' man, who added to the alarm by dropping hints about the fact of his having had some secret communications 'with Molappo and other powers beyond the Colony' having reached the ears of the Government.

(xv.) All his applications to pay a fine for his fault to Mr. Macfarlane and Mahoiza having been rejected, and Mbombo having been sent at the last moment to Maritzburg with his little bag of gold, as an earnest of a sackful of money, which had been raised by the tribe for the purpose, he too returned unsuccessful, with the tidings that, before he left the City, the force with the S. C. at its head had already set out to eat up the tribe.

155. Under all these circumstances it is not to be wondered at that Langalibalele and his tribe fled at once over the Mountain. But long before the final crisis he must have felt that his situation was becoming uncomfortable and full of danger—that, sooner or later, he would be involved in serious difficulties with the Government. It was plain that he was in bad odour with his Magistrate, maligned by his Indunas, of whom one had a blood feud with his tribe, and even, as he thought—though, of course, erroneously—the S. N. A. 'had a grudge against him.' He had therefore better leave the Colony; and if only he

had been told that he was at perfect liberty to do so, to remove himself and his cattle 'out of the jurisdiction of the S. C. of Natal' (*Sentence*, p. 36) before his offence had been increased by his not having gone to the S. N. A. at Maritzburg when summoned, through dread that imprisonment or even death awaited him on account of some unknown charge or other trumped up against him by his enemies, he would, no doubt, have gladly hailed the announcement as the solution of all his difficulties.

156. Rather, however, than live in a state of constant anxiety, not knowing what fault he might next commit, and bring thereby destruction upon himself and his tribe, or be it that he was moved by a 'spirit of independence' (*Introd.* p. xvi), he determined to abandon his spacious and beautiful heritage—200,000 acres in extent, *i.e.* larger than Middlesex—of which it is said, p. xix:—

The Location included some of the finest arable land in the Colony, and the lowlands are described as very fertile; the grazing land was also superior, and cattle thrived remarkably well. The slopes of the Drakensberg, which bounded the Location, were habitable to the very base of the mountain.

We are told also, that 'some parts were wild and mountainous in the extreme,' with 'magnificent scenery,' but in some places almost inaccessible, 'abounding in caves and natural fastnesses of great strength,' and that—

'the fastnesses at the sources of the Little Tugela would appear to be in reality impregnable, if properly defended by a band of resolute men, even though armed with inferior weapons . . . The bush in various parts also afforded admirable places for concealment.'

But this fact, while it accounts to some extent for the 'spirit of independence' among the Highlanders of the tribe who lived in these wild mountains, leaves us also in wonder at the action of those who in former days drove by force a warlike tribe like this—more especially if it was (as is alleged, p. iv) troublesome and turbulent from the

very first—into this extraordinary district, because they would serve as a ‘buffer’ between the Colonists and the Bushmen; while it also proves the absence of any really ‘rebellious’ spirit in the tribe, which is manifested by their having quietly left the Colony, instead of defying the Government force, and holding their own ‘by a band of resolute men, in these impregnable fastnesses.’

Langalibalele and his tribe escape from the Colony.

157. For the present purpose, it is not necessary to consider in detail the next few pages, which are occupied chiefly with accounts of the operations of the force sent out against the amaHlubi. Instructions, it seems, for — the Natal Frontier Guard (Ladismith), the Weenen Yeomanry Cavalry, the Weenen Burgher Force, the Karkloof Carbineers, the Natal Carbineers, and the Richmond Rifles, all mounted Volunteer Corps,—

to turn out for the occasion, were issued on Wednesday, October 29, 1873, the very day on which Mahoiza held his interview with the Chief, and, of course, some days before the result of that interview could have been known to the Authorities. In fact, as we know (99), Mahoiza returned to Estcourt from his mission to Langalibalele on Saturday, Nov. 1, and the same day the S. N. A. with his native force arrived. The Volunteers are here spoken of as called out to ‘support a civil force’ (p. xviii); and this ‘civil force’ is stated to have consisted of a ‘large native force called out to assist in the operations’ :—

‘The volunteers were to “support the civil powers,” if necessary, and the military were again the “dernier ressort,” in case the Chief and tribe showed fight.’—p. xviii.

Here, then, the volunteers were to *support the natives*; but on p. xx the natives were to *support the volunteers* :—

‘It had been arranged that the force under Major Durnford should be “supported by a large native force” under Capt.

Allison . . . The absence of any known pass prevented the Carbineers receiving the support they expected, and which it was intended they should have.'

And again we read on p. xxxi:—

'The rebels divined, or had heard, that such a [native] force was to have advanced to the support of the Carbineers, to whom was entrusted the duty of stopping the pass.'

Accordingly, in his message to the Legislative Council, the Lieut.-Governor says:—

'He has therefore directed the Commandant, with the aid of Her Majesty's forces, to support such a civil and police force as he has considered necessary.'

The same confusion of ideas is exhibited in the *Parl. Blue Book*:—

A force of Volunteers, supported by a few mounted natives, was directed to proceed to take possession of the Bushman's River Pass. They were to have been met and supported at the top of the Pass by a large native force under Mr. Allison. Sir B. PINE, p. 9.

This order was in strict conformity with the spirit of the plan, viz., that the military should play the secondary part of supporting the civil force sent to arrest the Chief and tribe. *Ib.*

Your Lordship will see that the true cause of the disaster was the fatal mistake in the plans, which prevented Mr. Allison and his large native force being on the spot to meet and support the Volunteers. *Ib.*

158. It is difficult to see how 5,000 armed natives, of whom probably few, if any, were policemen, could have been regarded as a 'police force,' or even as a 'civil force,' in the sense probably intended 'by recent instructions of Her Majesty's Government,' viz., that of a body of police, who were first in every such case as this to try to make a quiet seizure, and, if resisted, might use their arms, and, if needed, call in the aid of the military. No attempt, however, was made to seize the Chief in this way, by sending a European magistrate with a body of police to his kraal. From the first there was nothing but a display

of warlike plans and operations, which proved a complete failure; the net was laid, but the bird escaped. This message also of October 30, before the result of Mahoiza's mission was known, announced to the House that the Chief and his tribe 'had set the authority of the Government at defiance, and are charged with committing acts amounting to *public violence and treason.*' And yet, up to that time, the 'disrespect' to Mahoiza was not known, no violence whatever had been committed, and only the day before the S. N. A. had told Mbombo—

'to go at once to Langalibalele, and tell him, if he would only meet H. E. and explain his conduct, no harm whatever would happen.'
—p. 23.

159. A 'complete cordon' was arranged for enclosing and capturing the Chief and the tribe, and all were to be at their posts at 8 p.m. on Monday, November 3, 1873, about 60 Carbineers with 20 Basutos having been detached under Major (now Colonel) Durnford, R.E., at 8 p.m., on Sunday, to seize the Bushman's River Pass by Monday morning. They did not reach the Pass, however, till Tuesday morning, numbering then only 34 volunteers and 20 Basutos, the others having been left behind through fatigue and exhaustion, from the want of food and from the difficulties of the way; and the Chief had slept at its foot on Sunday night, had ascended on Monday morning, and was now some distance ahead on his way towards Basuto-land. It is certainly to be regretted if, at the time of so critical a movement, there was no 'adequate knowledge of the country to be crossed by the volunteers detailed on so important a service,' or of the 'mountain passes' by which the native force was to come to their support; and it is strange, if it was only 'subsequently ascertained,' that all the while—

'a R. E. officer in Peter Maritzburg possessed information as to the Bushman's River Pass, professional knowledge, of which the Government, had they known of its existence, would gladly have availed themselves.'—p. xxi.

160. The writer expresses his 'disapproval' both of the Lieut.-Governor's order, 'not to fire first,' and of Major Durnford's 'literal execution' of the order. But the excuse made for this order, viz. :—

'The idea was that the native force would be present, that they would do the work and bear the brunt, and the volunteers would only be called to act in case of open hostilities between the opposing native forces, and when the allies needed support, possibly after shots had been exchanged on both sides' (p. **xxi**),

is too flimsy to hold water for a moment. The 20 Basutos attached to Major Durnford's force were part of the 'native force' from Weeneu County, and the order 'not to fire first'—which, however, for a native, meant that he was not to 'stab' any more than to 'shoot'—restrained them from firing as well as the volunteers. At all events, Captain Barter writes, p. **xxii** :—

'I have hitherto omitted the important fact, that it had been announced to us that Mr. Allison, the late Border Agent, was to be on the spot by the original hour appointed, with a large force of natives to support us.'

And he shows still more plainly how the order in question was understood at the time, when he says :—

'The injunction to "await their fire" involved the certain sacrifice of one life.'— p. **xxii**.

161. But the writer is not content with suggesting one excuse for the order.

'We may refer our readers to the etiquette said to be observed in native warfare, viz., that the force or army of the superior power should commence the war . . . No doubt, the knowledge of this custom had something to do with the orders given to the English force, "not to fire first," an order which, being obeyed in the letter, and not in the spirit in which it was given, led to the disaster at the Bushman's River Pass.'— p. **xxix**.

As it is well known that the S. N. A., as soon as he heard of the order in question, expressed his strong disapproval of it, it is most unlikely that it had anything to do with any such native custom, or that the S. C. expected that a 'rebel' tribe would not fire first out of mere 'etiquette.' It would indeed seem that respect for the white man did for some time restrain the bolder spirits of the tribe from firing. But common-sense surely, rather than etiquette, would restrain an inferior refugee force from attacking its pursuers, if they allowed it to run away unmolested. However, it is plain that the order in question had no such recondite meaning as the writer assigns to it. It may have been unwise from a military point of view, but it appears to have been intended to prevent, if possible, the effusion of blood, as the 'rebellion' of the Chief and tribe was not yet clearly ascertained, the order in question having been issued on the evening of Sunday, November 2, and Mr. Shepstone's report of the treatment of Mahoiza (88, note) being dated that same evening at Estcourt, thirty miles off.

The Devastation of Langalibalele's Location.

162. 'Although the cordon was complete, no hasty measures were taken against the tribe. During Tuesday and Wednesday Nov. 4 and 5, heralds were engaged in proclaiming throughout the length and breadth of the location, calling upon Langalibalele to come in and deliver himself up, and advising those who did not wish to be implicated to take steps at once to declare themselves to the Government forces and to re-occupy their kraals.

'The kraals were all deserted; but no wild destruction of huts took place in consequence. The women and children had concealed themselves in the caves, and with them were such members of the tribe as had not escaped over the mountain by the Bushman's River Pass. There is ample evidence to show that the terms of the proclamation were widely circulated, not only

by the heralds employed for that purpose, but also by those who heard the heralds, to those who had concealed themselves in out-of-the-way parts of the location, where it was unsafe and impossible for the heralds to penetrate.'—p. xxiii.

How can it be said that the cordon was complete when the Bushman's River Pass, by which the Hlubi tribe and cattle were known to be escaping, was left for a whole fortnight perfectly open, from November 4, when the retreat took place, to November 18, when the Pass was re-occupied! And now let us imagine these two 'heralds' marching for *two* days through a district larger than the County of Middlesex, but in some parts 'wild and mountainous in the extreme,' yet 'habitable to the very base of the mountain!' And let any believe who can that their message was heard, even by a small fraction of the miserable fugitives, chiefly old men, and women, and children (187), who had concealed themselves in caves and bushes, or was heard *in time* to enable them to avail themselves of its invitation *before the third day*, Thursday, November 6, on which—

'the attack commenced, and thereafter the forces on all sides swept the country before them.'—p. xxiii.

163. Indeed the accounts of the two 'heralds' are simply ludicrous. Nomyaca tells how he first 'came on *some women* in a bush, and saw some goats,' and then '*two men*,' who 'refused to come down,' but one said, 'We are here in charge of some of Langalibalele's wives;' and then he meets Adam, the other 'herald,' who had seen '*four men* go behind a hill,' and, while following them, they 'met *another man* driving some goats,' and 'we shouted to all there to return,' for 'there were others in sight and hearing when we called.' That seems to be about all that Nomyaca did towards publishing the proclamation, informing three men, 'some women in a bush,' and 'shouting to all there'—where he was at a particular moment. The other 'herald,' Adam, gives just such

another story, how, 'after leaving the camp, they met *six men*,' and, after leaving these, 'kept on the ridges,' and 'came to four goats,' and then separated, and 'after traversing a large portion of the location, met *one man* driving goats,' the same who is mentioned by Nomyaca, and then 'saw *two people*,' who were duly informed, and ran away.

'When we went towards the Little Tugela, we saw fires and smoke; but on coming in sight the fires were put out. We called out to those people who were making fires in the gorges, and told them to return to their kraals, inasmuch as an armed force would be sent on the following day. Passing on we saw a man herding three horses.'—p. 56.

164. When the writer of the *Introduction*, therefore, asserts that 'there is ample evidence to show that the terms of the proclamation were widely circulated' by these heralds—

'calling out among the bushes and the gorges that those who intend to adhere to the Government must return to-night, as to-morrow an armed force will be sent against those who remain in the bushes and the gorges' (p. 56),

it is obviously impossible that the assertion should be true. Under the circumstances, the publication was a mere farce; Langalibalele and the bulk of his people had gone over the Mountain; the huts were empty, the people nowhere to be seen—only a few here and there; and most of the caves, gorges, and bushes, where those who remained were hiding, were utterly inaccessible to these heralds, partly from natural causes, and partly from their own fears; and on the third day the horrible 'dogs of war' were let loose on the wretched remnant of the tribe. 'No wild destruction of huts took place,' it is stated, at this time; and this, no doubt, is true. But a volunteer writes:—

'On Dec. 31 the order was given to burn down Putini's Location, and it was thoroughly carried out, every hut being burnt to the ground, many of them full of grain. There were a good many

old women of Langalibalele's left behind, who must have perished of starvation and exposure. Langalibalele's huts were fired on the same days as Putini's' (Dec. 31, Jan. 1).

The attack on fugitives hiding in caves and bushes.

165. 'On Thursday the attack commenced, and thereafter the forces on all sides swept the country before them. In many cases these women and children refused to surrender when called on to do so; and their capture was not effected until the few men who had remained behind when their companions went over the mountain had been either killed, or, seeing their utter inability to defend their charge, had fled. The Government forces and native allies were repeatedly fired upon from rocks and caves, and the work of "drawing" all these hiding-places was difficult and dangerous. Lives were lost; rebels who showed fight and resistance were slain with arms in their hands, and native allies died in the discharge of their duty. Acts of cruelty and revenge are inseparable from war of any kind; but . . . Natalians may feel thankful that the horrors of our little war were not unnecessarily prolonged, and that they were only such as are inevitably connected with the unsheathing of the sword—a proceeding for which Langalibalele, and not the Natal Government, is responsible. The native allies, as a general rule, practised those lessons of mercy which had been impressed on them (see Adam's evidence, p. 56), and we question whether, even in a war between civilised races, a large number of defenceless women and children would have received such gentle treatment and enjoyed such immunity from insult and wrong, at a time when more than at any other the worst passions are aroused, and might is the only right which is respected.'—p. xxiii.

166. No one, of course, supposes that the Government *wished* that women and children should be killed; but the fact is that the measures taken inevitably led to this result

in many cases. And it is a standing reproach to us that in former days, when only Kafirs occupied this land—

‘the lives of women and children were respected, prisoners taken in battle were not put to death, but detained till ransomed, and victory, rather than plunder and devastation, seems to have been the great object of these encounters.’—*Hist. Sketch*, by Mr. Shepstone, appended to Lieut.-Governor Scott’s *Despatch*, No. 34, 1864, p. 51.

Nay, Dingiswayo, the predecessor of Chaka, we are told (*Ib.* p. 52),—

‘never allowed women and children to be put to death, and frequently released them when they had been taken prisoners; he cared little for the capture of cattle, and thought that the greatest evidence of victory was to quarter his army in the enemy’s country; he made a rule of doing this so long as there was grain enough to support it to be found belonging to a defeated tribe. The consequence was that he never utterly destroyed or permanently dispersed any people with whom he went to war; they usually reoccupied their country, and acknowledged Dingiswayo as their chief until it suited them to do otherwise. Chaka disapproved of this policy, because he thought it would ultimately lead to dangerous combinations against the Supreme Chief. He thought that the only plan was to inflict such an injury as would thoroughly disorganize; hence, when he acquired power, he adopted the uncompromising system which raised the Zulu power to such renown in South Africa.’

167. And we, a Christian people, it seems, have followed the example of this bloodthirsty despot, Chaka, the Attila of South Africa! We have dispersed the tribe, burnt down their huts, some of them containing stores of grain, and have hunted the wretched fugitives in caves and bushes, killing or driving away the ‘few men’ who remained to protect the otherwise ‘defenceless women and children,’ and capturing, and in too many cases killing, the latter! The women, if left alone, would have either managed to rejoin their relatives, or would have taken refuge with friends in other tribes. But no! one of the charges for which Putini’s kindred tribe was ‘eaten up,’ their cattle seized, their men made prisoners, and ‘the

women taken charge of by the Government, and located at Kafir kraals, pending the ultimate decision as to their disposal' (p. xxxviii), was this, that 'they were accused of sheltering a number of Langalibalele's people and cattle and some portion of his family, particularly his favourite wife.' Little did the fugitives over the mountain expect from Englishmen such treatment of those they had left behind! Several passages in the evidence imply their anxious care for their 'helpless women and children,' and the effect which the tidings of their being captured produced upon the male relatives, who must have received the news with amazement, as nothing of the kind was done when the tribes of Sidoi and Matyana were 'eaten up.'

'Before we crossed the Great Orange River, Langalibalele ordered a number to go back to Natal, with his son Umhai, to see how the women and children were getting on.'—NQOLA, p. 98.

'After a time Silevu caught us up, and told us that our families were being collected (captured); I then determined to go back.'—BALENI, p. 97.

'I heard that the women and children were being *collected*; I came down again.'—UMTYIKITYA, p. 100.

'I then came back again and descended the Drakensberg by another pass, with the intention of joining the women.'—NOZAZA, p. 92.

'I turned back at the Orange River to come and fetch the children (*abantwana*, i.e., women and children).'—SIBANYANA, p. 93.

'I told them I could not go with them because I had not got my (women and) children with me. . . . but they had theirs with them.'—NOMKETHI, p. 96.

It is the first time that such acts have been committed in the history of Natal since the times of Chaka and Dingane, and God grant it may be the last!

168. Adam's statement above referred to is this :

'A girl was wounded at the same time; but I dressed the wound with gunpowder, and she got well . . . I should never have alluded to the girl I have mentioned, except for orders received that if we wounded a man, and he fell, we were not to finish him off, but take him prisoner.'—p. 56.

Such orders, we may presume, were issued; but how far they were observed is another question. It is on record, I believe, in the Magistrate's office at Estcourt, that Faku, to excuse his conduct in the case complained of by Mr. Mellersh, stated that his orders from Capt. Lucas were, 'to bring the women, but he (Capt. Lucas) did not wish to see the face of any of the men!' Whether this statement of Faku was true or not, it showed the spirit in which he acted. And the proceedings at the cave, which the writer of the *Introduction* next notices, and where a wounded man 'was brought out of his hiding-place, and by order of the officer in command shot,' in the presence of a number of white men and natives, show that the order 'not to finish off' a wounded man, but to 'take him prisoner,' was not always obeyed.

169. As this matter is to be made the subject of enquiry, I forbear to say more, having already expressed publicly my views upon the subject from the information given me, of which I have seen as yet no reason to doubt the substantial correctness. I must observe, however, that, while the writer 'regrets' the act, 'so contrary, we understand, to warlike precedent' (p. xxv), and rejects, 'as in the present day untenable,' the plea, that 'the man was so wounded that it was a mercy to put him out of his misery,' he attempts to palliate it by saying that—

'If mercy had been extended to this man, the act might have been misconstrued by a barbarian race. . . . Acts of mercy would, however, as a rule, be regarded as signs of fear, and severity and strong measures at the outset of a native disturbance frequently prove in the end the greatest mercy.'—p. xxv.

How the act of 'extending mercy' to a solitary wounded wretch, surrounded by several English officers, about 30 Carbineers, 6 artillery men, and a few natives, could be 'misconstrued by a barbarian race' as a sign of fear, I must leave the writer to show, if he can.

The outrages committed by the Government force on 'loyal' natives.

170. With respect to the cases stated by Mr. R. Mellersh and others, of innocent natives killed by the Government force, the writer says, p. xxv:—

'One or two natives, who did not actively participate in the rebellion, are reported to have lost their lives by the unwarranted attack of some of the native forces, when fired with excitement and revenge and flushed with success. The charge, we believe, is unfortunately true, and, though the dead cannot be brought to life again, the matter has been investigated, and the Government will doubtless do all that can be done in the matter.'—p. xxv.

But in Mr. Mellersh's case there was no real ground for 'excitement and revenge,' and the 'success' was only that of a strong armed force under Faku pouring down on two defenceless kraals, where the people had remained 'loyal,' and were living quietly on Mr. Mellersh's land, though belonging to the unfortunate tribe of the ama-Hlubi. An investigation has been made, but only after long and persistent pressure by Mr. Mellersh, who says, on February 14:—

'On December 16, a kraal which had been perfectly loyal is robbed by Kafirs in the service of Government of 70 head of cattle, as many goats, some 20*l.* in cash, all their blankets and other goods; their pots are broken, their food scattered in the veldt, and one of the men assegaied; and two months after, in spite of my remonstrances, not only can I get no redress, but my loyal men are threatened with the loss of their liberty!'

At last, on April 26, Mr. M. writes to the S. N. A., in acknowledgment of his letter of April 21:—

'I have informed Ralarala that his property is to be restored to him, and also of H. E.'s regret that one of his sons should have been killed.'

171. But, besides the above, there are many other instances where innocent men have been killed or plundered by the Government force, where prisoners have been assegaied 'accidentally,' and 'rebels,' unresisting and without arms in their hands, have been brutally shot or stabbed. I forbear to say more on this subject, except that it is merely a bold assertion, in face of the facts, when we read, p. xxv :—

'Every effort was made to spare the lives of the enemy, and to take prisoners rather than kill those engaged in resisting the authority of the Government.'

The Government, by giving the name of 'rebels' to those who were only 'fugitives,' has blinded the eyes even of white men to the real character of these actions. The comparison with 'a war between civilized races' is simply absurd in the present instance, where there was no 'war' at all, but only a Christian Government hunting down a number of wretched runaways.

172. But, before we pass on, I desire to note one very striking fact, viz., that, as a rule, very great respect was shown by the so-called 'rebels' for the white men. When natives came to attack them in their hiding-places—men, perhaps, of tribes as guilty as themselves in respect of that non-registration of guns which led up to this disturbance—they had little scruple in firing at them. But white men, as I have heard from several, might pass close by some place of concealment and no attempt would be made to injure them. This appears plainly in the evidence of Shiyaguqa, p. 95 :—

'I saw Pakade's force in the direction in which my pathway lay, and I went back into the Tafel Kop. This force came up afterwards to where I and nine others were concealed on the W. side of the mountain. We kept ourselves very quiet, and they went away again. They came to the entrance of the cave, and Sibanyana shot one of them dead. Nyosi, the son of Sibanda, fired the first shot, but did not hit anyone. Sibanyana then shot his man; then the others in the cave, who had guns, fired also. The attacking party then fired a

great many shots into the cave; one of the Government force used shot, and wounded, but not seriously, two of our number.

'The Government force then left us and went away; we had then a consultation, and thought it would be best to leave the place; but we did not do so, and some days afterwards the force came back again. This time it had two white men with it, and one of the white men went close up to the cave, spoke to us, and asked us to come out and give up our guns, saying nothing would be done to us if we surrendered. We said "We were afraid; if the white people were alone, it would be all right; but the black would not let us escape after what had happened." The white man said we were to go to his wagon, which was in sight, and we promised to do so, but said we were still afraid. The arrangement about the wagon came to nothing, and the white man then ordered that the force should sleep there, and blockade the cave by means of rocks and branches, and make a fence outside. When it became dark, we forced ourselves out of the cave through the fences, rolled rocks down upon the force, and fired upon the men; this startled them and made them withdraw, and we then made our escape.'

This does not look like 'rebellion' against the white man; and this helps to explain why the writer of the *Introd.* is able to say, p. xxiv:—

'It is a matter for congratulation that the three Carbineers who were killed at the Pass were the only Europeans who lost their lives during this expedition.'

The Proclamation with reference to the Hlubi Tribe.

173. The writer then quotes at length two Proclamations, both dated November 11, 1873. The first one establishes 'martial law' in the districts of Langalibalele and his tribe, and 'declares that the said tribe is hereby broken up, and from this day forth has ceased to exist.' It is difficult to understand what was the exact object of proclaiming 'martial law,' under which (it is well known) coercion was exercised on some *civilians*, or whether it was a legal act, inasmuch as the Right. Hon. W. E. Forster declared in Parliament, 'In England, ever since the Petition of Rights, the declaration of martial law was

illegal' (*Guardian*, January 16, 1867, p. 53), and in the *Guardian* of April 17, 1867, p. 421, we read as follows:—

'Martial law, the Chief Justice (Cockburn) emphatically teaches us, is not, and never has been, capable of being proclaimed in this country at the will of the Executive Government, either to meet any emergency, however imminent, or under any other circumstances. Nothing can, in fact, justify its proclamation or enforcement, except a regular Act of Legislature.'

174. In the second Proclamation the guilt of the 'rebels' is assumed; they are outlawed as rebels, without any enquiry into the real nature of their offence. And, inasmuch as only a fortnight previously, on October 29, the S. N. A. had said that, if Langalibalele 'would only meet H.E. and explain his conduct, no harm whatever would happen' (p. 23), it is plain that the offences which drew down upon himself and his tribe this direful vengeance were acts which occurred after that date. No doubt these acts were the 'insults' supposed to have been offered to Mahoiza, the flight over the mountain, and the death of the three Carbineers and two natives at the Bushman's River Pass, as to which it must be said that the first is based mainly on false statements of Mahoiza (96), the second was in accordance with the Native Law of this Colony before Chaka's time, under which Langalibalele came into the Colony, and under which he lived (111), and the third, so far as he may be held responsible for an act committed without his knowledge and in direct defiance of his orders, could only have been tried in the Colonial Court, under the laws now in force in the Cape Colony (16).

175. A page is then devoted by the writer to defend the issuing of the Government notice that the women and children should be allotted to 'farmers and others not residing in the towns of Maritzburg and Durban' for three years, on certain terms. Against this, however, an indignant letter was written by J. W. Winter, Esq., M.L.C., protesting

against 'such semi-barbarous treatment of the weak and helpless,' saying that 'we should disgrace ourselves if we did not return these women and children,' and adding 'The time for this sort of thing is passed; let us hear no more of offering these helpless creatures as apprentices and labourers; we shall gain neither credit nor profit by such conduct.' Accordingly the intention of the Government was not carried out. The writer indeed says:—

'The more the subject is considered, and the way in which these women would have been treated under the strict surveillance of a paternal Government (!), the fewer do the objections which a mistaken philanthropist can urge become. Sentiment in this case prevailed over economy, expediency, and common sense.'—p. xxviii.

All that need be said in reply is, that the arguments which are here used in support of the Government proposal are precisely those which have been plausibly urged, again and again, in defence of a system of slavery 'under the surveillance of a paternal government,' and have been emphatically rejected by almost the whole civilized world—in England at the sacrifice of twenty millions of gold, in America at the price of oceans of blood.

176. So much as regards the 'common sense' of the question. As to 'economy,' of course it was very inconvenient to the Government to have on its hands a multitude of helpless women and children, besides the people of Putini's tribe, who have never been tried, and have confessedly been 'hardly dealt with, and suffered great loss and hardship,' from a 'State blunder which could only have been committed in a time of panic.' Many of these last, without trial, have been sent out as bondmen, to labour on public works or for private individuals; while their women and children have been 'located at Kafir kraals' (p. xxxvii) deprived of their natural protectors by 'a step apparently unwarranted' of a 'paternal Government!' If, however, it was 'expedient' for the peace and safety of the Colony

that these women and children of Langalibalele's tribe should be captured—though, in common with Mr. Winter and many others, I venture entirely to doubt the expediency—it would seem that the Colony is bound to bear the expense of maintaining them until they are properly disposed of, and that the 'surveillance' which might have been exercised over 'farmers and others' should be expended on the kraals in which they are located, and where, it is believed, not a few gross irregularities have taken place in the treatment of them. Suppose, however, that instead of forcing these women and children into compulsory servitude, the option had been given them of remaining where they were, or 'establishing a home for their male relatives,' by engaging themselves as coffee or cotton pickers, according to the usual laws of the Colony. The case would then have been materially altered, and, with due encouragement on the part of the Government, probably many might have been induced to offer themselves for such employment.

The Affair at the Bushman's River Pass.

177. 'Before his departure, Langalibalele is reported to have given instructions that in no case were the forces of the Government to be resisted or fired upon, not even if the men got in among the cattle of the tribe. The date of this instruction, whether correctly or not, has been fixed as before that on which Langalibalele's interview with Mahoiza took place.'—p. xxix.

Mango says (p. 68) that Langalibalele gave such orders at the Amahendeni meeting in July, when he 'was under the impression that force would be used against him,' in consequence of the assembling of the 'Great Northern Camp' at Estcourt. But this is Langalibalele's own statement:—

'He began to charge his people not to fire (*ponsa*, i.e., "stab" or "shoot") at the S. C., and to run away if they saw the *impi* nearing them, at the time when it appeared that the S. C. was really

exceedingly angry with him. When Mahoiza arrived, having been sent a third time after Umnyembe's second message—when at last he thought of the plan of paying a fine—at that time he told them that he saw now that the S. C. would really come and kill him, and that all who wished to do so had best run away and not leave their cattle behind; but, if they saw the *impi* approaching, they should run away and leave the cattle and not fire (*ponsa*) at the S. C. He told all this to his people and his Indunas, Mabudhle, Mbombo, Mzilikazi, &c.; they all know those words of his. Moreover, afterwards, when he was about to send Mbombo to Maritzburg, he said the same words again to them, in the presence of Mabudhle, &c., on the day when he sent Mbombo to take the money to pay the fine. And, when Mbombo arrived and told him that the *impi* had now come, he told them the same for the last time and then set off.

And so, on the third day, when he was running away over the mountain, Mafutyana came to tell him that there had been a fight. And when he asked which force began the firing and Mafutyana said the Basutos had begun, he thoroughly believed that the boy spoke truly, remembering the words with which he charged them; he never supposed that his own people had begun to fire, but said that he should hear the whole properly when Mabudhle arrived. And when Mabudhle came he told the same story as the boy, and he fully believed that it was true. During the whole time of his journey to Basuto-land and his being made prisoner and brought down here, he never thought that such a word could be said [as that his people first attacked the Government force]. And he would be very glad now if Mabudhle were here, for he thinks the matter would be properly sifted, and they would explain it clearly to the Authorities if Mabudhle were here, who said that the Basutos began. He himself cannot say a word as he was not there.'

178. 'It must have been at this time that some attempt was made by augury to pry into the secrets of the future—to learn the probable results of the operations. In Coomassie, recently, a white and a black goat were encouraged to engage in deadly conflict. And also here, it is said, though it has been found impossible to obtain any evidence confirmatory of the rumour, that a white and a black ox were skinned alive, to see which of them would survive this torture longest. The animals were regarded as representing the whites and the blacks.'—
p. xxix.

‘It is said, though it has been found impossible to obtain any evidence confirmatory of the rumour!’ And this from a writer who tells us at the outset that he will ‘take especial care only to include well-authenticated facts!’ The chief himself and the old men of the tribe indignantly declare the above statement to be an unmitigated falsehood. Nothing of the kind ever took place. Langalibalele said:—

‘Those words are just words of Umtyityizelwa to increase Langalibalele’s fault with the Authorities. He utterly denies it; he knows not a particle of it. For he himself was present when each of those three oxen was killed to appease the spirit of Uncwane. There never was an ox of his so treated. It is false.’

Yet the writer knew that just such a statement as the above would be likely to produce a feeling of disgust and abhorrence in English minds, and, knowing this, he has weighted the charge against the prisoner with such a baseless calumny! It is impossible to protest too strongly against such an attempt to make a mere ‘rumour’ fill the place of proof. But, again I say, the writer must be very hard pressed to find *substantial* grounds for justifying the action of the Government in this matter, when such trash as this is pressed into his service with the bold announcement, ‘It *must* have been about this time,’ &c.

179. On Sunday, the day after hearing that the forces had left Pietermaritzburg, Langalibalele, with his sons, started on his flight from the Colony. That night he slept at the foot of the Bushman’s River Pass, and on Monday morning ascended the Mountain; and the concurrent testimony of members of his tribe is to the effect that he pushed on and slept at a spot about twelve miles on the other side of the Mountain on Monday night, that on Tuesday he advanced another long day’s journey, and that it was not until Wednesday evening that he heard of the action at the head of the Bushman’s River Pass. There are grounds, however, for believing (!) that he remained on the top of the Mountain watching the ascent of the cattle (!),

and was really not far off, and in fact was communicated with, and his instructions received, when the Volunteers and Basutos under Major Durnford appeared. We must ever remember, when weighing the evidence in this case, the duty which every member of the Hlubi tribe felt to be laid upon him, of saying nothing to implicate his Chief, and of toning down every circumstance which could possibly tell against him.'—p. xxx.

No doubt, as the Bulletin by order of his Excellency announced, Nov. 13, 1873—

'The bulk of the rebel tribe had been driven over the Mountain out of the Colony'—

not indeed by actual force of arms, but through fear of the approaching Government force; for, as one of them said—

'We thought the waters of the sea were coming, seeing the Governor was coming, and that no one could escape.'—*МТИКІТІА*, p. 100.

But it is very sad to wade through such a mass of unfairness as this *Introduction* presents. Here, when all the witnesses with one voice declare that Langalibalele went forwards on Monday and Tuesday, and only heard the tidings of the Pass affair on Wednesday evening, this writer, desiring to fasten, if possible, upon the Chief the stigma of having directed the actions of his men on that day, brands at once these witnesses with the character of liars! This writer, I say, who will 'take especial care only to include well-authenticated facts,' makes the above insinuation, and says 'there are grounds for believing it,' though not only the evidence, but all probability, points very strongly in the opposite direction. For what possible reason should Langalibalele sit a whole day long at the top of the Drakensberg, merely to see the cattle of the tribe come up, when immediate flight was a matter of life and death to him and his sons, and he had given orders to his people to leave the cattle and fly, if the Government force appeared?

180. These witnesses were five of the Chief's sons and two men, Mundisa and Umkambi, who testified as follows, naming the places where they slept each night.

'We found Langelibalele near the Red Rocks: there were with him his sons Manaba, Mbaimbai, Siyepu, Mango, and Ngungwana. Soon after joining them, Langelibalele's party started, and we slept at the cliff called Kolweni; we went on another day's journey, and slept at Hlazeni. On the third day after Langelibalele had ascended the Pass, Mafutyana reached us with the intelligence of what had occurred at the Pass. I ascended the Pass the day after my father did [apparently by moonlight in the early morning, before the Government force arrived at 6.30 a.m., and so he reached his father before he had started from the Red Rocks], and Mafutyana came up the day after I came up.'—MALAMBULE, p. 47.

'On Monday morning, Langelibalele ascended the Pass, and slept at the Red Rocks that night. On the following day, we made a long day's journey to another rock called Kolweni. On Wednesday night, Mafutyana arrived, stating that he had been sent by Mabudhle to report what had taken place at the Pass. Langelibalele asked the messenger by whose authority it had been done, and he replied by Mabudhle's. Langelibalele made special inquiries as to who had fired the first shot; and, when the messenger said the Basutos had, he remarked that he hoped that Mabudhle had not caused the first shot to be fired, seeing he had given him special orders on that subject before he had ascended the Drakensberg, and had directed him, even if the forces of the Government got in amongst our cattle, that our people were to leave the cattle, and not fire upon the Government forces. Mabudhle came up after we had crossed the Orange River [a week afterwards], and told him the story over again. Langelibalele asked who had commenced the firing, and Mabudhle said that the Basutos had first fired. Langelibalele inquired particularly whether the firing had not commenced on our side. Mabudhle said, "No! the Basutos had first fired." Langelibalele said, "Well! if it turns out that it began with you, you and I shall quarrel; because I told you distinctly before I left that you were not to commence firing on the forces of the Government." The order as to firing, which I referred to as having been given by Langelibalele to Mabudhle and the other people, was given on the morning that Mahoiza left.'—MANABA, p. 48.

'After Mahoiza had left, Langelibalele went to the Entabatabeni kraal and slept there. On Saturday night, Mbombo's messenger came to Langelibalele at the Entabatabeni kraal, where I also was,

and reported that the Government forces were close behind. The next morning we started, and on Sunday night we slept under the Pass. On Monday we ascended the Pass, and slept at the Red Rock; the next night we slept at the Kolweni Rock. On Wednesday evening, Mafutyana, who had been sent by Mabudhle, arrived, and reported that there had been an action, and that Mabudhle had ordered an engagement. Langelibalele wanted to know by whose authority it had been done, seeing that he had given instructions that, when they saw the English forces, they were to run away. He inquired who commenced the firing; and the messenger said, "The Basutos had taken some guns away from our young men, and had also stabbed a beast—that was the provocation." [N.B. The Basutos had stabbed five or six oxen and killed one, besides seizing four guns and a number of assegais, and "laying a stick about the head" of one who objected to part with his gun.] Mabudhle joined us after we had met with the Basutos, so that we had no opportunity of questioning him [i.e. closely] as to the affair at the Pass.—MBAIMBAI, p. 49.

'Before the retreat from the Colony, Langelibalele assembled his men at Amahendeni [in July]. It was before Mahoiza went to Nobamba that Langelibalele assembled his people at this kraal, and gave them orders that, if the Government forces came, they were not to fire upon them, but to run away rather than fire. After this Mahoiza came. On Saturday night, Mbombo [rather, Mbombo's message] arrived. He told us that the Government force was already on the way, and that it would be at Mr. Popham's, Meshlynn, on Sunday, and on Monday would make the attack. On Sunday morning, therefore, we started to go over the Mountain, and on that night slept at the foot of the Pass. The next day, Monday, we ascended the Pass, and slept at the Red Rocks beyond. We went on the next day, and on Wednesday Mafutyana arrived, having been sent by Mabudhle to report that an engagement had taken place. Langelibalele asked who had commenced it, and Mafutyana said that the person who had sent him told him to say that the Basutos had commenced it. Langelibalele said that he hoped it would not turn out that Mabudhle had caused the commencement of the firing, seeing he had given orders that our people were not to fire first He said the affair had commenced in this way. Some of the Basutos had taken guns from some of our young men whom they found asleep; they then shot [stabbed] one of our beasts, and afterwards fired upon our people, who then fired in return. [This last was not true.] . . . Mabudhle joined us some time during the latter part of our journey. Langali-

balele questioned him as to who had commenced hostilities; and he replied that the Basutos had done so. Langalibalele then inquired if he was quite sure that the Basutos had done so, and Mabudhle said "Yes." Langalibalele said he hoped it might be true.—MANGO, p. 50.

'I was at the Entabatabeni kraal when Mbombo came, and told us that the Government force had started, and would be there immediately. On Sunday morning, Langalibalele started; I went with him, and that night we slept at the foot of the Pass. On Monday morning we ascended the Pass and slept that night at the Red Rocks. On Wednesday evening Mafutyana overtook us, stating that he had been sent by Mabudhle to give a report of the action which had taken place. Langalibalele inquired who had commenced hostilities, and the messenger replied that the Basutos had. Langalibalele said he hoped it was true that the Basutos had commenced, and that it would not turn out that our people had fired first. Mafutyana said that the Basutos had fired first after killing a beast, and taking some guns from our people. Langalibalele said he would hear more about it when Mabudhle came, and if our people had commenced the firing they were in fault.'—NGUNGWANA, p. 51.

'I started with Langalibalele, and went up the Pass with him; we were about forty. The first day after going over the Pass we stayed [? slept] at the Red Rocks. On the fourth day after leaving the top of the Mountain I heard of the action at the Pass; but I heard that the information had been received the night before. About ten days after crossing the Mountain Mabudhle arrived.'—MUNDISA, p. 101.

'On the third day we heard that an action had taken place. When this report was made to Langalibalele, he said "Why have these young men done this? I know I have done wrong in not answering the summons to appear; but why have they fired upon the white men?" . . . Mabudhle came up at the spot where some temporary huts had been erected. He made the same report to Langalibalele, and enumerated himself as one of those who had killed his man. Langalibalele made the same remarks to Mabudhle as he had made to the messenger.'—UMKAMBI, p. 98.

181. Possibly, however, the writer may have found 'grounds' for his belief in the last page of evidence in the Blue-Book, where Umyovu says, speaking of the Pass affair—

'Langalibalele was very near at hand when this happened; and

I heard several remarks made as to what a narrow escape he had had, as he had just left, after seeing the cattle come up the Pass, when the white force came in sight.'—p. 101.

But the cattle were still 'coming up the Pass' when our force arrived on Tuesday morning—'the Pass was crowded with the ascending cattle' (p. xxx)—and, as many witnesses prove, they kept 'coming up' after it had retreated. Perhaps instead of 'white force'—an expression which would never have been used by a native—the witness may have said merely the 'white men's force' (*impi yabelungu*); and the fact may be that Langalibalele, after seeing some of *his own* cattle (182) ascend on Monday, started forwards just before the *Basutos* on horseback arrived, who acted as the vanguard or spies of our 'white force'; and we know that these reached the Pass on Monday early enough for one to be sent back on foot to report to Major Durnford that 'Langalibalele's Kafirs were driving their cattle up the Bushman's Pass' (Serg. Clark). Since 'Capt. Barter and the other troopers with him struggled up to the top as soon as they heard of the spy,' and Capt. Barter himself says he got up about 8 p.m., the spy, who had come on foot about twelve miles, may have left the Pass about 6 p.m.; and, if Langalibalele 'had just left' before the *Basutos* arrived, he would have been easily able, on a fine summer day, with the moon at the full, to advance on horseback 12 miles that night, and sleep at the Red Rocks. Had it been otherwise, was there not one among the 200 rebel prisoners examined who—more especially when their Chief and his sons had been condemned and the admission could not hurt them—would have let out the truth about this matter?

The amaHlubi after the retreat of the Volunteers.

182. 'It is doubtful whether any cattle ascended the Pass before Langalibalele and his immediate followers did, though it is stated that those belonging to one kraal did. The cattle

were driven up the Pass during the whole of the Monday, and even at night the anxiety of the people to place their cattle in places of security induced them to turn the cool hours to account, and drive their stock up the Mountain by moonlight.'
—p. xxx.

The cattle of the Amahendeni kraal went up before the Chief, and either at the same time, or perhaps immediately after he had gone up, those of Entabatabeni. Langalibalele denies that he ever sent any beforehand to Basuto-land, as was commonly stated.

'As to that saying, that he sent cattle to Molappo while still here in this land, he denies it utterly; while still living here he sent not a single head of cattle to Molappo's. All those cattle that were eaten up by the Basutos and were captured by the force of Captain Allison went up with him from Natal; not a single head went up before he himself ran away. He asserts this most positively; he swears to it; he declares that that story about his sending cattle away is false.'

183. 'Four of Langalibalele's men followed the Volunteers as far as the Giant's Castle Pass (12 miles), when one of them paid the penalty of his rashness. The main army pursued the retreating Government force a distance of about two miles, and then, singing a triumphant war song, returned to the head of the Pass. The doctor of the tribe, "who had strengthened the forces for war," was present, and, though so short a time had elapsed, the bodies had been stripped, and the personal effects of the slain removed. These were all brought back on the requisition of the doctor; the force formed a ring round one of the bodies, and there, dancing with savage exultation, a fierce contest arose as to whose shots had killed the Europeans . . . The chorns of that savage war-chant, whose strains were sung around the bodies of the dead, found a responsive echo in the hearts of natives hundreds of miles away from the scene of action, and subsequent events alone have checked the manifestation of those feelings to which this repulse gave rise.'—p. xxxi.

One is curious to know how the writer of this last rhetorical passage could know that this war-chant 'found a responsive echo' in native hearts 'hundreds of miles away.' No doubt, however, prestige was lost for us at the Pass among the natives; and it is very difficult to see what has been done since to restore it, or to 'check the manifestation of hostile feelings. Certainly, the shooting stray Kafirs in caves and bushes, and capturing 'defenceless women and children,' will not have done this, nor even the arduous journey of the pursuing force through the Maluti or Double Mountains, a 'comparatively unknown and uninhabited country, mountainous and bare, where the weather is uniformly severe' (p. xxxiv), since Langalibalele and his people had gone before, under much more difficult circumstances, and had left a broad track for them to follow through the pathless waste—much less the capture of Langalibalele himself and his sons through the base treachery of Molappo. But the writer, for sensational purposes, craftily introduces the 'doctor of the tribe,' who had 'strengthened the forces for war,' as if he was now able to glory in the effects of his art—the fact being, as we have seen (120-132), that there was never any 'strengthening for war,' but the last 'sprinkling' for the death of Uncwane had taken place three or four months previously.

184. 'The force had barely returned from the pursuit when a strong party was despatched to the northward, along the ridge of the mountain, to prevent, if possible, the ascent of the native force under Capt. Allison; for the rebels divined, or had heard, that such a force was to have advanced to the support of the Carbineers, to whom was entrusted the duty of stopping the Pass. Our readers will know that, as Capt. Allison could not find a pass, the precaution of the rebels was nugatory. Still, this movement gives evidence of a plan of operations, although the statements of the prisoners would convey the impression that nothing definite had been arranged.'—p. xxxi.

And they would evidently have conveyed a *true* impression, whatever this writer may insinuate. What is plainer than the fact that they had no plan? Otherwise, why was not this 'precaution' taken before? They knew that there was more than one such pass for men, though not for cattle, well known to natives, which have only been just now destroyed by Colonel Durnford, though Capt. Allison could not find them; they knew that native levies had been called out, and therefore that a force was sure to have been sent in support of these volunteers; and, as they had not arrived in company with them, they might very easily 'divine' how they were meant to arrive. But here again we have this prejudiced writer twisting a fact the wrong way in order to support his bogus cry of a 'plan' of 'rebellion,' and setting down, to suit his purpose, all the evidence to the contrary which pervades the whole Official Record as false.

Langalibalele basely betrayed by Molappo and captured.

185. The writer then proceeds to quote a letter from which we learn how by consummate treachery Molappo, the son of Moshesh, contrived the capture of Langalibalele, his father's old, tried, and trusty friend. It is deeply to be regretted that the history of his capture should be disfigured with so foul a stain, as will be seen from the following extracts abridged from this letter.

'Two troops of F. A. M. Police have arrived here lately. When they first arrived, Molappo also sent out his army to assist at the capture of Langalibalele. This, I believe, was in obedience to the wish of Mr. Griffith at least—if not to his express order. Molappo's people, I understand, were in two separate bodies, under Jonathan and Joel, his sons. Jonathan discovered him in the Drakensberg, wandering about, with no definite intention of going to any particular spot (on Dec. 7 or 8), and immediately sent off an express to Major Bell, who next day went up to the police, about 20 miles from this, when they all moved up towards where Langalibalele was said to be. They did not, so far as I can learn, even see Langalibalele or any of his people. Nor do I understand how Langalibalele was induced to give himself up.

'We now come to that part of it I saw. When I got up to Molappo's (Dec. 11), Mr. Griffith, Major Bell, &c., were sitting under the verandah; Molappo was standing up and talking to Mr. Griffith; he was saying, "My orders were to capture Langalibalele (if found) by force, to attack him, and shoot him and his people. But, when Jonathan found him, Jonathan was not sufficiently strong to do this; so he *adopted other means* of bringing him on." (What those "other means" were I do not know: Mr. Griffith seemed to understand it.) "Nor do I blame Joel for taking those cattle [*i.e.*, three herds at the rear of Langalibalele's army], as he did not then know that Jonathan was bringing on Langalibalele; the cattle are still with Joel, and will be produced when required. And I must not omit to say, and Mr. Griffith will easily recollect, that it was promised [by the Natal Government] that whoever brought in Langalibalele alive should receive 150 head of cattle, and whoever should bring in his dead body should receive 100." Mr. Griffith then thanked Molappo for the part he had done, saying it was a very good thing (1), and would be favourably considered; that it was a poof of his loyalty so often professed, &c.

'About 30 mounted police were drawn up at the gate on each side, just outside the yard. We waited another half-hour or so, and Langalibalele arrived with 77 followers, armed with assegais, and accompanied by about 30 Basutos, both Basutos and rebels mounted. Langalibalele, with about 20 of his men, now entered at the gate, passing between the files of mounted police. Molappo advanced and shook hands with him. Mr. Griffith said that, before he could listen to anything they had to say, they must lay down their arms. A chair was brought for Langalibalele, who sat down, his followers on the ground, fresh ones arriving every half-minute. Mr. Griffith said, "Why do you persist in retaining your assegais? You very well know you need fear no treachery (1) from us." Langalibalele replied that they had only just got off their horses, and had not had time to off-saddle or to lay aside their arms. Mr. Griffith said in that case he would wait a little while. Molappo stood up and said that, when a man was sick, it was necessary sometimes to take medicines not very palatable, and that Langalibalele's people were not assisting the recovery of their chief, but retarding it. A few of the rebels now stepped back a few paces, taking with them the assegais of some of the others. Molappo said all the assegais were to be laid down at the gate. This was not obeyed. Two or three Basutos now spoke, the interpreter remarking it seemed as if Langalibalele wished the arms to be retained. Langalibalele then turned round to his people, and said "Disarm!" The two he touched with his

arm obeyed; beer was now brought for him [from Molappo], and Molappo ordered his own men to leave the yard, himself also going outside. Langelibalele and his people were thus left alone: we, too, went outside.

'Returning presently, I found him sitting in the shade with some of his people, but without their arms. In the meantime the rebels had been shown where to off-saddle, and told where to leave their arms with their saddles, which was slowly done. I think an hour and a half had elapsed since Langelibalele's arrival, when Mr. Griffith again approached him, and said due time had been allowed, and means provided for him to refresh himself and prepare—that the sun was going down, and he now had something to say to him. First, he wanted to know what he had come there for? Langelibalele replied that he was hunted, that he had come to give himself up, that his faults might be examined, that he had brought his bones to die there. Mr. Griffith then said that Langelibalele was doubtless aware that Moshesh, before dying, had called to his aid the English Government, giving over to them the country, himself, and people; therefore he was still in the country of the Queen, and surrounded by her subjects; and he, as representing the Government, claimed him and his followers as his prisoners. Mr. Griffith then took down the 78 names of the rebels. When this was done, he said he wanted to speak to Langelibalele, his two sons, his brother, and his two head men, who at once stepped out, and Mr. Griffith gave them over to the police; they were marched off to the tronk, and next day were taken on by the police. Two of the rebels made off, I believe, on foot; they could easily have been shot down; but I think Mr. Griffith wished to avoid even the semblance of treachery (1). There are reports that Langelibalele was deceived by the Basutos, that he did not come to give himself up; Langelibalele and suit were sitting under a wagon handcuffed to a riem-chain.' [So much for Mr. Griffith's "chair" and Molappo's "beer"!]

A letter from Major Bell, Molappo's magistrate, is also given, from which I extract the following additional facts, p. xxxiii.

'Jonathan finding himself, with but little more than 200 men, unable to cope with Langelibalele's people, informed them that he was sent by his father Molappo to see where they were going. He was told they were on their way to Molappo, but had lost themselves. Jonathan adopted a friendly tone towards them, and pointed them out the path.

'I advised Langalibalele himself to come in, and trust to the mercy of the Government.

'Shortly after he sent me his own gun, and those of *two of his sons*, and two or three others about him—an earnest, he said, of his intention to submit.'

The guns of 'two of his sons' agrees with Langalibalele's statement that of his 30 adult sons only two had guns.

186. Let us now see what light the evidence throws upon the 'other means' adopted to induce Langalibalele to surrender, and which 'Mr. Griffith seemed to understand.'

'After we had gone on for some time, we heard from some Basutos that we were being followed by a force from Natal; these Basutos were under Jonathan, the son of Molappo. We gave Jonathan a beast to kill and went on. Jonathan urged us to march quicker, as the force was advancing quickly behind us. After travelling two or three days in company with Jonathan, who continually urged us to have the cattle brought on, so as to avoid their capture by the force following us, we reached some Basuto kraals, where Jonathan provided Langalibalele with a hut in which to sleep, and after that took him and some of his people on to Molappo's. I remained behind. We then heard that Langalibalele had been made a prisoner, and we saw that the cattle were being seized, and that a part of the force of Langalibalele had left their guns and given them up. The guns were given up and collected in one place, in consequence of an order given by Jonathan. I remembered we had run away from the Government in order to avoid having our guns taken from us; and now, finding that our arms were being taken from us here also, I took up a double-barrelled gun, and returned with it to Natal.'—MALAMBULE, p. 47.

'We then went on, until some Basutos under Jonathan, son of Molappo, came to us. I was with Langalibalele when Jonathan came to him and blamed us for not keeping a better watch on our rear. He said his people had seen the Natal force close at hand; and he urged us to go on quicker, in order that we might get out of the way of the pursuing force; and, if we were sufficiently advanced into Basuto-land, he said we could make terms with the force by giving up the arms, and thus save Langalibalele. Langalibalele said, "Will you save me?" and Jonathan said, "Yes, we will save you; only come on at once." We went on until we came in

sight of the kraals of the Basutos, and then went down and slept near them. Jonathan had stated that he had been sent by his father Molappo; and now he told us that he had received a message which his father's Indunas had brought, directing him to request that the guns might be at once given up, while the cattle were still behind, and then they might all go down to the British Authorities—the object and intention being to give up the guns and then *plead an international custom, that, when one tribe had run away and got amongst another tribe, they would be saved.* We went to Molappo's and he gave us some beer. We had left our guns and carried assegais.'—MANABA, p. 48.

'We went on until we were met by Jonathan. . . . He said he had been sent by his father Molappo to tell Langanlibalele not to go to Adam Kok, seeing he belonged to the Government, but to come to him. He then showed us the way, and we proceeded on towards Basuto-land; he ordered us to give up our guns, and we gave up seven. Molappo then ordered Langanlibalele to go down to him, and said these guns which had been given up would save Langanlibalele's head. We went down and were made prisoners.'—MBAIMBAI, p. 49.

'We went on until we became aware of the presence of Jonathan, the son of Molappo, who. . . . said he had been sent by his father Molappo to tell Langanlibalele to come to him, and not to go to Adam Kok, who was an enemy or hostile. Jonathan and his people slept with us two nights, and we gave them two beasts to eat: they then showed us the way to reach Basuto-land, and we went along it. When we had gone some distance towards Basuto-land, Langanlibalele sent Mawewe to Molappo. He did this in consequence of a message from Molappo, to the effect that he was to give up the guns, in order that he might with these guns ransom his head to the British authorities. Then another messenger came from Molappo, desiring Langanlibalele to come to his place, so that he might see what he had to say for himself. Langanlibalele then gave up seven guns, and we went with the Basutos to Molappo's own place. . . . Molappo gave us beer to drink, our names were taken down, and we were made prisoners.'—MANGO, p. 51.

'We went on until we met the Basutos under Jonathan, the son of Molappo; they said they had been sent to conduct Langanlibalele to Molappo, to tell him not to go to Adam Kok's country, where a force was awaiting him. Langanlibalele said he had nothing to do with Adam, and did not want to go to his place; he was simply wandering about. The Basutos said that Molappo said he was to come to him and he would hide him. On the third day the Basutos took us on, and on the fourth day we descended to a lower country.

Molappo said, "Let the guns be given up, so that we may take them to the English, and you may be saved by their being given up." We then gave up seven guns and slept another night. The next day they took Langalibalele away, but I stayed with the cattle; the following day the Basutos came and told us our Chief had been made prisoner.'—NGUNGWANA, p. 52.

'Several Basutos, about 60, came to where we were. They had found two of our men, &c. They sent three of their own men with our two men to tell us not to be frightened or to think that they had come out to fight us or to do us any harm. They said the object of this armed force was to put Langalibalele on his right course, as they heard that he was wandering about, and Jonathan would come and inform Langalibalele what road to take. Shortly after these three Basutos had delivered their message, the main body under Jonathan came in sight . . . Jonathan asked for a beast to eat, and we made some exertion to get one; but it was so late that we did not secure the animal until the next morning.'¹—SITOKWANA, p. 44.

'And so we went on until we were joined by Molappo's son, who said that he had come to fetch Langalibalele and conceal him; so that by the time the white men came he would be in a place of concealment, and in the meantime he said we were to give up our guns.'—UMGEBISA, p. 70.

187. Then follows the report of Captain Allison, commanding the Natal pursuing column, from which we learn that Mr. Griffith at first claimed for Molappo and his people all the cattle captured from Langalibalele, but after much negotiation agreed ultimately that Captain Allison should 'take over 5,023 head of cattle and 260 horses,' leaving in Mr. Griffith's hands 2,000 head, besides 500 seized by Molappo's son, Joel. The *Introduction* says, p. xxxvi—

'The cattle which have been captured will only to a small extent indemnify the Government for the outlay which this rebellion has occasioned; and their confiscation is not only justified by all the practices of war, of which we could cite

¹ So-Mahoiza could not get his sixth ox on the evening of his interview with Langalibalele, but would have got one the next morning, if he had not gone off so early (102).

many instances in proof from the Franco-German war, but also because of the views entertained by the natives as to the conqueror not being he who scatters an army or disperses a force, but he who secures the cattle of the tribe.'

It is unfortunate that the above statement as to the 'views entertained by the natives' is directly contradicted by that of Mr. Shepstone in his account of Chaka's predecessor, Dingiswayo, already quoted (166).

'Dingiswayo cared little for the capture of cattle, and thought that the greatest evidence of victory was to quarter his army in his enemy's country, &c.'

One single instance of such 'eating up' during the Franco-German war would be more satisfactory than the unsupported assertion of this writer, who has probably lost sight of the facts that in that war requisitions were paid for, as a rule, by drafts payable after the end of the war, and that *this* was no 'war' at all, but only the case of a 'paternal Government' chastising a number of children.

188. 'Not only was the march a surprise, but a still greater surprise was that the Colonial Government should have sent a force across its border. We speak under correction, but we believe it is the first time that any organised force has crossed the boundaries of Natal in pursuit of a body of men flying from justice and resisting the authority of the Government. The natives know how jealously boundaries are respected by the European powers in South Africa; and, remembering the Basuto raid of 1865, the Cetywayo excitement in 1861, and other events, Langelibalele might well enquire with astonishment "why it was he was being pursued, when he had left the country of taxes?"'—p. xxxvi.

Certainly Langelibalele might well express such surprise, and it remains to be seen how far the act in question will be justified when the facts are known. If Langelibalele and his tribe had committed any outrage before

they left the Colony, had killed or injured man, woman, or child, white or black, had carried off troops of sheep or oxen or horses,¹ from their white neighbours, or even from the 'loyal' members of the tribe—if, in short, they had committed murder, rape, arson, burglary, or any overt act of treason or rebellion, such as plundering the Government Magazine of fire-arms and ammunition, swords and other stores, in the Gaol at Estcourt, which was guarded only by the gaoler and one European and twelve native constables,—no one, I imagine, would have wished to stay the arm of justice, even when stretched out beyond the colonial boundary to reach the criminal, provided, of course, that there was no breach of our friendly relations with neighbouring States. But the Hlubi tribe did nothing whatever of the kind; their offence was wholly a political one, and that of a negative character; their Chief had not obeyed the Government summons to come to Maritzburg, through fear of imprisonment or death, and not from any intention of resisting it by force and arms, which the Chief himself had expressly forbidden. When, therefore—as they were quite free to do—they determined at last to sever themselves from the S. C. of Natal (*hlubuka*, 'tear himself off,' for which in the Blue-Book there appears always 'rebel,' entirely misleading the ordinary English reader), he had no right to pursue them beyond his own territory, or if, as in this case, he resolved to do so, he put them in a position to fight with him, or to retaliate upon him, without being guilty of 'rebellion,' and must be content to take the consequences.

¹ A writer, E. J. T., in the *Natal Witness* of July 7, 1874, states as follows:—

'I reside about twelve miles from the Location. Four of my neighbours had their riding-horses stolen by the runaway rebels. One horse was recovered on the Drakensberg close to the Pass, two were found by our volunteers in Basuto-land, close to Molappo's kraal, and the fourth has never been heard of.'

This is the only instance which has yet been brought to light of such spoliation; and, if the facts as above stated are true, the thefts in question were only the acts of individuals, possibly committed after the ravages had begun in the Location, and certainly not implying anything like a raid by the chief and his tribe.

The Unjust and Cruel Treatment of Putini's Tribe.

189. The tribe of Putini do not appear to have committed any overt act or offered active resistance to the Government forces; but they harboured members of the rebel tribe, who were constantly passing to and fro, and received large numbers of their cattle. They also manifested great reluctance to supply Capt. Lucas and Mr. Macfarlane with the cattle which they required to feed their native force, and for which they would have been paid, as they had been on former occasions when they had furnished cattle for Government purposes. Putini's people were also known to have a very large number of guns, which, in common with the people of Langalibalele, they had neglected or refused to get registered. There were other indications of the sympathy which the amaNgwe felt for the amaHlubi; and on Tuesday, Nov. 18, the tribe was surrounded, and, some delay having occurred in paying a fine [2000 head of cattle], imposed as a punishment for their alleged complicity in the rebellion, the whole of the cattle in the location were seized and the tribe disarmed . . . About 200 stand of arms were taken on this occasion. A large proportion of the cattle seized . . . found purchasers at fair prices. When Putini's tribe was disbanded [N. B. an euphemism for 'eaten up,'] the men were sent down to Pietermaritzburg as prisoners, but were allowed to be out on parole [not till the Gaol was required for Langalibalele, &c., and many of them, though they have not been tried, are now working in Government road-parties or for some favoured civilians]; and the women were taken charge of by the Government, and located at Kafir kraals, pending the ultimate decision as to their disposal. The proceeding by which the amaNgwe tribe was disarmed and scattered has been blamed; although it is probable that the action so taken alone prevented the tribe from joining the rebellion, and engaging in the attacks upon, and resistance offered to, the Government forces. Still we cannot hold that these people should be punished for the intentions which it is suspected they entertained. —p. xxxvi.

And then follows the passage already quoted in the Preface, where the writer characterises the treatment of Putini's tribe as a 'grave blunder,' 'a step, apparently unwarranted,' 'a State blunder, which could only have been committed during a time of panic,' and says that 'the tribe has been hardly dealt with,' and 'we may hope the Government will be brave enough to retrace' its step, and, 'as restitution is possible, do what it can to remedy' the wrong.

190. It is well known that the 'eating up' of Putini's tribe was regarded at the time as just and righteous by three out of four of the Colonial journals. Thus the *Times of Natal*, by the mouth of its Durban leader-writer, the Editor of the *Mercury*, says (Saturday, Jan. 3)—

'The extinction of Putini's tribe ought to convince our natives that it is better to be loyal than disloyal, better to have the Government with you than against you. We are glad that the Government has not hesitated to take this step.'

And this view was shared by the great majority of the colonists, *e.g.* by those who signed the Durban Memorial to the Secretary of State, which expressly claims credit for the colonists for having carried on wholly at their own cost the 'expeditions against the rebel tribes,' following in this the lead of the Legislative Council, which had voted its thanks to the different officials, &c., who had taken part in 'punishing the rebellious tribes of Langalibalele and Putini.' Here, however, in this quasi-official document the punishment of Putini's tribe is condemned as unjust and excessive. And thus it appears that the Editors of the three journals, with the great majority of the colonists and the members of the Legislature, not to speak of the seventy 'ministers of all denominations' who have committed themselves to the same view, have been altogether mistaken in this matter, not being, of course, acquainted sufficiently with the facts of the case. This suggests, however, the possibility that, when the facts are rightly

known, it will be seen that the treatment of Langalibalele's tribe has also been 'a State blunder, committed during a time of panic,' through the effect produced by Mahoiza's lying, followed immediately by the affair at the Pass.

191. Putini's tribe, says the writer, had not 'committed any overt act' of rebellion, nor 'offered any active resistance to the Government forces.' Nor had the amaHlubi, within the borders of the Colony; for it is absurd to speak of shots fired from caves and bushes by a few miserable fugitives, defending their women and children, as 'active resistance' on the part of the tribe. And it is no more right that these latter should be punished 'for the intentions of rebellion which it is suspected they entertained' than it was in the case of the former. That the amaNgwe 'harboured' some of the kindred tribe, including some of the women—it is said, among others, Langalibalele's chief wife—is very natural and probable, and it is surely no great crime, if they did. As to the cattle, it is said, on the best authority, that but few of those seized were Langalibalele's. Putini's tribe, as well as Langalibalele's, had a large number of guns—'about 200,' though the number was stated at the time as 170—of which only 10 were registered, 9 of them as far back as March, 27, 1860, so that only *one* was registered in connexion with the Fields, on Nov. 3, 1872. But when these two tribes are exhibited as specially guilty of 'neglecting or refusing to get their guns registered,' it would have been only fair to have said that there is not a particle of evidence to show that they ever '*refused*' to register them, as also to have mentioned what the other tribes in Weenen County were doing. I refer once more to the table from Mr. Perrin's Register (37), as exhibiting the numbers of guns licensed during the years 1871-2-3 for the most important Northern tribes.

192. The writer does not mention the number of Putini's cattle 'eaten up'; but they amounted to at least

200 horses, and from 8,000 to 10,000 head of cattle, and the sum raised by their sale may be fairly put at £16,000 to £20,000. As to their having showed—

‘great reluctance to supply Capt. Lucas and Mr. Macfarlane with the cattle which they required to feed their native force, and for which they would have been paid,’—

and their ‘delay in paying a fine imposed as a punishment for their alleged complicity in this rebellion,’ I shall leave the Acting Chief of the tribe, Umbalo, son of the late Putini, a mild, inoffensive man, who has since died of misery and neglect at Mahoiza’s kraal beyond the Umgeni, to tell his own story.

‘Before the force started, Mr. Macfarlane called Umbalo and said to him, “You had better stay, Umbalo, and cultivate your land as usual. You are not at all concerned in this; it is only Langalibalele’s affair. You remember that, when we ate up Matyana, we passed close by Nodada’s, but did him no harm whatever; and so you must just stay quiet and not be afraid at all.” So at those words Umbalo stayed and was quiet, and cultivated—I mean the whole tribe of Putini.

‘Well! when the force came, Captain Lucas ate up 13 oxen and 7 horses. At that time the force had done nothing to the people; it was on its march up to Langalibalele, not having yet reached him. Upon this Umbalo asked what evil he had done. Said Captain Lucas, “This is not eating up; these cattle and horses will be restored to you again, in money, or cattle, or horses, as you wish.”

‘Then Mr. Macfarlane required Umbalo to supply 50 head of cattle for the force, and they gave those cattle. When they were brought, they were said to be small ones, and he was ordered to produce 500 head of cattle. When he had given 300, the whole number required not being yet produced, the force arrived at his kraal. He was ordered to complete those 200 that still remained, and make up the whole number of 580. When he had given the 200, but not yet the extra 80, *all* the cattle were eaten up, the whole land of Putini. When the cattle had been eaten up, the guns were demanded, and assegais and shieldst from all of them, and that was brought; everything was demanded, even tiger-skins,¹ and all

¹ Many of Putini’s, as well as Langalibalele’s, people, who have thus been completely plundered of all their property, have not even had blankets given to them by this ‘paternal Government’ during this sharp winter weather (July 11). Something may now be done, as I have taken some steps to report the matter.

was brought. Then the people were carried off, male and female; all was eaten up.'

Lutuli, Madhloi, Unkopolo, and another, four sons of Putini, thoroughly confirm the above statement, and add as follows :—

'When Captain Lucas had eaten up those 7 horses and 13 oxen, Umbalo sent next day a white ox to Captain Lucas to salute him, according to the custom of gratifying an Inkos'. Captain Lucas received it with thanks, and then a demand was made for those 50 oxen.

'They say also that the delay in not hastening to complete all the cattle at one time arose from the wide extent of Putini's tribe. For Umbalo kept sending to all the tribe, requiring the people to bring in those oxen which were required by the authorities. All the headmen, however, were quite desirous that the S. C. should be helped with those which were needed as food for his force: there was not a man—not even a young man—who would have dared to utter a word of objection to the force of the S. C. being helped.'

The trial of Langalibalele, his Sons, and his people.

193. 'The Chief Langalibalele was brought to trial on Jan. 16, 1874, the Lieut.-Governor presiding as S. C., assisted by Resident Magistrates and Native Chiefs and Indunas as Assessors.' The constitution of the Court has been called in question; but for our purpose it is enough for us to believe that the Lieut.-Governor did not preside as Judge without the advice of his legal advisers, and without being personally assured of the legality of the course adopted by him.—p. xxxviii.

It is not so much the *legality* of the course adopted which has been objected to as its *unfairness*. It may be legal for the sole Judge on a Court of Appeal to sit also as Chief Judge in the lower Court from which the appeal is made; though in the present instance all the members of the Executive Council, in other words, the whole body of the Court of Appeal, were originally summoned, and sat

¹ The writer has curiously omitted the '*Secretary for Native Affairs*.'

for four days out of five, the Sentence being given on the sixth, as members of the lower Court, one of whom had written in a leader of the *Times of Natal*, Wednesday, Jan. 7:—

‘We have no pity to spare for the rebel Chief or his advisers, who well deserve the doom, whether of steel, lead, or cord, which they must undergo.’

It was not till the incongruity of this arrangement was pointed out, that at the end of the Fourth Day the members of the Executive Council were dropped as part of the Court, and they appeared no more in any capacity, the Court being finally composed of the ‘Lieut.-Governor, the S. N. A., the Magistrates, and the Chiefs.’ Yet the ‘Magistrates’ were also reduced from three to two, and the ‘Chiefs,’ who were six on the first day, and afterwards seven, included three or four who were merely Indunas, one being ‘Head Induna of the Natal Government,’ and another, ‘Induna to the S. N. A.’ And no colonist will doubt that, sitting in the presence of the S. N. A. and the S. C. himself, there was hardly one of these natives who would have dared to utter his real sentiments as to the prisoner’s guilt, if they differed from those of the white Authorities, for fear of being implicated as secret sympathisers with his ‘rebellion,’ especially as they had the lesson taught by the fate of Putini’s tribe before their eyes.

But, legal or not, it did seem unfair that the S. C. himself and his chief adviser in Native affairs should sit as Judges of the first instance in a case as to which they had already pronounced their judgment, by signing the Proclamation deposing the chief and outlawing him and his people as ‘rebels,’ and by executing the most dire punishment upon them in ‘eating up’ the tribe—and all without any trial, by simply assuming their guilt as proved. How was it possible that they should not condemn them as malignant rebels of the most dangerous character, without at the same time condemning their own action as

hasty and wanting in judgment, a 'step unwarranted,' a 'State blunder'?

194. 'It has been said, the inquiry was not fair. To any unprejudiced reader the record must show that this charge is not supported. Under native law, if strictly adhered to, Langalibalele would never have been tried; he would have been killed immediately he was caught. It has been said that the prisoner should have been allowed counsel, and that he was unable to defend himself. As a chief the prisoner's duty, and almost only duty, for a long series of years, had been to hear and adjudicate upon cases. He had therefore a thorough knowledge of the law under which he was tried, and of the best way of conducting a defence, had he one to advance. There is one part of a native's education which is never neglected, that is, the art of public speaking. All natives are orators, and further have a passionate love of the Law Courts, where they invariably spend their leisure time. We need not labour the point; but we feel convinced that the proceedings of the Court were fair, that justice was done the prisoner, and that the sentence is more merciful than he could have expected, or perhaps even than the circumstances warranted.'—p. xxxviii.

'To any unprejudiced reader the *record* must show that this charge is not supported'—the said 'record' being simply an *ex parte* statement of evidence taken from witnesses called by the Crown, examined by the Crown Prosecutor, and cross-examined by nobody!—no single witness having been called for the defence, the prisoner having been kept in solitary confinement from the time of his arrival—Dec. 31—till his sons were sentenced, Feb. 27, and not allowed to speak with anyone, white or black, who might try to find such witnesses for him!—and the Court, when informed that some doubt had been thrown on Mahoiza's evidence by evidence taken elsewhere, *i. e.*, in the Office of the S. N. A. from Mahoiza's fellow-messenger and their attendants, thought it 'unnecessary to reopen this question' by calling these witnesses! Such, at all events, is the *Witness* report, confirmed by the *Times* report, of what passed in Court.

'The S. C. mentioned that evidence had been taken elsewhere which would throw some doubt on the statement of Mahoiza with regard to the stripping. The other members of the Court, however, thought it was clearly proved that the messengers of the S. C. had been insulted, and that it was unnecessary to reopen the question.'

But the Official Report has only this, p. 31 :—

'H. E. inquired whether the Court wished further evidence in support, or otherwise, of Mahoiza's statement as to his having been stripped. The Court required no further evidence on this point.'

195. But how idle it is to speak of a man's having been himself for many years concerned in 'hearing and adjudicating causes,' and of all natives being 'orators' and fond of the law courts, as reasons why a native, put on his trial for a capital offence, should not be allowed a counsel! Would counsel be refused to the most able lawyer in England if tried for high treason, or would any man, however skilled in law, if placed in such a terrible extremity, when the heart and mind of even the noblest and best might fail to do justice to himself and his cause, unless he felt himself possessed of extraordinary gifts of nerve and eloquence, despise the help of a calm, cool-headed, experienced adviser, who might at least watch the proceedings on his behalf, cross-examine the witnesses, and help to elicit the truth? It is not indeed here said, as it was by the S. C. in Court, that to allow counsel in this case, black or white, would have been 'directly contrary to Kafir usage, or custom, or law' (p. 21), because the writer probably knew that this was a mistake, and that it would be more correct to say that every man of the tribe of the accused, or every friend he had who possessed a talent for debate, would have been his counsel in a native Court. See *Kafir Laws and Customs*, p. 38-40, and p. 58—

'It is in cross-examination, and in sifting out the truth from such a mass of lies and misrepresentation, that the ability and cleverness of Kafir lawyers shine forth'—

a passage singularly applicable to the present case.

196. But the writer says, Langalibalele, under Native

Law, would not have been tried at all; 'he would have been killed immediately he was caught.' No doubt, if the S. C. had caught him in the Colony, he might have killed him at once under the savage Native Law of Zulu-land—if all Mr. Shepstone's late doings at the instalment of Cetywayo are to be regarded but as a solemn farce, the special glory of which was supposed to be, that he had set before the King and his great men the injustice and enormity of killing men without a trial, and insisted, till he secured their assent, that in future no man should be put to death without a trial, and without an appeal from a lower chief to the King.

'The Zulus never try a man for any alleged offence; it is sufficient that he is accused, and that the Chief is persuaded of his being a dangerous or obnoxious subject, or that he intends to desert to Natal; sanction is then secretly given for his destruction—in which is usually involved that of all his family—and an armed party is sent to carry out the decision. It frequently happens that some intimation of his intended fate reaches him in time to make him brave the risk of escaping, and he succeeds in entering the Colony; many, however, have been overtaken on the river boundary, and have had their wives and children murdered before they could reach the opposite bank, the superior activity only of the men enabling them to escape. Equally desperate is the case of the political refugee. With certain death following him, it is not likely that he would prefer losing his life to the risk of becoming an assigned labourer for three years, whatever his former rank or wealth may have been. There is no doubt that . . . the effect of the refugee regulations, that is, the return to the Zulu authorities of all cattle brought into the Colony by refugees on their being demanded, and the registration and assignment of refugees as labourers for three years, has kept up the Zulu power and prevented flight into this Colony, except upon the most pressing necessity.—Mr. Shepstone's *Answers*, appended to Lt.-Gov. SCOTT'S *Despatch*, No. 34, 1864, p. 7.

But under the Kafir law of any civilised Colony he would *not* 'have been killed immediately he was caught,' even if caught in the Colony, unless in the act of resisting the 'eating up' of his cattle. And Langalibalele showed a 'thorough knowledge' of this law when he strictly and repeatedly enjoined his people that—

'in no case were the forces of the Government to be resisted or fired upon, not even if the men got in among the cattle of the tribe.'—p. xxix.

197. But when Langalibalele had been seized by Mr. Griffith out of the Natal territory, had been disarmed and delivered up into the hands of Capt. Allison, no law, civilized or native, would have warranted his being put to death immediately, as above asserted; and, however much it might have been desired by some for the quiet of the Colony, whoever had ordered the deed would under civilized law have been himself guilty of a great crime. Under *Native Law* he should have been protected, either by the Basuto Chief, Molappo, to whom he fled for refuge,—and who, it cannot be doubted, has deservedly earned the everlasting contempt of his fellow-natives, loyal or otherwise, for the treacherous breach of all Kafir traditions and usages which he committed in betraying the refugee,—or else by Mr. Griffith, the S. C. of Basuto-land. In surrendering him, however, to the Natal Government, Mr. Griffith must be supposed to have had in view the Imperial Act which requires that, for any charge of complicity in the affair at the Bushman's River Pass, he should be tried in the Colonial Court, and under the law of the Cape Colony (16). Under that law, indeed, if found guilty in this respect, he might have been condemned to death or, perhaps, to banishment to Robben Island, the 'more merciful punishment' assigned to him by this Kafir Court, ignoring the fact that 'banishment is unknown in Kafir Jurisprudence' (*Kafir Laws and Customs*, p. 39), and that banishment to Robben Island would be far worse than death itself—a more cruel doom than was inflicted on the desperate rebel chiefs of the Cape Colony, Macomo, &c. who actually did resist the Government in arms, and committed serious crimes within the British Territory,¹ yet were not even

¹ I copy the following from the Supplement to the *Cape Government Gazette*, Dec. 15, 1857:—

'Among those chiefs who, in this crisis of affairs, were particularly noted for their fidelity and attachment to the Government, was Fusani, a paid head-

sentenced 'for life' to Robben Island, nor severed for ever from their families and friends, as Langalibalele would be, but were merely imprisoned in a part of the Cape territory, and visited, no doubt, from time to time by friends and relations.

198. 'He pleaded guilty to the charge in the indictment, to some in a straightforward and to others in an equivocal manner; and the inquiry of the Court into the circumstances was to ascertain the measure of his guilt. It is not usual, when a prisoner pleads guilty, for appeals or new trials to be granted, simply because a friend of the prisoner is not satisfied that the evidence adduced proves that the plea of guilty is one which the prisoner (having regard to the evidence to be led) need have offered. The application for appeal could not be granted merely on request, when a prisoner had pleaded guilty; but, even if it had, the arguments in support of the appeal could only have been based on the record of the former trial, and not on any new evidence, which under the circumstances would have been inadmissible. We believe no sensible man thinks the sentence too severe, whatever opinion he may have formed of the credibility or otherwise of some of the witnesses.'—p. xxxviii.

man of Umhala. He ultimately gave information which enabled the Government to discover the residence of a Kafir, named Ngono, a man who, having been convicted of crimes committed in the colony, had been sentenced by the Colonial Court to imprisonment with hard labour, but who, having escaped from the convict gang, was again leading a life of crime in Kafraria, and was known to be a leader in the robberies and disturbances which were taking place. . . . In the following July, Fusani gave the information which led to the discovery of Ngono, who had just committed another act of robbery, and to his death in a desperate attempt which he made to escape from his captors. The reward that Fusani, the paid officer of the Government, received for this act of fidelity, was that, in six days afterwards, his kraal was attacked at night by an armed party, sent in defiance of the High Commissioner's Proclamation by Macomo, another Chief also in the pay of the Kafrarian Government, Fusani himself was murdered, and his cattle and gun were carried off to Macomo, who appropriated them to his own use.'

For the above offences, 'of a peculiarly aggravated character,' Macomo was sentenced to *twenty years' imprisonment* at Robben Island. Langalibalele, who has committed no crime whatever within the colony (whatever may be thought of the affair at the Pass), has been doomed to *transportation for life*.

The great stress which is here laid, as it has been all along by the Government organs in the Colony, upon the fact of the prisoner having 'pleaded guilty,' shows only the weakness of their cause, that, not being able to prove satisfactorily the fact of a 'rebellion,' they are glad to entrench themselves in the prisoner's confession. But the truth is that the prisoner did not 'plead guilty' at all: he admitted that he had done or authorised certain acts; but he desired witnesses to be called who would 'justify him in reference to the charges brought against him,' and show that those acts had not the rebellious meaning which the Court attached to them—a plea which in any ordinary Court would be recorded as a plea of 'not guilty.' He had gone over the Mountain armed, with his people and cattle, and in so doing the things at the Pass had happened. But there were witnesses whose evidence 'would justify or extenuate what he had done.' He had caused the messengers to take off some of their clothes, but 'this was a matter of precaution caused by fear.' 'He did not answer the charge of encouraging the young men to arm themselves for purposes of resistance, but denied that they had procured the guns in consequence of an order from him, or with any purpose whatever. [This is the only case of what the writer calls an 'equivocal' plea; it seems, however, plain and straightforward enough to an unprejudiced mind.] He denied having made any treasonable communication with the Basuto Chiefs or any other person.' 'His going over the mountains had been a flight from dangers which those people who had been in town, and whose advice he could not help following, had declared to be imminent.'—p. 3.

199. But the words of Zatsuke, Head Induna of the Natal Government, addressed to him immediately after his plea, and before any evidence had been given against him—who had privately heard Mahoiza's lying story, and, believing it, supposed that the chief had admitted that the Government messengers had been by his orders grossly

outraged, as that story implied—sufficiently show that in his view, at all events, Langalibalele had *not* ‘pleaded guilty,’ except on one point:—

‘The facts contradicted the plea which the prisoner had made. . . . The only satisfactory part of the prisoner’s reply was his admission of the way in which he had treated the messengers—a fact which, under the circumstances, he could not deny, seeing that the men were here. . . . It would have been much better, and he would have been better satisfied, and more inclined to believe him, *if prisoner had admitted the truth of all the other charges.* . . . Langalibalele’s best course, seeing what he had done, was perfectly apparent, quite clear; he should tell the truth, admit what he had done, and what made him do it, and throw himself on the mercy of the S. C. This was the course Zatsuke recommended, as the only course which was likely to do the prisoner any good.’—p. 5.

200. But then, it will be said, on the Fourth Day the prisoner confessed his guilt, as follows, p. 23:—

‘H. E. asked Langalibalele if, having heard what the S. N. A. had said, he had any questions to ask him?

‘Prisoner replied: I have nothing to say. I am simply awaiting the decision which your Excellency may arrive at; and, when that is given, I should wish a note or pass, in order that I may send about and collect my children (tribe).

‘H. E. told the prisoner he was most anxious he should put any questions he wished to the S. N. A., or make any statement he desired.

‘Prisoner in reply called himself an *Umtagati* (villain), admitted that he had sinned, and had nothing to say; he confessed his guilt.

‘H. E. asked the Native Chiefs, members of the Court, if they wished to ask any questions or say anything, especially anything in favour of the accused.

‘Zatsuke expressed his surprise at what Langalibalele had said just now, when asking for a pass, before he knew what his sentence would be, especially after admitting his guilt at the same moment. That conduct barred them from saying anything in the prisoner’s favour.’

Now Langalibalele says that it was Zatsuke himself who advised him to confess his guilt—not only in Court on the first day, as above (199), but privately afterwards when another (apparently) friendly Chief, who managed

to whisper a word to him, had already advised the same, thinking that that would please the White Chiefs, and lighten his punishment:—

‘Zatshuke addressed that word to him as they were sitting outside, many people being collected, while his trial was going on. Zatshuke sat beside and said to him, not in the hearing of many, “Confess that you are in fault (*wonile*, have sinned), and no harm will happen to you.” Langalibalele thought that he was giving him a friendly hint by that word, and so he said what he did, remembering also that other word of his friend, and called himself an *Umtagati* (villain).’

It was, after all, but a general confession of fault, and it is plain that he expected to be treated leniently on the ground of such a confession, since he asked for a pass that he might collect his tribe. But he threw himself upon the mercy of the Court, which had no mercy in store for him—since the S. C. had already said to the Native Force under the Tafel-Kop, ‘Langalibalele is as a dog, for whom there is no pardon.’

201. It appears however, from the above quasi-official statement (197), that it was at one time contemplated to refuse the right of appeal, applied for by petition on March 1, on the ground that the prisoner had ‘pleaded guilty’; though the prisoner was tried under the Ordinance, No. 3, 1849, by a Native Court—on the legal fiction that the Supreme Chief was the Chief *Native* in the Colony, without which such a Court could not have been held at all—and the Ordinance says—

‘Be it enacted, that there shall be an appeal to the Lieut.-Governor, acting with the advice of the Executive Council of this District for the time being, in all cases whatsoever between natives, and which have been tried according to Native Law, and that the decision of the said Lieut.-Governor, so acting as aforesaid, shall be final.’

Moreover, when leave to appeal was given (April 9), Major Erskine stated (in the absence of the S. N. A.) that—

'H. E. had himself always been desirous that the decision of the Court of Inquiry on the case of Langelibalele should be brought before the Executive Council, provided this could be done without danger to the peace of the Colony.'

202. But the writer argues as if this were in the nature of an ordinary appeal from a judgment pronounced by a lower Court between two disputing parties, where, of course, only the evidence produced at the trial by both sides can be considered by the Court of Appeal. The present is a very different case: it is that of a 'Paternal Government' dealing with what it deems unruly children. And, as a father, to be worthy of the name, who might have severely chastised his child for some supposed offence, in a fit of passion or under a mistake, would only be too thankful to have it shown to him, by evidence of a trustworthy character—however painful and mortifying to himself the discovery might be of his own hastiness or want of judgment—that his child had not been so faulty as he had supposed, and he himself had been unjust in the severity of the chastisement inflicted, so surely a really 'Paternal Government' would desire to know the whole truth as far as possible, and would not refuse to hear any trustworthy additional evidence which went to disprove altogether or even to extenuate the convict's guilt, even though it had not been produced in Court. Though the writer 'believes no sensible person thinks the sentence too severe,' it may be well to await the judgment on this point of Englishmen, here and at home, when fully informed.

203. 'The trial of the sons followed, when further evidence implicating the chief was given.

¹ H. E. and the Executive Council, when hearing the arguments on the appeal, while admitting that the Court of Appeal had power to receive fresh evidence, decided unanimously, after a long private consultation, in reply to a formal application from the Advocate, not to hear any such evidence which would have been brought to show what had really happened in the case of Matyana. The facts, as regards this matter, have been carefully suppressed throughout, though of vital importance to the prisoner.

'The tribe was next tried, and sentences were awarded of from two to three years' imprisonment, with hard labour. In the majority of cases the natives will be located on farms, with their female relatives and connexions, and expected to work out their term of imprisonment there.'—p. xxxviii.

The trial of the sons is considered separately below. It is only necessary here to say that it was conducted on the same principles as the first trial, no one being allowed to assist the prisoners by cross-examining the witnesses, and these latter being all called on the side of the Government, yet even thus admitting much which tended to exculpate the chief, as well 'implicate' him—the latter, be it observed, in his absence, and when he had therefore no opportunity of hearing or replying.

The writer does not mention that three of the tribe were sentenced to *five* years, three to *seven* years, and one to *twenty* years of 'imprisonment, with hard labour,' or that the convicts included a number of feeble old men, whose guilt was merely that they 'did agree and conspire to withdraw into fastnesses or other places of concealment,' from the approach of the terrible Government force, or that they 'did wrongfully and illegally, and with rebellious intent, remove or assist to remove the cattle of the tribe!' Of course, there is not much 'hard labour' to be got out of these; but then it is arranged that they shall be 'located on farms,' *i.e.* sugar or coffee plantations, 'with their female relatives and connexions,' and doubtless they will be brought under the same terms as are announced in the *Government Notice* of April 10, 1874, under which all their male, as well as 'female,' 'relatives and connexions' will be required to 'work out the term' of their aged relative's 'imprisonment there,' the girls above ten years of age as 'domestic servants,' till of age to be married, the boys above twelve years of age, to perform 'reasonable services' till the age of eighteen, food and huts to be provided for the family by the employer, and wages to be fixed by the Magistrate, with special reference to these his

obligations. It remains also to be seen whether the Secretary of State will approve of these severe sentences, or of the above arrangement, which places the families of State prisoners in enforced servitude on private farms.

Congratulations and Votes of Thanks.

204. The writer finally concludes with recounting the tributes of thanks received by the S. C. for his action in the whole affair. And first 'the loyal natives within the Colony' have uttered their 'congratulations upon the success of the measures taken to bring Langalibalele to account.'

'They have expressed their surprise at the base conduct of a chief who had received such exceptionally kind treatment from the Government, and at the mercy vouchsafed to one who under native law, if strictly administered, would have been exterminated root and branch, under the impression that his blood was tainted—that Langalibalele's descendants must necessarily be a rebellious people, whose death the future well-being and peace of the commonwealth would render at least advisable, if not absolutely necessary.'—p. xxxix.

The above address exhibits just the same profuse adulation of the justice and mercy of the powers that be, and the same judicious trampling of the man that was down, as the addresses of the Native members of the Court to the prisoner before they had heard a word of the evidence. It is not stated when, or where, or by whom, these 'congratulations' were presented—whether by the seven members of the Court, with Zatsuke, 'Head Induna of the Government,' at their head as spokesman, or by a body of chiefs assembled at the Seat of Government from all parts of the Colony (though no signs have been apparent of any such gathering), or through the Magistrates of the different Native Districts—whether they were *spontaneous* or *suggested*. But how many even of the Native members of the Court have *outside* shaken their heads at the proceedings?

And how many chiefs throughout the Colony have felt that their position is henceforth utterly insecure—that, when a man can be tried and condemned in such a way as this, their own bitter hour may come, if difficulties at any time should arise between themselves and the Magistrate or the S. N. A.—and that, if Langalibalele has been the victim now of false representations of Indunas and hasty judgments, not one of them is safe? I believe that such thoughts as these are very rife among the natives. And because I know that such a state of feeling—however it may be smothered and suppressed for a time—is most dangerous to the future peace of the Colony, as well as from a simple desire to see mistakes corrected and justice done in the present instance, I feel bound to lay the facts, as plainly as I can, before my fellow-countrymen here and in England.

205. As a matter of course votes of thanks were passed unanimously by the Legislative Council to the S. C. of Natal, to Sir H. Barkly and the Cape Government, to the Commandant of the Regular Troops, to the Volunteer and Burgher Forces, to the S. N. A., Magistrates, and Civil Officers, to the English at the Diamond Fields, to the Orange Free State Government, and to the Native Levies, for the part they had taken in 'enforcing Her Majesty's authority and punishing the rebellious tribes under the Chiefs Langalibalele and Putini.' Of course, the Cape Government received the information forwarded by the Natal Government, and did not doubt that both these tribes were refractory and their chiefs malignant rebels, and 'perceiving the magnitude of the issues at stake,' if all this was true, acted with most praiseworthy promptitude and energy in the matter. It may be hoped, however, that the S. N. A. for the Cape Colony, when—

addressing a flattering message to the Basuto and other chiefs who manifested their loyalty on the occasion of Langalibalele's arrival and capture in Basuto-land,'—

did not forget to tell them that the Queen of England could never be pleased by acts of treachery, even though performed in capturing her bitterest enemies, more especially when by such acts they are likely 'further to make their loyalty pay,' and secure substantial rewards, as in this case, 'in the number of cattle given them, and the property of the rebels appropriated by them,' which under such circumstances can only be looked upon as the price of blood.

206. The writer then refers to the manifesto of the Peace Society, and says that—

'The ministers of religion in the country have taken up the question, and shown that the war generally was prosecuted with as much mercy as is possible, when for any cause whatever a Government is bound to vindicate its authority at the expense of blood.'—p. xi.

How they have 'shown' this does not appear: they have merely stated their own belief to that effect, as one added, 'as far as I know,' and, with the information they possessed, it was very natural that they should do this. But the letter from one of these ministers, a German Missionary, living now beyond our borders, is so characteristic and comical, and illustrates so clearly one curious phase of feeling which has helped to swell the list of signatures, that I cannot refrain from quoting it, as a specimen of the curses of all kinds which have been heaped upon the head of Langalibalele.

'The conclusion of the document embodies exactly my opinion, according to which I have refrained to come forward in order to give a characteristic of Langalibalele, whom I have learned to know particularly since the last eight years, when I had occasion to be sometimes at his own kraal.

'I have witnessed things which he did in direct violation and abuse of the Government. [But why, if so, did this good man look on without reporting these acts to the authorities, or telling the chief that he would report them, if repeated?] But his heinous sins, of which the laws of the country do not take notice [e.g. poly-

gamy, doctoring, rain-making, &c.], have been so aggravating as to cry to heaven for vengeance, and they made me always fear that the righteous judgment of God would one day come upon him. And, when this was commenced against him, I said, "At last now God will bring it to pass!" In one word, I do not know of any individual on earth that has made him [himself] like God more than this abominable rain-maker!

"The public have become a little acquainted with the meaning of his very name, and explained it "Glowing Sun."¹ Yet this is only part of the full idea. All Zulu-land, and as far as Langalibalele is known in the Transvaal and to the North, stood under his dread, and he ruled them by his Great Name, of which the full idea is, "He who has power to scorch the earth, and deprive it of its power to yield the bread for man and beast"; and *this* all these nations believed, and paid him a heavy tribute in cattle *yearly*! All these heathens were his tributaries! I have had opportunity for the last three years to see that tribute, and must say it is God Almighty in his righteous judgment who has come down upon him, and the Government of Natal is only His instrument. Those that are against the Natal Government in this case are against the Almighty God!

207. The inhabitants of Durban also and those of Alexandra County were very unanimous in expressing their belief in the humanity of the measures taken by the Government against the two tribes, and their indignation against those who thought differently. And there is no doubt that their sentiments were shared at the time by 'colonists of all grades and professions.' Yet the number of those who thought otherwise—though their voice was almost hushed amidst the storm—was not inconsiderable then, and has been since steadily increasing.

¹ Baso, Putini's son, informs me that the Chief's original name was Um-tetwa; but it was changed to Langalibalele, 'the sun is glaring,' because the sun was very hot and parching during the year in which he succeeded his brother Dhlomo. In consequence a famine ensued, and cannibals came and ate some men of the tribe. These cannibals had been summoned by Duba, one of Langalibalele's half-brothers, in his anger because Dhlomo had killed another half-brother, who had aspired to the chieftainship, on account of which act Dhlomo himself was called and killed by the Supreme Chief, Mpande (Panda). So much for this missionary's explanation of the name! Baso also utterly denies that Langalibalele received 'tribute' from Putini's or, as far he ever heard, from any other tribe, and he does not believe that there is a word of truth in the story.

208. Finally the writer says :—

' We have endeavoured to show that the objections and quibbles which have been raised in this matter are the result of a misapprehension of facts; and, if we have placed the facts so clearly and truly before our readers that they must agree that we have proved the case we have endeavoured to sustain, we shall be satisfied.'—p. xii.

My desire has also been to ' place the facts clearly and truly before my readers,' and to ask their judgment upon them. I have done my duty in this matter to the best of my power and of the means at my disposal; and I believe that those who will take the trouble to read this Examination, even if they do not wholly adopt my views on all points, will yet have perceived that there was very much more reason for the course which I have taken in the matter, and very much less evidence of the ' treason ' and ' rebellion ' of Langalibalele and his tribe, than perhaps they had imagined.

NOTES
ON THE
OFFICIAL RECORD OF THE TRIAL
OF
LANGALIBALELE'S SONS AND INDUNAS.

1. On May 13 the Official Record of the Second Trial was published. Contrary to all principles of justice and fair play, this evidence was taken at very great length, bearing sometimes strongly against the Chief (*e.g.* Umtyityizelwa's), but sometimes also in his favour (*e.g.* Umpiko's), and very little of it indeed having reference to his Sons and Indunas—in the absence of the person most concerned, and without giving him an opportunity of contradicting or explaining the hostile statements, or of claiming the benefit of the favourable facts, which were accidentally elicited in the course of this Trial. It does not appear why two such very important witnesses as Mr. Macfarlane's Induna, Umtyityizelwa, and Langalibalele's 'loyal' Induna, Umpiko, who were the chief messengers between the Magistrate and the Chief in respect of the guns, and the latter a confidential adviser of the Prisoner throughout the whole affair, were not summoned from the first to give their evidence,—at all events when Mr. Macfarlane himself had been called, whose statements and actions were necessarily based to a great extent upon those of his Induna.

2. As before, no one, black or white, was allowed to assist the prisoners; the witnesses, chosen by the Government, were examined by the Government Prosecutor (Mr. John Shepstone), without attempt at cross-examination on behalf of the prisoners; for, though Umtyityizelwa is said to have been 'cross-examined,' p. 67, it will be seen that this merely means that he was asked some additional questions by some member of the Court—probably by the S. N. A.—for the purpose of getting further information, and without any idea of testing the truth of his statements. Nor, when striking discrepancies occurred between his evidence and Umpiko's, which (one would think) must have been at once apparent to every member of the Court, was any attempt made to get them reconciled, by recalling the former witness; they were simply ignored. Accordingly, portions of what appears in this Official Record as evidence in chief, are given in the *Witness* and *Times* Reports as 'cross-examination by the S. N. A.,' or 'in reply to Mr. John Shepstone'; and in certain passages the words ascribed to the witness are evidently not his own words, but those of the questioner. This is a matter of special importance (*Remarks*, 123) in respect of the question of 'sprinkling' as a 'preparation for war.'

3. On p. 42 we find the 'Warrant' by which the Court was constituted for this Second Trial, so as no longer to include the Supreme Chief, to whom an appeal lies, under the Ordinance, No. 3, 1849, from the judgment of this Court. But it still includes the S. N. A., who was vitally concerned, as the S. C. himself, in the issues of these Trials, and who was also a member of the Executive Council, to whom, as well as to the S. C., such Appeal would have to be made, and who was required to preside 'at any and every of its sessions.' Besides the S. N. A. the Court was to consist of—

'The Administrators of the Native Law, who may be able to attend, and the Native Chiefs and Indunas of the Colony, who may be able to attend.'

This last provision seems a very liberal one, and would have been so, *if it had really meant anything*—that is, if the 'Native Chiefs and Indunas of the Colony' had been *invited* to attend, as many as were 'able' to do so. In point of fact, however, the Magistrates who attended were the two who sat on the former Trial, Messrs. Bird and Hawkins; and the 'Native Chiefs and Indunas of the Colony' were represented by five or more of those same three Chiefs and four Indunas, who were summoned to sit on the Trial of Langalibalele, except for some curious variations, which arose from the fact of the 'Warrant' having provided that—

'Such Court shall not be duly constituted unless there shall be present at any and every of its sessions two Administrators of the Native Law and *five* Chiefs or Indunas.'

4. These variations will probably surprise an English reader, who supposes that it is necessary that a Judge should hear *all* the evidence which has been produced in any case in which he is to pronounce judgment. For the only Native Judges, who sat throughout on each of the nine days of examination, were the Chief Teteleku and the Indunas Nondenisa and Mafingo. Of the others, Manxele sat *seven* days, Zatshuke *six* days, Dhlokolo and Hemuhemu *four* days. On one day, the sixth, the evidence was heard by Teteleku, Nondenisa, Mafingo, and two Chiefs, Kukulela and Umnini, of whom the latter had been summoned to Maritzburg to give account of himself for having (as reported) remonstrated against the order of the S. C., requiring him and the other Chiefs along the Coast to turn out 2000 young men to assist the planters in gathering in the sugar-crop and coffee-crop; and, being in some alarm for himself, he would hardly be likely to be a very independent or outspoken Judge in such a case as this, more especially with the fate of Putini's tribe before his eyes. These two, however, never appear again. But, on the day when the Sentence was pronounced, the Chief Hlangabeza is called in to make up the quorum of five, re-

quired by the 'Warrant' for a 'duly constituted' Court; and, having heard not a word of the evidence, as appears, he is allowed to sign the Judgment, as 'having carefully considered the pleas advanced by the defendants, and the evidence given on the Trial,' p. 89, which Hemuhemu signs also, though present on only *four* of the nine days, and not on either of the days when those important witnesses, Umtyitzelwa and Umpiko, were examined. Of course, the signatures of the five Chiefs and Indunas are carefully authenticated by 'interpreters and witnesses.'

5. The charges preferred against the prisoners were as follows.

'That Malambule, Manaba, Mbaimbai, Mazwi, Siyepu, Mango, and Ngungwana, all sons of Langelibalele, and Mhlaba, Maqobodo, *alias* Ngwadhla, and Nombona, Indunas of the aforesaid Langelibalele, are guilty of the crimes of Treason and Rebellion; in that, being clansmen and adherents of the late Chief Langelibalele, and well knowing that such Chief had been placed in power over them and others of his late Tribe, and located in the County of Weenen, within the Territory of the Colony of Natal, one of the possessions of the Queen, by the Supreme Chief, the Representative of Her Majesty; and well knowing that the said Langelibalele was, and by various tributary acts periodically and annually made acknowledgment of being, together with his tribe, subject to the authority and command of the Supreme Chief; and also well knowing that, according to the Law and Usage of the Natives resident in this Colony, as well as in all the countries adjacent thereto, the removal of a Tribe from its recognised Location, beyond the boundaries of the Territory, without the permission and public sanction of the Supreme Chief, and in armed numbers, and driving before them, and taking with them, the Cattle of the Tribe, is an act of open Defiance of the lawful authority of the said Supreme Chief:

'They, the persons aforesaid, are guilty of rebellion against the authority of Her Majesty the Queen, in that they, being Sons and Indunas of Langelibalele, and exercising authority in the said Tribe, did agree and conspire with their Chief Langelibalele to remove from the said Colony, without the legal and necessary sanction aforesaid, and for the purpose of avoiding obedience to the Laws of the Colony, and setting at defiance the lawful orders of the Supreme Chief, repeatedly issued and impressed.

2nd. 'That, after so agreeing and conspiring, they did wrongfully, illegally, and with rebellious intent, remove, or assist to remove, the Cattle of the Tribe from the lawful jurisdiction of the Supreme Chief, having with them their arms and munitions of war, for the plain and manifest purpose of defying and resisting the emissaries or forces of Her Majesty, who might be sent to obstruct their departure or constrain them to return.

3rd. 'That, acting in accordance with, and furtherance of, such agreement and conspiracy, they, or one or other of them, did, after the issuing of the Proclamation of the Supreme Chief, calling upon all members of the Tribe to submit themselves to his authority, resist such authority, by firing upon, killing, and wounding certain of Her Majesty's subjects sent to enforce such surrender.

4th. 'That notwithstanding, and in defiance of, the repeated orders of the Supreme Chief to submit themselves to his authority, they persisted in defying and disobeying such orders, until, overpowered by superior force, they were captured with arms in their hands.'

6. The prisoner Nombona was absent, owing to sickness: the other prisoners were called upon to plead in turn, which they did as follows. p. 43.

MALAMBULE: I admit that, armed with assegais, I assisted in driving away the cattle.

MANABA: I admit that, being armed, I accompanied the cattle; but it was in reality more a running away in fear than a defiance of the authorities.

MBAIMBAI: I admit that I accompanied the cattle when being driven away, and that I was armed, but not for purposes of resistance.

MAZWI: I admit that, armed, I assisted in driving the cattle away.

SIYEPU: I admit that I drove cattle away, that I did so armed, and that I was running away from the Government.

MANGO: I admit that I ran away, was armed, and so accompanied the cattle.

NGUNGWANA: I admit having run away from the Government, being armed, and driving away the cattle; but I was not armed for purposes of resistance; I was running away.

MHLABA: I am an old woman. I have not much to say. I ran away. Fear drove me into the mountains, the young men having already left, and the Government forces being around us.

NGWADHLA : I ran away because the S. C. was angry, and I saw he would demolish us. I ran away in consequence.

The seven sons of Langelibalele admitted that they had left the Colony with the intention of going to and joining Moshesh's people, and that they had gone to, and been taken in, Basutoland.

NGWADHLA said he had run away temporarily to hide himself, thinking the Government would ultimately have mercy, and the people would be allowed to return to their kraals; but they subsequently found this was not the case, and that the Government were determined to follow up the people and kill them. He had come down from Tafel Kop and surrendered to Mahoiza's people. He had never left the Colony.

MHLABA had also intended to hide himself for a short time; he had not left the Colony, and had, when tired and worn out with rain and hunger, surrendered himself to Mr. A. Shepstone at the Little Tugela.

The witnesses examined on this trial, and especially the prisoners themselves, stated many facts interesting to the colonists, in connexion with this disturbance. But it will suffice for present purposes to extract from the evidence of each witness only such passages as bear upon the *guiltiness* of Langelibalele and the other prisoners, and have not been quoted already in the 'Remarks,' appending to them the necessary notes.

7. MALAMBULE.

We then heard that Langelibalele had been made a prisoner, and we saw that the cattle were being seized, and that a part of the force of Langelibalele had left their guns or given them up. The guns were given up, or collected, in one place in consequence of an order given by Jonathan. I remembered we had run away from the Government in order to avoid having our guns taken from us; and now, finding that our arms were being taken from us here also, I took up a double-barrelled gun, and returned with it to Natal. I then entered the Colony by the Olivier's Hoek Pass with certain followers, a few more than ten in number. Some of my party went forward and came in contact with a few of the force employed under Mr. A. Shepstone: the force appeared startled at their appearance, and tried to arrest our men who ran away. One or two shots were fired, and at length they came to where I and four or five others were. They chased us, and, as they came close, I unwittingly

[? thoughtlessly], or hurriedly, loaded the gun, but only with powder, and, when the pursuers came closer, I fired at them, in order to startle them. I escaped that evening, but the next morning Mr. A. Shepstone sent to look for us. We were found under a little bush, eating our breakfast, made no further resistance, and got captured. I procured the powder at the time I took the gun, when the fire-arms were being given up at Molappo's. I carried my assegais in a quiver, and had them with me when I was taken prisoner.' p. 47-8.

Malambule, therefore, had no gun of his own or supply of powder, which agrees with the statement of Sitokwana (20) and of Langalibalele himself (*Rem.* 25). Malambule, in consequence of his own admission (there is no other printed evidence of the fact) that he had fired a blank charge of powder to frighten away his pursuers, was sentenced to banishment for five years.

8. MANABA.

'On the occasion of Mahoiza coming to Langalibalele's kraal, Nobamba, I was in the hut with my father. . . . Macaleni came to tell Langalibalele that Mahoiza had arrived. . . . Mahoiza then went away. Langalibalele wished to give Mahoiza something to eat, but said he could not do so, because the cattle were in the Drakensberg. Then there was a great deal of confusion: in fact, it had commenced before Mahoiza arrived, and he must have seen that everything was in confusion, and that everybody was armed. . . . I was armed with a gun when I started from Natal.' p. 48-9.

Thus the fact of Mahoiza being received by armed men was not meant as a studied insult to himself or to the S. C., as he supposed. Manaba is mentioned as having a gun by Sitokwana and Langalibalele.

9. MBAIMBAI.

'The day on which Mahoiza arrived at Nobamba, I was in the hut with Langalibalele. Mahoiza first went to the people assembled a little distance off. Some one brought word to Langalibalele that Mahoiza had arrived, and come to see about his illness. Langalibalele replied, "I am afraid of anyone that comes from Maritzburg. Let him take off his jacket before he comes." Mahoiza then came

in without his jacket. We gave him some beer and he drank. Langelibalele explained to Mahoiza, when he told him he wanted him to go to Maritzburg, that it was not owing to disrespect, but he was really unable to go, his leg was too badly swollen, and in fact his leg was very much swollen. . . . Langelibalele rode on horseback, and it was a fear of the consequences that prevented him from coming to Maritzburg when summoned. . . . I carried my assegais in a quiver: I had no gun.' p. 49-50.

Mbaimbai had no gun according to Sitokwana and Langelibalele.

10. MAZWI.

'I don't know anything about it. I saw everybody else going, and so I went. I had no gun; I carried my assegais in a quiver upon my shoulder. That is all I know about it.' p. 50.

SIYEPU.

'I was taking care of the horses, and don't know anything about it. I only had two assegais.' *Ib.*

Mazwi was a young lad of about 17, and Siyepu of about 16, years of age. Neither of them had a gun of his own, according to Sitokwana and Langelibalele; but the latter carried one of his father's two guns for him (*Rem.* 25). However, for the offence of leaving the colony after their father, driving the cattle and carrying their assegais, these two boys, after having been three months in gaol, were sentenced to six months more of 'imprisonment with hard labour.'

11. MANGO.

'I was present when Umnyembe first went to deliver his summons to Langelibalele at Nobamba. Langelibalele said, though his leg was not well, he would go down to Maritzburg and obey the summons. I then went to the kraal where I live, which was some distance from where my father was. Mabudhle came to me soon after, and said that he and I had been ordered to go to Maritzburg after Umnyembe with a message. I asked how it was that we had to go, seeing Langelibalele had promised that he himself would go. Mabudhle said, "We have come now, he is not going." On the way, when near Mbunda's, I again asked how it was Langelibalele

had changed his mind, and why it was that we were being sent. Mabudhle said, "It will end in nothing; we will say he rode as far as Mbunda's, and could not come any further." I said that will scarcely do; such an excuse as that won't answer. I then said, "If Mbombo had been sent instead of you, he would have agreed with me; he would not have consented to a falsehood of that kind." We came on to Maritzburg, saw the S. N. A., and reported that Langalibalele had started and got as far as Mbunda's, but had then been obliged to turn back. The S. N. A. said he was very anxious that Langalibalele should come down, in order that he might hear face to face what the people from Estcourt had to say, for they were then waiting in town. The S. N. A. also urged upon us to tell Langalibalele that he was anxious he should come, in order that an end might be put to these misunderstandings or difficulties.

'We then returned home and told Langalibalele that he was wanted in connexion with some business with the Indunas of the Magistrate at Estcourt, and that we had found these Indunas in Maritzburg. Mabudhle and three others, Official Witnesses, were decidedly opposed to his going down, and said Langalibalele must not venture or he would be made a prisoner. Mbombo, my brother Manaba, and I, assured them that nothing of the sort would happen. . . . I was armed with assegais.'

Mango had no gun of his own (Sitokwana, Langalibalele); but he carried in the flight one of his father's two guns (*Rem.* 25).

12. NGUNGWANA.

'I was in the employ of Mr. Heeley in Maritzburg when the difficulty broke out, and had been for ten months before. When I heard how matters were going, I thought it my duty to go up and see what it was. I got there five days before Mbombo arrived and gave the alarm. . . . We then went on to Molappo's, some having given up their arms, but others not having done so. . . . I also went with them, having my shield and assegai. . . . It having been found out that I was a son of Langalibalele, I was made a prisoner. . . . I was taken to the Camp next morning and made prisoner [i.e. "handcuffed to a reim-chain"] with my father at the wagon.'

Sitokwana and Langalibalele also say that Ngungwana had no gun. His master, Mr. Heeley, gave evidence in his favour as follows, p. 85 :—

'I know the prisoner Ngungwana. He has been in my employ, off and on, for the last six years. . . . As far as my memory serves me, Ngungwana left me to return home after the Zulu Expedition had left. . . . I believe prisoner was tired, and wanted to go home after his nine or ten months' service. Prisoner was always a good boy, and I could not wish for a better servant. At Bushman's River he was my herd-boy, and also nursed one of my children: in Maritzburg he has been my stable-boy. I have never had occasion to have him before the Magistrate or reprimand him in any way.'

Ngungwana, however, says that he reached home only 'five days before Mbombo arrived, and gave the alarm' that the forces were coming. And this agrees with the statement of his fellow-servant, Umzimazane, p. 86,—

'I know the prisoner Ngungwana: we were in service together at Heeley's. He left while I was absent, and *just before the forces went up.*'

13. There is not a particle of evidence against the seven sons, except what is contained in their own confessions as above, unless it is to be found in a passage of Umtyityizelwa's statement, where he says, p. 66—

'As Langalibalele went away, some young men sitting with Mango, one of the prisoners, began to say, they had gone to the D. F. and worked for guns, and how could they now be taken away? The young men then made a great row (? *umsindo*, noise of talking), but I said I would not listen to boys or be questioned by them—that Langalibalele had told the Hlubi tribe to question me, and, if this row continued, I should walk away. While these boys were still making a great uproar, a pot of beer came from Langalibalele, and, as we were drinking it, it began to rain, and we dispersed, and went to a hut. *Cross-examined.* Mango shared in the row made by the young men.'

But then, on the other hand, the *Sentence* admits the fact that Mango, Manaba, and Mbaimbai, 'used their influence in endeavouring to induce Langalibalele to obey the *first* order to repair to the seat of Government,' p. 89; and the evidence of the 'loyal' Induna, Umpiko, shows that they used it also down, to the last in the right direction:—

'He (Langalibalele) said that, in turning over the matter in his own breast, he thought his sons Mango and Mbaimbai and I were deceiving him when we wished him to go down to Maritzburg, and, if he could not ride, wished him to go in a wagon.' p. 79.

'They (Mabudhle, &c.) said, "You think you will overcome us by your words; but we have distinctly declared to Mango, Manaba, and Mbaimbai, as we now do to you, that we refuse to be overcome," p. 81.

'After Mahoiza had come, the persons who made the greatest remonstrance, or who really remonstrated against the proceedings involving the despising or defying of the Government, were Mbombo, Manaba, Mango, and myself. When the young man Mbaimbai said anything, his father would not listen to him, and became extremely angry if he attempted to say anything. The younger lads wished to say something to their father, but were afraid. It was our opinion, and urgent advice, that Langalibalele should go to Maritzburg, and we saw no reason to fear any alarm in case he went. The two Indunas, Ngwadhla and Mhlaba, assented to what was said, and, though not present, I was told that on one occasion Ngwadhla repeated what I had said to Langalibalele.' p. 82.

'The only fact, as far as I am aware, which connects the prisoners with these proceedings is, that they are the sons of the Chief and so necessarily connected.' p. 82.

'When the prisoners Mbaimbai, Manaba, and Mango, the sons of Langalibalele, and I, thought we had overcome Langalibalele, and persuaded him to take one course in the evening, we found these men had overthrown our arrangements in the morning.' p. 82.

And so Mango said, p. 75—

'You may enquire and investigate as long as you choose, but you will never find that more than four men, in the whole of the tribe, ever objected to any of these proceedings, or gave any definite opinion against them. These four were Manaba, Umpiko, Mbombo, and myself. I am glad to hear that Umpiko is coming as a witness. I wish to make this statement before he arrives, because I am sure he will substantiate it.'

Manaba said: 'I confirm the statement which Mango has just made.'

14. But the loyalty of Manaba, Mbaimbai, and Mango, and the excellent character of Ngungwana, who had been absent from the tribe for nine or ten months, had not taken part therefore in any possible 'sprinklings,' meet-

ings, or 'other arrangements for a campaign,' and had only gone home two or three days before the forces started from Maritzburg, did not suffice to save them from the doom of 'traitors' and 'rebels.' They had left the colony after their father, as surely they were bound to do at their age, accompanying or helping to drive the oxen, and carrying, of course, their assegais and Manaba his gun. This was the sole amount of their offence, which one might have thought would have been balanced by the six years' good character of one, and the strenuous efforts on the part of the other three, against strong opposition on the part of the Chief Indunas, Mabudhle, &c. to persuade their father to comply with the orders of the Government. But no! the Sentence says, p. 89—

'The Court has also been bound to notice the fact, that, if the influence of natural ties is on the one hand to be regarded as lessening their guilt, on the other hand, their rank and social position have made their treasonable acts more momentous and dangerous to the peace of the Colony, and their crime against Society relatively greater.'

Accordingly they were doomed, like the vilest felons, to 'imprisonment with hard labour,' Mango, Manaba, and Mbaimbai for two years.¹ Ngungwana, who was not present in the tribe at all, but whose influence, if he had not then been keeping steadily for ten months at work for his white master, would to all appearance have been thrown into the same scale with his brothers, for two years and a half! The extreme severity of these sentences must strike the eye of every Englishman, and assuredly will utterly fail in producing the expected effect upon the natives.

15. MHLABA.

Mhlaba, Induna of Langalibalele, a feeble old man, gives an account of Mahoiza's visit, from which are taken the following statements.

¹ One of these young political prisoners was seen by the Rev. J. D. Latouche harnessed like a beast and driven round and round, pugging clay for bricks in the Government brickfield.

'The great men then sent Majosi to tell Langalibalele what Mahoiza said; and he sent back orders that *food should be given to Mahoiza*, but said that he could not come to see him, as he was sick.'

'The second time we sent Mabudhle, and he never returned. Umzilikazi was then sent by Macaleni and myself. I was not present when he delivered his message to Mahoiza; but he brought back the same order, that *Mahoiza was to have food given to him*, and said Langalibalele could not come down because he was sick.'

'We then went to a rocky place and took up our position before Mahoiza came; he then arrived and came up behind us. We told him to go round in front. Mahoiza said, "Why should I go in front? Why don't you turn round to me? Why should I, who come from the Great Chief, turn round and face the sun? It is you who ought to turn round and face the sun." At length Mahoiza went round to the front where the ground was lower, as we were sitting on a slight elevation caused by the rocks.'

'I saw Mahoiza with a pot of beer in front of him, and Langelibalele with another pot in front of him.'

'As far as I could see, Langelibalele could not come to Maritzburg. . . . As to whether the fatigue of the journey undertaken by him was not greater than that of proceeding to Maritzburg, I may say that what a man can do when he finds there is a force near him or after him, or is told there is a force pursuing him, is no criterion of what a man could do were he not placed in those circumstances.'

'When I heard of the arrival of the S.N.A. at Estcourt [November 1] I started up the Little Bushman's River towards the Drakensberg with my family. . . . I admit I had a little shield [*i.e.* a *travelling* shield] and four assegais. I did not hear the proclamation published by Adam; I was too much on one side of the route he took. All my cattle went, together with the other cattle, with their owner Langelibalele. It was the duty of the young men when they saw the cattle of the tribe flying, to fly, and I did not remonstrate.'

'When it was reported that Mahoiza was coming, Langelibalele ordered us to go to the rocks to receive him there. That was the usual place for hearing cases or having discussions, although it was also usual to have discussions at the kraal. We met Mahoiza outside, as well as at the kraal. I don't know who gave the order for us to meet with assegais. I did not see any guns.'

'It is not customary for a people to arm themselves with assegais to receive a messenger; I have never seen it done before. On this occasion it was caused by the fact that everybody was armed, because the white people were running away. It is not customary

to require the messenger from a higher power to go to a lower part of the ground where he is received, especially if he objects. On this occasion it was done by the clamour of the young men who were encouraged by the official witnesses. To treat a messenger so is to despise the authority which sent him; and it was on that account I remonstrated with them, because they not only did that, but were clamorous towards the messengers sent by the Great Chief.' p. 57-9.

16. Some of the language in the last paragraph is evidently not Mhlaba's own, but that of questions put to him, to which he answered 'Yes.' Of course it was not the 'customary way' of receiving a messenger: but there is no sign that Langalibalele intended to insult him by the above orders. He was afraid to receive him at his kraal, as his Indunas feared treachery for him. He tried, therefore, to substitute for a personal interview a hearing at 'the usual place for hearing cases or having discussions,' where probably the people seated on the slope could hear and see better the messengers beneath. When Mahoiza objected to this, doubtless the young men and official witnesses, Mabudhle, &c., should have given way. But they used no violence whatever towards him, except that they made him take off his coats for a reason already stated (*Rem.* 97-101). And, as to the men being partially armed, the S. N. A. might have been asked, with reference to his recent visit to Zululand, 'Is it customary for a visitor to a friendly prince to come with a large force, white and black, armed to the teeth and ready to fire upon him and his people, should it be necessary, at a moment's notice?' In both cases distrust and fear—not defiance—was the cause of the apparent breach of the proprieties. At all events, it would be absurd to expect that they should have been strictly observed towards a native messenger, when the tribe was in such a state of perplexity and confusion.

17. NGWADHLA.

'I became alarmed because, when Langalibalele was sent for there was a difficulty about his obeying the summons, and we found

out that a false message had been sent to the Government. . . . We became alarmed at the consequences of such a proceeding.'

'Before Mahoiza came, we left the kraal where Langalibalele was, and went to *meet him on the hill*, where he told us he had come to call Langalibalele, as he was wanted to go down to Maritzburg. The men replied that Langalibalele was sick, and how, being sick, could he go down to Maritzburg? We said this in fear, because we felt the Government was angry, and we had nothing to say, and could say nothing except that Langalibalele was sick, and we could not say that he ought to go.'

'When Mahoiza asked for food, Langalibalele told him the cattle had gone; they had first been very much reduced by lung-sickness, and now they were all gone. I saw Langalibalele whiaper to Singungu: I don't know what he said; but I afterwards heard it was an order to give Mahoiza a beast.'

'Mahoiza then went away, and I returned to my own kraal, and stayed there until the third day, when I heard the Government force was near at hand. On the day after we heard this, we went into the caves of the Tafel Kop, for the whole country was in alarm, and the people were seeking for places of safety. My cattle went over the Mountain with their owner, Langalibalele. He having gone over the Mountain, we found places of security, as best we could, amongst the rocks.'

'Various sections of the Tribe took possession of the caves in different parts of the Location, but each according to a plan of its own, no order having been issued by Langalibalele.'

'We had no communication with Langalibalele. I did not see him after parting with him after Mahoiza left. . . . He went on with his cattle without giving any orders on the subject as far as I am aware.'

'When I came down [to surrender], Pakade's people reproached me for not listening to this order before: they told us not to go back to the mountains or we should certainly be killed. We said we did not know whether we should be safe at our kraals: we were liable to be killed there. I was then given in charge of Mahoiza.' p. 59, 60.

18. It is everywhere the same—signs of *fear*, but nowhere of defiant rebellion: for the statements which follow, and were evidently drawn from a witness very much in fear for himself by a process of *questioning*, must be taken in connexion with the remarks in (16).

'I know it was wrong to receive a messenger from the S. C. in the manner in which Mahoiza was received. There are those who committed these wrong acts, and there are those who regretted them, who took no part in them, and felt and saw they were wrong; but now we are all compromised by these acts of wrong, inasmuch as blame is attachable to us all. Such conduct is incompatible with fear; it could not be fear which made the people despise such a messenger. We did that which was wrong to Mahoiza and what was calculated to make the Government angry. Macaleni, Umzilikazi, and I condemned the treatment which Mahoiza received. Umzilikazi said, "By this you are destroying Langalibalele and his Tribe, and this when Langalibalele is not present to know what you are doing." We were perfectly aware that such conduct was a defiance of the Government, and we saw that the treatment of Mahoiza in that way was disrespectful, and would bring great trouble. I must do Langalibalele the justice to say that he himself was not present to know what was done or to do it himself.' p. 60.

Of course, the making Mahoiza take off his coats was a sign of distrust, and therefore would have been an insult to the messenger, and a sign of disrespect for the S. C., though hardly one of 'defiance,' if it were not excused by the facts stated in (*Rem.* 97-101).

19. The old Induna, Mhlaba, who, as the S. N. A. said, p. 14, had—

'behaved in such a way as Mahoiza thought had saved his life'—

and who was merely running away, with a little travelling shield and four assegais, and 'when tired and worn out with rain and hunger surrendered himself,' was found guilty on the fourth count, and sentenced to 'one year's imprisonment with hard labour.' As he said, he had not much 'labour' in him, and the matter was soon settled by his falling down the stairs, leading from the basement to the upper story of the Gaol, by which accident he was severely injured in the head and hip-joint. On the Queen's Birthday, or rather late on May 25, when nearly three months of his sentence had expired, he was released, and allowed

to live at Bishopstowe, whither, being found unable to walk, I had him brought on the evening of May 26.

Ngwadhla, happy fellow! being only a head-man, and 'not being proved to be an Induna of the Chief Langalibalele,' as he was called in the Indictment (and by Umpiko, p. 82), and the Court being scrupulous about the 'mint, anise, and cummin,' 'could not be found guilty under any of the Counts in the Indictment.' *Judgment*, p. 89.

The following are extracts from the evidence of the other witnesses produced on the Trial of the Sons.

20. SITOKWANA.

'I arrived at the Kraal Empihlweni the day after Mahoiza left. On my arrival at this kraal my father gave instructions to pack up corn to feed the [women and] children who had gone on into the bush and mountain. . . . We remained in the bush three or four days, when we heard there were some white people at the Top of the Pass. This was when we were about to come out of the bush with the women and follow the cattle up the Pass; for the women were going to accompany us. . . . We remained in the bush three days longer. On the third day, the Government forces being close at hand behind us, we started to go up the Mountain and take away the horses, so as not to give any signs as to where the women were.'

These people, then, had made no preparations for flight, even on 'the day after Mahoiza had left,' but were among those 'successfully driven' by the Government forces 'over the Mountain out of the Colony.'

'We met the Mounted Police; some Basutos came from the party and told us we were ordered to give up our guns. We said, "Yea, we have brought the guns. The Basutos told us to stand whilst they communicated with the Police in reference to the surrender of the guns." After this, the Police rode up, told us to lay down our guns, and ordered us to stand away from them. The person in charge of the Police then said, as we had laid down our arms, we could go among the Basuto kraals and get food for ourselves, for we had nothing more to fear; the only ones who would have cause to fear were those who ran away with arms in their hands and refused to surrender when called upon to do so. We then

went to the kraals as directed, and the white man who had told us that we were free to go about among the kraals repeated the same statement on the following morning. On the next day the force from Natal arrived. We all ran away, but were pursued and overtaken by men on horseback, who called us to stand still, and then commanded us to return. This we did, and were brought back to the kraals of the Basutos, and from thence conducted to Natal.

'When we reached the encampment and went to Langalibalele, we found Mabudhle, &c., and his sons, the prisoners in the case, with him. Some of the sons were armed with assegais, and some with guns. Malambule, Mbaimbai, Mazwi, Siyepu, Mango, and Ngunwana, had assegais: Manaba had a gun.' p. 43-5.

Why was not the word of the white Chief of the Police kept inviolate? It is a pity that the arrival of the 'force from Natal' should have been signalled by a breach of good faith, in addition to the treacherous act of Molappo.

21. The evidence of HLABA, the Praiser (*imbongi*) attached to the S. N. A. in Zululand, is merely a piece of amusing bombast, displaying the witness's conceit and cowardice, but containing nothing worth reprinting for our present purpose, except the important admission that, as late as Tuesday, Nov. 4, the day of the Pass Affair, 'the S. N. A. was still in hopes of having the matter with Langalibalele settled' in some amicable way, as by a fine, and therefore commanded Hlaba to take back to the place where he found them some sheep and a horse which he and his party had looted on their own account, and to restore to their friends 'four girls, two women, and two children,' whom he had gallantly captured, p. 53-4. *Up to this time*, therefore, in spite of all the alleged insults, acts of rebellion, treasonable conspiracies, &c., the offences of Langalibalele and his tribe were regarded by the authorities as pardonable!

The evidence of the 'heralds,' NONYACA and ADAM, has been already considered (*Rem.* 163).

22. Capt. ALLISON.

'I was in command of the Column which followed Langalibalele to Basutoland: 111 guns, which had been given up by Langalibalele

and his people at Molappo's, were handed over to me by the Magistrate at Leribe, Major Bell. Many of these guns bore the registration mark, showing they had been imported into Natal. A few D. F. permits, but not many, were given up with the guns, many of which were like the ordinary rifles sold at the D. F. I found no licences from this Government to hold fire-arms. There was very little ammunition, and all the permits were from the D. F. I did not myself receive any guns from the amaHlubi, but a few rifles were taken from the prisoners captured by the rear-guard. I do not know how many guns were taken in the Location.' p. 40.

Thus 111 guns were surrendered to Captain Allison, who said also on the Chief's Trial, p. 32—

'I do not think these were all the guns which the Tribe had: these were the guns taken from those who surrendered, and one half of the Tribe, at least, did not surrender, but retired into the bushes and kloofs: guns were also taken in the Location. Mr. A. Shepstone had several guns, but how many I cannot say.'

I believe that Mr. A. Shepstone seized 18 guns at the Olivier's Hoek Pass, which with 111 captured in Basutoland, and perhaps 21 taken in the Location, would make about 150 for 'one half' of the Tribe, so that the whole Tribe may have possessed 300 guns, of which 48 were licensed, as Mr. Perrin states, p. 32; whereas Putini's tribe, only half as large, had 'about 200 stand of arms,' p. xxxvii, of which only 10 were licensed. It is possible, of course, that those of the amaHlubi who have fled, and are certainly not hiding in the 'bushes and kloofs' at the present time, may have carried off *more* guns, or *fewer*, than 150; so that the above calculation, though fair and reasonable upon the evidence, cannot be relied on as correctly indicating the number of guns possessed by the Tribe. But, if the Chief and Tribe had been for some time previously 'preparing for war,' would they not have secured a larger amount of 'ammunition'?

23. STOFFEL.

'These young men reported that the cattle from Epangweni had fled. Langalibalele said, "You will get me into a scrape: what

have you made the cattle run away for?" I heard this conversation, but it was not addressed to me.' p. 61.

It is difficult to see what the above passage means. It points to an early time, 'before the S. N. A. went to Zululand,'—perhaps to the time when the Tribe were much alarmed at the gathering of the 'Great Northern Camp' at Estcourt, on July 7-16 (*Rem.* 142). It may mean that the cattle were moved up to the highlands in a fright, without the Chief's orders. But then it is not easy to see what 'scrape' he could have got into by this act, since it was customary towards the end of the winter season to send them up (*Rem.* 112) in order to get better grass. Nor is it likely that Langalibalele would speak thus in the presence and hearing of one whom he regarded as a 'spy,' if there was anything improper in the act in question.

24. NCAMANE.

'The first I heard of this matter was that Umtyityizelwa, Mr. Macfarlane's head Induna, had gone to a kraal at Sibanda's, to require some young men to bring in some guns, and they ran away. . . . That caused some little alarm, because the order was that these young men were to be *sent after and brought back*. I do not know whether they were sought after or not.'

Who sent the above order? Mr. Macfarlane says that he merely 'sent a message ordering the people to bring in the guns for registration,' p. 29; and Mr. Mellersh, to whom the messenger reported himself on his return, declares that he sent no such order as the above (*Rem.* 43).

'About a month after this [agreeing with the time when Mr. Macfarlane returned to his post] I heard an order had arrived from the Magistrate requiring us *all* to take in our guns to be registered. I heard that some had been taken and brought back again, but that others had not been brought back, and then the people said, "What is to become of our earnings, we having spent our strength for guns, if they are taken away?" This caused considerable alarm, and, when the Volunteers assembled at Estcourt, that also caused alarm.'

'I heard that Umnyembe had gone to Nobamba to summon Langalibalele, and that the men had said he was sick and could not

go. That caused alarm, and made us feel uneasy, even before the S. N. A. went to Zululand, and all the time he was away, because we were speculating what would be the end of it.'

'The members of the Tribe were assembled four times. . . . The decision each time was that Langalibalele was sick, and was not to go. At the fourth meeting Mahoiza was present.' p. 61.

Here are signs of anxiety and fear, as before—and, it may be said, of evasion and cowardice—but not of 'rebellion.'

25. UMTYITYIZELWA.

The most important parts of the evidence of this witness have been already quoted in the Remarks (32, &c.). The following are some additional passages, in reading which it must not be forgotten that Umtyityizelwa had a blood-feud with Langalibalele and his tribe for the death of his brother, and that the whole *tone* of his evidence is very different from that of the 'loyal' Induna, Umpiko.

'On another occasion [*i.e.* after Sibanda's affair] Capt. Allison reported that 8 guns had found their way into the Location from the D. F., and that he had taken two others [? had taken two men, the dead, snake-bitten man and his comrade, whose guns had been carried on by their companions (*Rem.* 34)]. I was therefore sent to Langalibalele to require him to send in these guns to be properly registered. Langalibalele replied, "You must give me the names of these people: I cannot do anything unless you give me the names." I said, "You can easily ascertain: there were ten in all, and one, having been bitten by a snake, was compelled to remain behind." He said, "I shall do nothing of the sort: I shall make no enquiry, unless you give me their names." I then told Langalibalele that the Magistrate said he was tired of receiving these messages—that the vessel in which he kept them was full and overflowing, and it would be necessary for him to pick out some of them, and send them to the Government—that Langalibalele's pots were all on one side, and it would be better to place them upright, rectify, and alter their conduct, and let matters go straight. . . . He said, he could not trace any men unless the names were given him; and, if I failed to give him the names, I must go home without receiving any favourable answer.'

'I told him that the guns, belonging to the men who had worked

for Mr. W. E. Shepstone at the D. F., were to be brought in to be registered, and there was no obstacle in the way, as they had permission to keep the guns [*i.e.* they had been registered in Mr. Perrin's book as licensed on Dec. 31, 1872.] Langalibalele said, these men could go down and take their guns; but, as to the other eight, I must first tell him the names, and even then I must go and seize them myself, and not come to him to have the guns seized. What business had I to come to him in this matter? I replied, "How can you, as a Chief, talk with two tongues? On the last occasion, in connexion with Sibanda's sons, you told me I did wrong in going straight to them—I should have allowed you to arrest them. To-day, when I do what you suggested in that case, you say I am to go, and arrest them myself or the Magistrate must do so."

If Umtyityizelwa had contented himself with properly delivering the Magistrate's message, that 'they were to bring in the guns for registration,' Sibanda's sons might have complied with the order; or, if he had gone to the Chief in the first instance, before alarming the boys by taking three men with him to *seize* their guns and powder, the Chief might—and in all probability would—have sent them in. But, instead of that, he rudely entered their hut, without going first to the master of the kraal, and seized and trod upon the guns, and violently struggled for them, and so the boys ran away with them (*Rem.* 51).

'Langalibalele replied, "How can you hold out that matter of Sibanda's sons as a threat against me? I did not send them to the Diamonds or originate the movement. It is the white men who scratch about the ground and look for diamonds; I do not, and I will not take away a gun from any man who has been to the Diamonds and worked for it fairly. The white people take the men there, and then the white people wish to take away the guns they have earned." He then added, "Your fathers, the Magistrates, are cats; they do not interfere with Faku King of the Pondos or Cetywayo King of the Zulus; but they come to us, who are like rats that have come trusting to their protection, and annoy us." Langalibalele said further, "It would be of no consequence if the Dutch, of whom they knew something, had treated them in this way. But the Magistrates did not interfere with Cetywayo, because they left him to be beaten by the Dutch first, and then, when they found it clear, would take possession of the land, and it was the same in reference to the

Pondos—that it would have been of no consequence if they had had a fight with our fathers, the Magistrates, because then they would know in what relation they stood to them, as they now know the relation in which they stand to the Dutch.”

He appears to mean that the Natives of Natal had never fought with the English, who professed to rule them, not as vanquished people, but paternally; whereas the Dutch in the Free State and Transvaal had fought with their Natives, and put them down by force, and now ruled them with a rod of iron.

‘There had been Moshesh, a Chief of great power; the Magistrates had never interfered with him; but, directly the Dutch had fought with and conquered him, they had come up, put their hands upon him, and told him to pay taxes, when they had never fought against him. Just tell me,’ he added, ‘against whom they ever fought?’ He then rose, and addressing the tribe, said they could question me, and then he walked off.’ p. 63–7.

The above words are here given as reported by one who was hostile to the tribe, and subject to all defects of memory, as also of *interpretation*, and unchecked by the Chief’s own presence or by any attempt at cross-examination on his behalf. Umpiko says nothing about them, though he must have been present, and must have heard them, if Langalibalele spoke them in the open air, with his back partially turned towards the messenger, so that he ‘never saw his face.’ But he may, of course, have spoken them in a moment of irritation, hastily and unadvisedly: they will not amount to an act of ‘rebellion.’

The evidence of Baleni, Umtiyizelwa’s friend, has been already considered (*Rem.* 140).

26. MAHLATINI.

‘While we were sitting there, a few Basutos came and ordered us to return down the Pass. One of them threatened me by pointing his gun at me, and I threatened him in return. Another Basuto called out to this one, “You must not do that. Has it not been ordered by the Government that there is to be no firing?” The Basuto then desisted, and we went back to the rocks again. The Basutos then went back to the white people.’

'I saw the beast which was killed at the top of the hill, and I saw the Basutos skinning it. . . . Neither of Langalibalele's sons was present. I did not see Malambule at the foot of the Pass. The first time I saw him after this affair was when we were nearing the spot where the grass had been burnt off. I saw him at the Kolweni (Rock) before he reached Langalibalele. I did not see Langalibalele until we were close to Molappo's.'

'I saw Umzilikazi at the Pass: he was sitting near our party. Mabudhle brought him intelligence that the white men said we were to return to the Colony and go down the Pass.'

'It was Mabudhle who gave the orders for the force to fire. . . . The first shot was fired by Mabudhle; Jantje fired the next; and each of these killed a white man. When the white men started to go back, they went slowly; then Mabudhle gave the order to fire, and fired the first shot, Jantje fired the second shot, and the white men went off at full gallop. Four of our people followed the retreating force. Others followed, but soon returned; they did not go farther than about two miles. . . . They were all on foot; none of those who came up from below had horses. I don't know whether any of those on the top were mounted. The four who followed furthest were on foot.' P. 69, 70.

27. MGEBISA.

'When I got to the top, the white men had all run away. Mabudhle told me that they had been *contending for the ownership of the cow which had been killed, and which I saw dead at the top of the Pass.* . . . Mabudhle and Umzilikazi joined us in their return from the pursuit of the retreating white men, and told us what had happened. They told us the white people had said they had come to desire us to go back, and had been instructed to order us to return. They had not come with any hostile intention; but their orders were to desire our people to return and submit ourselves. The people replied, "*You have already killed a beast.*" When I asked who really began the affair, they said the Government force had commenced, because one of the Basutos had fired the first shot.' P. 70-1.

Mahlatini and Mgebisa then gave the names of 3 Indunas, 7 middle-aged men (*amakehla*, men with head-rings), and 5 young men (besides themselves), who were at the Pass, of whom only one middle-aged (Ncamu) and two young men (Umnwana, Majakazi) are in custody. p. 71.

28. NCAMU.

'Living at such a distance from the majority of the Tribe, I only heard the people were running away because some messengers, and amongst their number Mahoiza, had arrived from the Government. I then ran away. We drove our cattle up toward the high country.' p. 73.

UMNwana.

'I arrived from the Diamonds with the gun I had with me when I went up the Mountain, only a day or two before we started to ascend the Pass. I came back from the Diamonds with two others . . . Each of us had a gun.' p. 73-4.

MAJAKAZI.

He says nothing of importance for our purpose. p. 74.

29. SHIYABANTU.

'When Mahoiza was at the Location, I thought it my duty to go up to Langalibalele and say to him that, in my opinion, they ought to collect all the cattle together and give them to Mahoiza, in order to avoid the difficulty in which the Tribe now was, and which I saw was likely to come upon it. A man called Umzeula then present said that I had come to hoodwink them, and to deceive them by telling lies—that I was not to be trusted, and that I did not belong to the tribe, for I had turned my back upon them . . . Langalibalele said there might be something in what I said, but it must be considered by the men of the tribe. The other men who were there made no answer; but Silulwana said he thought what I said was worthy of consideration. . . . I thought they would consider it and give me an answer, and I waited to hear, but no answer was given.'

Manaba enquired whether it was not he, and not Silulwana, who had made the remark that it would be better for all the cattle to be given up than for them to proceed to extremities. Witness said, 'It may have been Manaba, for he was sitting close to Silulwana.'

'The next day I went to Langalibalele's kraal. Umzeula met me again outside the hut, and said I was trying to deceive them, and had nothing to do with them. I thought perhaps I had better say nothing about it, and I did not go into the hut with Langalibalele. I went home.'

'Two or three days after I went to Umtiyizelwa's place, near Estcourt, to buy a saddle . . . As I was about to return home . . . some one called me and said Umtiyizelwa wanted me . . . I said I wanted to go home and would be back the next day . . . I went home, and while there, I was told . . . that I was wanted because it had been said I was doing the work of a spy for Langalibalele . . . I thought it was very awkward to be regarded as a spy by both sides . . . I went down to the Office and saw Mr. Rudolph, who questioned me as to what I had been doing in going to Umtiyizelwa's as a spy . . . I felt in a difficult position, but explained matters.'

'After this time, when the Government forces had started, there was great alarm among all the people who were loyal to the Government, and they placed their cattle in positions of safety, lest they should be attacked by Langalibalele's force; because it was commonly said by the members [? by members] of that force that, as soon as things came to extremities, the first thing would be to destroy all those who had remained loyal to the Government, and who were called by an opprobrious name.' p. 74-5.

It is very possible that some rude speeches may have been made by some of the members of the tribe—perhaps, young men—to such men as Shiyabantu, who seems to have been in bad odour with both parties. But this does not implicate the Chief or the Tribe in general; and in point of fact no harm was done to any of these 'loyal' natives.

30. UMPIKO.

This witness remained 'loyal' to the Government throughout, and, as he did not belong by birth to the amaHlubi tribe, his evidence is not liable to the suspicion of being coloured to favour Langalibalele, as his own 'loyalty' was at stake, and any false statements would be fatal to his own position with the Government. And, in fact, he had no temptation to diverge from the simple truth, as the Chief had been already tried and sentenced. It will be seen, however, that the whole *tone* of his evidence, as regards Langalibalele's own conduct, differs materially from that of Umtiyizelwa's.

'Some time after this I went up to Langalibalele again, and asked him how he could deceive and treat me in the way he had "What fault did he find with me that he should treat me in this way, and give me a false message to take to the Magistrate, saying he was going down to Maritzburg, when he was not really going?" In reply he said that, in turning over the matter in his own breast, he thought his sons, Mango and Mbaimbai, and I were deceiving him when we wished him to go down to Maritzburg, and, if he could not ride, wished him to go in a wagon. I said, "Well! as you say, of course it is possible we may on some occasions deceive you. But in this case suppose, as you say, your leg is so sore you cannot go, what is to be done? We do not know what you are sent for; but you know one thing, the guns are wanted. You should therefore collect these guns, and send them to the Magistrate at once." He said, "You say the guns ought to be taken down; but the guns are not mine, as you know. They belong to the young men." I replied, "The young men ought to be told to take the guns to the Magistrate to have them registered." He replied, "Will they obey it, if I do?" And I said, "If they do not obey, seeing you say you are ill, what is to be done?"'

'Langalibalele told me he was uneasy on another point, because it had been said that the huts of the young men had not been paid for. He said they had not been very careful about the taxes on the huts occupied by the young men. He then desired Kakonina to go with me to the Magistrate, and admit that the huts of the young men had not been paid for, and promise that they should be paid for, and further ask for an explanation of this alarm [about the Great Northern Camp]. He told Kakonina to say that the men then present had told him that the huts had not been paid for. This message was delivered to Mr. Macfarlane, the Magistrate, who expressed his satisfaction at hearing that the taxes on the huts which had not been paid for would now be duly paid . . . After this the money for those huts which had not been paid for was sent down.'

Does this look like 'rebellion'? Probably this extraordinary payment of hut-tax has some connexion with the matter referred to in (*Rem.* 141), which also took place at the time of the 'Great Northern Camp.'

'Mahoiza came to summon Langalibalele, and went to the great Kraal Epangweni . . . When I got there I found Langalibalele had been startled by the very hard words used by Mabudhle, &c. I found they had reported that Mahoiza had something [*i.e.*, a pistol]

with him; and therefore Langelibalele said he would not go, but the great men must go down to Mahoiza . . . I asked how many people Mahoiza had with him, that he should be the cause of any alarm to us? They replied that, including his carriers, his party might amount to twenty. I said, "Why should Langelibalele hesitate to go to meet Mahoiza at Epangweni, seeing he has been really sent for from the seat of Government? How can Langelibalele hear the words of Mahoiza, if he does not go?" The other men said, I was deceiving the Chief, two of whose relatives had been killed when sent for in the Zulu Country. "Well!" I said, "if I am deceiving you, how are you going to answer the difficulty which you are in?" . . . It is very evident you want something that will naturally follow from the words you use; and, if you mean that you are going to have any fighting, I will have nothing to do with it, and wash my hands of the whole matter. I protest against Mahoiza's party, which only numbers twenty, being looked upon with suspicion, or at its being thought possible they can do any harm to the Chief, in the midst of such a large tribe as that by which he is surrounded. If you won't go to Mahoiza, I am determined to go, and have nothing more to do with it. I came for the purpose of listening to the words brought by Mahoiza from the Government. They used strong language, said I was a liar as bad as Mahoiza, and together with him a deceiver.'

'After spending a few days there . . . I went to Epangweni, and found the people assembled there. I got there a little before Mahoiza arrived from the kraal where he had slept. We then listened to what Mahoiza had to say. He said he had come to call Langelibalele. . . . "Why was he shut out from seeing him? and how could he convey to Langelibalele the message he had been sent to deliver, unless he saw him?" The men said Langelibalele wished them to come, and they proposed that he should pay something, as he had already delayed so long to obey the summons. . . . The men pressed Mahoiza to receive something in payment. . . Mahoiza was ultimately allowed to go to Langelibalele.'

'I went to where Langelibalele was, and, on reaching the Entabatabeni kraal, I found a story current that a pistol had been seen under Mahoiza's coat. . . . I protested again against the story being believed, because I felt quite sure it was not true. I told them it appeared as if they were trying to push Langelibalele into a state of circumstances which must destroy him. "How was it so much weight was attached to what had been seen by a single boy, when so many men were present, who had seen all that Mahoiza had, and had seen nothing of that kind?" . . . They told me I was blinded by the im-

portance attached to me because I lived so near the magistrate, and, as by birth I belong to another tribe, they said "You are so clever in giving advice, and foreseeing what will and what won't happen: how was it that, being so clever, your own tribe became destroyed?" . . . I said I should go home, and I started and went home: I felt very angry and annoyed at what had happened.'

'I felt very uncomfortable also, and thought I had better go back again. . . . I then went to the Epangweni Kraal, and, sending for Umzilikazi and Macaleni, protested against their conduct, and asked how they could possibly behave in a way which would certainly destroy the country, the Chief, and all his people? . . . I then arranged with Umzilikazi that he and I should go on and announce that we were bringing Mahoiza, and that Macaleni should accompany him.'

'I went straight on without seeing Mahoiza at all. I reached the kraal where Langelibalele was in the evening. I did not see him that night, but the next morning I saw and spoke with him. I asked him why he declined to see Mahoiza. . . . I felt very strongly on the subject, recapitulating everything I had said before. . . . I said I knew the country well, and had been all round it, and the English power surrounded us in every direction, and it was impossible, if they were determined to do what they were inclined to do [*i.e.* run away from the Colony], that they could by any means escape. There was no way of getting out. . . . I said, if they wished for any scape-goat, or person upon whom to vent their feelings, I was there to receive it; but, do what they would, I had insisted upon bringing Mahoiza, who was coming. . . . Langelibalele said, "Well! young man, as you have determined to tie me up, in spite of the advice of all the men, and in spite of my own feelings and objections to meet Mahoiza, I must meet him. Let him therefore come." It was then arranged that Langelibalele should go from the Entabatabeni Kraal to Nobamba, where the interview really took place.'

If Langelibalele was a defiant 'rebel,' would he have yielded, contrary to his own fears and the advice of his other Indunas and the men generally, to the persuasion of Umpiko? Would he not have still positively refused to see Mahoiza?

'After a messenger had been sent to communicate that this arrangement had been come to, another messenger arrived and said that the S. N. A. had arrived at Estcourt with a force, and that

another force was at Mr. Popham's. Langalibalele immediately referred to me and said, "Now, you see, in spite of all I can say, you are trying to induce me to be killed, and to mislead me so that I may be killed, and you persist in such conduct. Listen to the intelligence just received. What about that?" I said, "Yes, Chief, I hear, but I don't believe it. . . . How is it that I, who have just arrived from Estcourt, have heard nothing on this subject?" Langalibalele said to me, "Young man, my son, you had better go home," and I went home.'

'Langalibalele was then intending to go to Nobamba to meet Mahoiza, who was coming there. . . . I was not present at the interview, and personally know nothing of what happened there. Mahoiza then returned, and Mr. Macfarlane sent me to Langalibalele to say that, seeing he had so often refused to obey the summons to come, the Governor was himself coming up, and had accepted what he wished him to accept [*i.e.* a challenge to *fight*, which Langalibalele never intended]. . . . When I told him, Langalibalele said he had no force to oppose to the forces of the Great House, and he was afraid, because he had not gone to Head-quarters, because his leg was sore, when summoned. I then returned and went home.'

'The persons who really are chiefly responsible for all that has happened are Mabudhle, Magongolweni, Keve, and Nkunjana.'

'When Mahoiza was there, it was evident what things would come to; and numbers of people, being frightened, took their cattle towards the Drakensberg in one direction, and those who wished to remain loyal took their cattle the other way. Large numbers of people took my view of the case, listened to what I said, and, behaving as I did, procured "loyalty tickets" from the magistrate.'

'I did not blame Langalibalele personally so much as those four men I have mentioned, because I believe, if it had not been for their conduct, Langalibalele would not have acted as he did. . . . I frequently heard the young men say, when it came to the point, they would sweep away all those who were leaving the tribe; but I never heard Langalibalele use that threat, and I cannot say that it was a threat emanating from him, since I only heard it from the young men. Langalibalele took the advice of those four men in preference to other advice which would have saved him from getting into this trouble, and, because he has taken it, he is in his present difficulty.'

'I do not know anything about their intentions after they got over the Mountain. As far as I knew, they did not intend to go. Langalibalele told me he would stay where he was and, if he was to be taken, be taken there.'—p. 77-83.

31. UMBALEKELWA.

'I was living at the Mission Station, among the Hlubi tribe, when the first disturbance took place. The first alarm was caused by Umnyembe's first visit, and afterwards by the assembling of the Volunteers ['Great Northern Camp'] at Estcourt for drill. When Umnyembe came the second time, the people fled to the mountains [*i.e.* rocks, &c.], but returned again. When Mahoiza came, they began to take the things to the rocks and caves. From these circumstances I concluded they were determined to run away.'

'I remained at my kraal the whole time with my cattle and other property. My cattle were taken at the kraal by the Government forces. I hid no property away, and remained loyal to the Government. My cattle were seized by Captain Lucas: I was also taken prisoner by him and flogged by his orders. Neither I nor my cattle left my kraal, nor did I hide away any of my household effects. My cattle were seized by an order being given that they must remain at the Missionary's kraal. They may be there to-day, but I do not know.'

'I do not know that any of Langalibalele's people obeyed the Proclamation calling upon the people to return to their allegiance, either on the day or night following its publication by Adam. I saw no one return. Those who came down [from the rocks, &c.] did so for the first time after Putini's cattle had been seized. When a tribe is in this condition, it never has any plan, and no plan was ever communicated to me.' p. 85.

32. In the above extracts I have faithfully given every portion of the evidence produced on the Second Trial, which bears either *for* or *against* the Chief, in addition to what has been quoted in the 'Remarks.' And the whole evidence seems to show that their flight was only a terrified running away, in strict accordance with the Kafir Law, to which he and his tribe were subject (*Rem.* 6), but no act of 'rebellion.'

NOTES
ON THE
OFFICIAL RECORD OF THE TRIAL
OF
TWENTY-ONE MEMBERS OF THE HLUBI TRIBE.

1. The same Court, which sat upon the Second Trial, was occupied for twelve days more in trying 221 prisoners, common men of the Hlubi Tribe, of whose statements or pleas twenty-one have been selected for publication in the Official Record. As before, the prisoners were undefended, and there was no cross-examination.

2. The evidence of these witnesses is chiefly concerned with describing their own escape from the Colony, return to it, and capture, or the conflicts which they had with the Government force, when attacked in the Tafel Kop, where a number of men had taken shelter, with many women and children and old men. Some of these were killed, as were many others in other parts of the Location—the 'Introduction' says, 'about 200,' p. xxxi, though the number has been usually put much higher,—besides 3 killed in the Pass, one who perished from cold in the flight over the Mountain, and 16 killed by the Mounted Police at Molappo's. Of course, some fired in return upon the attacking Native Force and killed some of them; but in no instance, except in the unfortunate affair at the Pass, was there any loss of life among the white men concerned, for whom those hiding in

kloofs and caves seem to have shown a special respect (*Rem.* 172).

3. The following extracts made from this evidence, in addition to those already quoted from it, are ranged under different headings, and all tend to show how little there was of defiant 'rebellion' in the whole of this affair; and I believe that I have omitted no single passage bearing *against* the Chief in any way.

4. *Extracts showing that there was no 'rebellion' properly so called—only a hurried, terrified flight, without any definite purpose or plan.*

'I ran away because all the tribe ran away, following the Chief.'—NOZAZA, p. 92.

'When the tribe went up the Mountain, I felt a great objection to go with them, because I had been accustomed to white men all my life. I hesitated a great deal before I went. I, however, did go, and followed the cattle until we reached the Red Rocks on the other side of the Mountain. There I remained for several days seeing the different parties of people and cattle arrive. . . . I could not see what was to be gained in the future by going on, and I felt inclined to come back and see what I could do down below. When I reached the Entabatabeni kraal on my return, I heard that the Government forces were at Hlatikulu. I then made up my mind to go straight to my old master, Scheepers.'—GEDILANA, p. 93.

'When the Government forces moved, my brother, who was afterwards killed, ordered his cattle to be driven off. I said, "Let us first go and ask the white man." We were living on Mr. Mel-lersh's farm. I went to him and told him that my brother had ordered the cattle to be driven off. Mr. M. said "No! the cattle on his farm must not be driven off, but must remain where they were." When I went back, I found that my brother had already sent the cattle away. I remonstrated with him; but he said, "Now they are gone, let them go. How do you know that the *impi* would not kill us?" Next morning I started, with my brother and the women and children, after the cattle. We went into a bush and there stayed. Then an order came to say that all the people in the mountains and bushes must come down, and re-occupy their kraals; for they would be killed if found in the bushes or mountains. We then went back to the kraal. I again went to Mr. M., and told him the people were alarmed, and the women would not stay in the

huts. He said they must stay, and he gave us a paper to put on the huts. Some time after this, the mother and wives of Sibanyana came to our kraal. They had been out with the tribe in flight. Shortly after this Sibanyana and Nozaza came. These men said they had come from the cattle which had gone a long distance, and had come to fetch their families. My brother then said, to our surprise, that we must go. I remonstrated and said, "I would not go; it was better to remain there. I would not go and act contrary to the advice of the white man." My brother then said the force might come back in that direction, and we should suffer from what they might do. I said "It is better to lose our cattle by remaining here than to follow the flight." During that night they started, my brother, Sibanyana, Nozaza, and the women also. My family remained with me. I then went and reported to Mr. M. what had happened. Mr. M. said, "You go contrary to my advice; I told you not to go. You will all be killed by the forces in the mountains, and it is your own fault. I believe you know all about it, and are as bad as your brother."

'Mr. M. reported the circumstances to the Magistrate. I became alarmed, because I was told that I might perhaps be taken prisoner by the police. There was also a report that the Government force would arrive that night. I saw some spies, and presently there was an alarm, and numbers of people were running to Mr. M.'s. My family also ran. I went and told them there was no cause for alarm; it was only the spies; the force had gone on. I then thought I had better run away, for I thought the white man was displeased with me, and I might be taken prisoner; so I thought I would join my brother, find out where he was, tell him the circumstances of the case, and induce him to return. I went to the Tafel Kop to look for him, and found him and his family there.'—SHIVAGUQA, p. 94-5.

'I was living on Mr. Mellersh's farm and was taken prisoner by him, because the cattle of our kraal and some of the women had left the farm and joined Langalibalele. The cattle went over the mountains. At the commencement of the disturbance I went to the Tafel Kop; all the people on Mr. M.'s land, except those belonging to the kraals of Kwebula, Ralarala, and Magwevana, went to the Tafel Kop, and the cattle of the last-named went over the Mountain. Then we all went back again, and Mr. M. gave us "loyalty tickets."—MZUNGULU, p. 97.

'I lived opposite to the Magistrate's house at Bushman's River [Estcourt], and started, with the women and children belonging to me, on the day the S. N. A. reached Estcourt. . . . I passed on to

the Entabatabeni kraal and slept there. I then looked for a cave for myself and the women, and sent the cattle over the Mountain.'—KABANGOBE, p. 98.

'When the disturbance arose, I had just returned from the D. F. with my two brothers: we each had a gun. On the day I arrived, the cattle of my kraal left to go up the Mountain. I took a day to collect my things, and the day after started with my women and children.'—NQOLA, p. 98.

'I came down to Maritzburg from Mr. Mellersh's farm, where I lived with my father Sibanda [rather, he lived *near* it, *Rem.* 43]. My object was to buy a blanket and coat, because the fact that we were going to leave the Colony had already been made known [after Mahoiza's arrival]. I came down before the force left Maritzburg. I started with Mbombo, and, when I got back, the cattle had started, and I found all the women of our kraal had gone.'

'I then went to where the women were at the upper part of the Umyezana [Little Bushman's River]. I then went back to buy a horse from Newman Robinson, as my feet were sore from the journey. I paid 5*l.* for the horse. I loaded the horse with grain, and took him to where my father's family were at the rocks. I then went to the Entabatabeni kraal, and from there, having risen early, I went up the Pass.'—NYOSI, p. 99.

'I had been away, and on my return home Mbombo came from Maritzburg, and said that the Government forces were already on the march. This was on Saturday. On the Sunday morning Langalibalele started, and I went with him over the Mountain. We took no cattle up with us; but the cattle of the Amahendeni kraal went up before Langalibalele did.'—KAITYANA, p. 100.

'It is true we belonged to the Government, and so did Langalibalele. When the man who had charge of us for the Government ran away, everyone ran away. We thought the waters of the Sea were coming, seeing the Government was coming, and that no one would escape.'—MTHIKITYA, p. 100.

5. *Extracts showing that some of the men remained behind, or came back to the Colony, not to resist the Government, but to protect the women and children.*

'I then came back again and descended the Drakensberg by another Pass, with the intention of joining the women.'—NOZAZA, p. 92.

'On the night of the fourth attack, I and my brother determined to leave, and let the [women and] children take care of themselves, as we could not protect them any longer.'—*Ib.*

'I turned back at the Orange River to come and fetch the [women and] children.'—SIBANYANA, p. 93.

'Shortly after this Sibanyana and Nozaza came. These men said they had come from the cattle, which had gone a long distance, and had come to fetch their families.'—SHIYAGUQA, p. 94.

'I told them I could not go with them, because I had not my [women and] children with me, but they had theirs with them.'—NOMLETI, p. 96.

'A relative of mine, Umcimezo, had been killed that day. . . . After the force had gone away, Nteta told me he should go and stay with Mr. Botterill, and I consented to his doing so; but I said I should return to the Tafel Kop where my relative had been killed, and see if I could find what had become of his family. . . . I there found my relative's family. . . . At sunset I saw a woman and girl coming towards the bush. I went down to see who it was, and found it was my brother's wife, with a little girl. I then took them back into the bush.'—*Ib.*

'I then took my family with me and went to Mr. Mellersh's farm.'—MZUNGULU, p. 97.

'After a time Silevu caught us up, and told us that our families were being collected [*i.e.* captured]. I then determined to go back.'—BALENI, p. 97.

'Before we had crossed the Great Orange River, Langalibalele ordered a number to go back to Natal with his son Mhai, to see how the women and children were getting on: we obeyed.'—NQOLA, p. 98.

'When we got near the Orange River I went back with Mhai, son of Langalibalele. . . . Nomleti was travelling with me. We went together to the Tafel Kop. I found a great many people in the Mountain, and heard that some of our relatives were herding Mr. Robinson's cattle, and, after staying a couple of days in the Mountain, I went down to them. After asking all the particulars about the friends I had left behind, I started to go back again to the Tafel Kop. . . . At the Tafel Kop I met Dabankulu, who told me my people had left the Tafel Kop and gone towards the Drakensberg. I went with him after them.'—NYOSI, p. 99.

'I got to the Tafel Kop, and there I found the Government forces. I stayed there until sunset, then went on to the Little Bushman's River, ascended the Drakensberg, slept on the top alone, and next morning caught up the cattle. I heard that the women and children were being collected [*i.e.* captured], and I came down again.'—MTYIKITYA, p. 100.

6. *Extracts showing that the Government Force employed the process of smóking out the fugitives, some of whom appear to have been suffocated.*

'When the force came, *made fires*, fought, &c., I was in the inside of the cave in the dark . . . I went as far as I could into the cave with the women, as I am not a fighting man. Twelve men were killed on this occasion; four who refused to come out were *killed by the fire* which the natives made, and eight in the fight. *Three women were also killed.* I don't know whether the men inside the cave were killed by the fire or by the shots.'—BEJISA, p. 94.

'At last I heard the force declare that, if the people did not come out, they would make a fire so as to force them out; they collected some wood and made a fire, and at last I heard a child crying . . . The women had called out to the force to take the fire away and they would come out, and, this having been done, they came out.'—NOMLETI, p. 96.

'I asked them how it had fared with them; they told me that eight men had been killed, and they thought some women had been killed, by the fire; but I only saw one woman dead, and she had been shot.'—*Ib.*

'I was wounded in the leg. I was trying to prevent the force from placing the wood and making a fire. They told us to come out, but we were afraid to do so; some of the girls and women went out, and were requested to tell their male friends to come out also. They did so, but the men would not go out.'—MZUNGULU, p. 97.

'I got wounded by an assegai in my foot, and from that cave I got into another, where I met my wife. They then commenced to make a fire, and my wife said she would go out. She received a grazed wound from a bullet and went out. I stayed in until dark, and then went out and joined my wife, and took her to another bush.'—MUYIKITYA, p. 100.

7. We have seen (*Rem.* 144) that Langalibalele himself utterly denies that he ever sent Moyeni, mentioned below, with the message in question: if he had sent anyone, he said, on so important a business, he would have sent a confidential Induna, and not a young man.

'I did not move from my kraal, and was engaged in cultivation when I was made a prisoner. The charge against me was that my cattle had gone over the Mountain. It is true that, in

consequence of the bad grass down where I lived, I had sent some of the poorest of the cattle up to the highlands of the Location, to my friends there, for grazing purposes; and when the alarm was given, these cattle went away with the rest, but not with anyone belonging to my kraal.'—KOLWANE, p. 100.

Umfundisi: The prisoner Kolwane sent up his cattle to Langalibalele in pursuance of, and in obedience to, an order from Langalibalele. I know that this is the case, because Moyeni came down from Langalibalele with that order, and to say that, if any people changed their doors (did not remain loyal to him), he would know the reason why.

Prisoner admits that this message was sent, but says that was not the reason he sent the cattle up.

Umfundisi: The cattle went up after this message was delivered.

Prisoner admits this.

Umfundisi: There are five kraals close together, of which the prisoner's is one. From each of these kraals one person went with those of the other kraals; but he sent no son of his own, because he had none; his son works for Mr. Craig. p. 100.

The prisoner said that his cattle 'went away with the rest' *over the Mountain*, 'but not with anyone belonging to his kraal': he does not say that they were not taken to the *highlands* by one of his people. If the prisoner was 'rebellious,' why did he not send for his son to join him?

'I sent up my cattle with my son to the highlands for grazing purposes. When the Government forces came, my cattle went up the Mountain with my son, with the cattle of Langalibalele, and went on to Basutoland. This was after the message had been brought by Moyeni. The message was brought in the winter, while the S. N. A. was in Zululand.'—NTSIMBI, p. 100.

Whatever the message may really have been, and whoever sent it, the time fixed by the above date was the month of August, when the cattle would be sent up to the highlands for grazing purposes (*Rem.* 112).

8. The Court gave judgment on March 31, and stated that an unanimous verdict had in each case been arrived at.

(i.) One prisoner was found guilty on his own confession of having fired upon and killed one of Her Majesty's subjects (a native) sent to enforce his surrender, and was sentenced to *twenty years' imprisonment with hard labour*.

It does not appear whether this was the occasion on which twelve men and three women were killed by the Native Force, nor whether any of this man's relatives—*e.g.* his mother, wife, or sister—was among the number.

(ii.) *Seven* were found guilty of 'withdrawing into fastnesses for the purpose of avoiding obedience to the laws of the Colony, and setting at defiance the lawful orders of the S. C., and resisting his authority,' and were sentenced to 'imprisonment with hard labour,' three for *seven* years, three for *five* years, and one for *three* years.

These would probably say that they fled from the approach of the terrible Government force and did not obey the order to come out and surrender, because they were afraid of being killed, as many—at least 200—of their tribe had been, and that they fired in defence of their women and children.

(iii.) A *hundred and forty-six* were found guilty of having 'wrongfully and illegally and with rebellious intent removed or assisted to remove the cattle of the tribe, and persisted in defying and disobeying lawful authority, until they were captured with arms in their hands,' and were sentenced to 'three years' imprisonment with hard labour.'

These would probably say that they had no idea of 'rebellion,' but merely intended to run away.

(iv.) *Twenty-four* were found guilty of 'agreeing and conspiring to withdraw into fastnesses or other places of concealment, &c.,' and *ten* more of having 'wrongfully and illegally, and with rebellious intent, removed or assisted to remove the cattle of the tribe, without the sanction and in defiance of the authority of the S. C.,' and these *thirty-four* 'were each sentenced to two years' imprisonment with hard labour.'

9. The last *thirty-four* were not 'captured with arms in their hands,' and in fact they were, I have heard, for the most part old men and infirm, so that the hope of getting 'hard labour' out of them would rest chiefly on the scheme of apprenticing their young boys and girls (*Rem.* 203). One of them, Umnyengeza, became the subject of a correspondence printed below in the Appendix.

10. We have only the statements of 21 out of 221 made by the prisoners, from which to judge of the extent to which the practice of 'making fires,' to suffocate the fugitives, men, women, and children, in the caves was carried by these emissaries of the British Government.

APPENDIX.

I.—STATEMENTS REFERRED TO IN THE PRECEDING REMARKS.

Statement of Nofihlela, who went with Mahoiza, when he was sent to Langalibalele.

NOFICHELELA says that they reached Mr. Macfarlane's and slept. The next day they set off, and reached Epangweni, a kraal of Langalibalele, where they slept, and had a young three-year-old ox killed for them. The next day Mahoiza told the induna of Langalibalele to go and call the Chief for him, as he wished to speak with him about the matter for which he was sent by the Supreme Chief. The man returned and said, 'The Chief says he has a bad leg and cannot walk: Mahoiza had better come to him.' But there were many people, women and children, who were continually going and carrying their goods, to hide them in caves abroad. Mahoiza, seeing that, sent Nofihlela to ask the induna Macaleni what was the meaning of this running away. Macaleni said, 'I don't know myself: it is merely the women: I don't know where they are going.' On that second day they slaughtered another ox.

On the morning of the third day there was the same running away of women and children. Mahoiza sent for Macaleni, who came and said the same as before, but added, 'Do you see that I have run away? Or my womankind, have they run away? I don't know what it means. Only I know they do it because the white men have run away. We saw them taking their goods, their cattle, and their sheep; they went off and ran away immediately: and so we too are running away, because we don't know what the white people are running away for.' On that third day they slaughtered another third beast.

On the morrow they slaughtered another fourth beast. And the

next day they slaughtered a white heifer which came from Langalibalele. That fourth one came from Putini, having been asked for by Mahoiza. The others came from Langalibalele and his people.

Well! Mahoiza stayed there several [? ten or seventeen] days, and people were continually carrying off their goods to hide them. So Mahoiza sent to tell Mr. Macfarlane that people were running away with their goods, he did not know why. Mr. Macfarlane was much surprised to find that Mahoiza was still staying there, and said, 'Was not Mahoiza sent by the Supreme Chief to go to Langalibalele, and yet Mahoiza is still staying here?'¹ Let him hasten and go directly thither, and utter the words of the S.C.' So Mahoiza started to go to Langalibalele.

When they arrived near the kraal where Langalibalele was staying—the distance was about as far as to Manxele's, supposing that Langalibalele were in Maritzburg [about three miles]—it was said that they had better leave there their lads carrying their things, and the men go on alone, leaving their weapons too, and carrying each a single stick. But they were afraid to leave their arms, because it was very well known by what they heard that Langalibalele had said 'he did not want to see the face of any man coming from Maritzburg'—'perhaps a black man might go, but not that white-man,' meaning Mr. Macfarlane's clerk (Rudolph), whom he did not wish to see at all.

So Mahoiza and his party went on straight to Langalibalele, being now called by the Chief. When they got near the kraal they saw a great number of people. In fact, there were two regiments of Langalibalele's young men, carrying assegais and shields,² all properly arrayed, but not one carrying a gun, and there were a multitude of horses. So Mahoiza went to them and wished to go up behind them on a little plateau above the little hill on which they [*i.e.* the men] were sitting, because the ground was very bad under that little hill. But they forbade it, saying, 'We don't want

¹ It seems impossible that Mahoiza, with 20 men and boys at his command, should have sat still, eating and drinking, and communicating with the indunas and through them with the Chief, for *fourteen* days without sending a message as to what he was doing to Mr. Macfarlane, or that he would have allowed so long a time to pass, after his last ox came, without asking for another. This makes it more probable that he stayed only ten days at Epangweni, and not seventeen days.

² Mhilaba and Ndabezimbi say that only the *men*, sitting down, had shields, whereas the young men were on horseback, and carried their assegais on their backs in Basuto fashion, not in their hands, and that there may have been one or two guns among them; the rest, however, were left in their huts.

you to go behind us: you had better stay there below.' Said Mahoiza, 'I thought that you would turn and face us.' Said they, 'Do you think that we are your wives? Stay there.' At that place where they stayed, at that little hill, the distance from the kraal where Langalibalele was, was about the same as the distance from Bishopstowe to the Farm [half a mile].

Well! Mahoiza and his people sat below, and Langalibalele's people sat above them. Mahoiza spoke the word of the S.C. summoning their Chief Langalibalele, saying, 'I am to take Langalibalele down with me to Maritzburg.' They said, 'He is very ill: he has a bad leg: he is not able to go to Maritzburg.' Said Mahoiza, 'He had better mount a horse, or, if he cannot do that, mount a wagon, and go to the S.C.' Said they, 'Is there any man, who, when ill in his own kraal, is carried and taken to the S.C.? Is it not proper that a man, who may fall ill at the S.C.'s, should be carried and taken to his own kraal?' Such was their discussion: after which two indunas of Langalibalele went to report those words of Mahoiza to their Chief. Those indunas returned and said, 'The Chief says that Mahoiza and Umnyembe are to come to him, all the others remaining here.'

Well! upon this Mahoiza and Umnyembe wanted to go. Whereupon there came forward soldiers who said, 'Au! how is it that Mahoiza there is so big?' Said Mahoiza, 'Yes! I am big.' Said they, 'No! there is something which you have concealed in your jackets.' Said he, 'On my word there's nothing.' Said they, 'Why, were not we there at Matyana's affair? Are you forsooth for deceiving us? We too know that little trick of yours. Take off, and let us see.' So Mahoiza took off his two coats, and there remained his shirt, and trowsers, and waistcoat. And Umnyembe too took off his coat, and there remained only his jersey. And another also, son of Magedama, took off his jersey, and there remained only his white shirt. But Umnyembe had on his *umutya* (tail-piece), as also had that son of Magedama. Moreover those soldiers of Langalibalele did not themselves strip Mahoiza and Umnyembe: they took off their own things. Also the men were sitting down: they did not touch Mahoiza with their assegais. Further, Langalibalele had not said that they were to be treated thus: he only summoned Mahoiza and Umnyembe. But those soldiers struck out this notion, thinking that Mahoiza carried a pistol for killing their Chief, as they had seen in Matyana's case.¹

¹ So thought Nofhlela: but there is no doubt that the Chief had given directions that they should be told to take off their coats before coming to him,

Well, after this, Mahoiza and Umyembe and the son of Magedama went and entered the hut, and found there very many who hid the Chief so that he did not appear.¹ Mahoiza refused to speak until the Chief would show himself plainly. At last he showed himself plainly and said, 'What do you want, Mahoiza?' Said Mahoiza, 'Chief, I have come to summon you to come at the word of the S.C.' Said Langalibalele, 'Have I not told you that I am ill?' Said Mahoiza, 'You should mount a horse or a wagon, and come down.' Said Langalibalele, 'No! go home: I am now afraid to go down, because I did not go down at the first. To me it seems that I shall be killed, as my brother was when summoned in Zululand, as soon as he came. No! go and tell the S.C. that I am afraid to go down. On my word I won't go down.' After all that, Langalibalele said, 'Tis that large stomach of yours which destroys our House,' speaking in joke. Mahoiza flatly denied saying, 'I don't destroy your House, Chief.' Langalibalele said the same again in the same words, and Mahoiza denied again as before. At last says Langalibalele to Mahoiza, 'Let me see what this great stomach shall take in to-day, for we have a scarcity here'—[meaning that, being in a state of confusion, they had not much beer on hand.] Said Mahoiza, 'Chief, whether we are hungry, that's the Chief's affair, or whether we are filled, that's your affair also.' He had out a pot full of beer and gave them: they all three drank and were filled. Afterwards Langalibalele said farewell to them, saying, 'Go and sleep at that kraal.' They parted amicably and went to sleep.

Next morning they arose very early and went on to Mr. Macfarlane. But there was an ox, which had been given to them by Langalibalele, just about to arrive after they had started, as they now hear from the induna Mhlaba. Langalibalele had slaughtered for them three oxen before, *i.e.* a young three-year-old, then two oxen, and there was another from Putini, and lastly a white heifer, besides that which they left by running away at day-break on the day they went to Mr. Macfarlane. They came and slept at Mr. Macfarlane's, and the next day (Saturday, Nov. 1) our force arrived.

¹ The Chief was hid by his people, probably because they were afraid of his being assassinated. But all this Nofhlela must have heard from those who went into the hut, as he was not present at the interview.

Statement of Mhlaba, an Old Induna of Langalibalele.

MHLABA says that it was he who went with Mahoiza to go to that kraal where the Chief Langalibalele was staying. At their arrival, however, with Mahoiza and his people, they found people there expecting Mahoiza's arrival, having come to hear properly the matter of his being sent by the Supreme Chief. He says that the people in question consisted of two regiments, together with the whole body of men. Mahoiza spoke all the words with which he was sent before that body of men, after which his words were taken to the hut to Langalibalele. At the return of the men who took those words, they came and said that the Chief Langalibalele called Mahoiza and Umnyembe to come to him. Thereupon they began to wish to start, and go at that word which called them; but the soldiers said that Mahoiza had better take off his clothes, because they said there was something which he had hidden in his pockets. But Mahoiza denied saying that he carried nothing of the sort. They, however, insisted on his taking off his coat, because they too knew well the cunning of the whitemen, like that which was practised towards Matyana by Mr. John Shepstone. So Mahoiza himself took off his clothes, not being stripped by any one. Whereupon Mhlaba shouted out among the people saying, 'What do you mean by insulting a man coming from the S.C.? Are you not killing him by this?'—not meaning that they were literally killing him, but that it was bad that they should tell him to take off those things. They were perfectly still. But to Mahoiza there remained his trowsers and shirt and waistcoat, for in fact he went with these on his body into the Chief's hut. They said also that Umnyembe too should take off his clothes. But he showed them that he had only on a jersey,¹ and they were still. And as to that son of Magedama, Mhlaba says that they took nothing off him either. He asserts also positively that those people of his [*i.e.* the young men] did not carry shields, but only assegais behind them, after the fashion called 'ubukohlombe,' a custom of the Basuto who ride on horses. He says further that he could not have prevented by his word Langalibalele from killing Mahoiza [if he had been minded to do so], and that there is no truth in that saying that 'Mahoiza was saved by Mhlaba from the hand of

¹ Umnyembe did this *after* taking off his coat, and giving it to his servant, which Mhlaba probably had not noticed. And so Gayede, the son of Magedama, took off his jersey, and retained his shirt.

Langalibalele.' What he said was, 'What did they mean by saying he was to take off [his coats]?''

When Mahoiza, &c., entered the hut, Mhlaba stayed a little while behind. When he entered Mahoiza and Langalibalele were talking with each other, no one else saying a word. He saw beer in a large vessel, such as a man could not lift to his lips, and Mahoiza poured it into a small vessel to drink comfortably. The Chief, too, was drinking out of his own, and Mhlaba and others drank out of another. He heard plainly the talk of the Chief to Mahoiza, telling of the disease which he had in his leg.

Mhlaba says also that Langalibalele gave Mahoiza three young oxen for food, and lastly a white heifer—four head of cattle. Also at those kraals where he lay he was supplied with food and ate comfortably. The fifth ox, however, was that which was sent for by Langalibalele on the day when he conversed with Mahoiza; that ox arrived very early in the morning, but Mahoiza had run away to Mr. Macfarlane; it arrived upon his footsteps when he had already gone.¹

As to that story of Mr. John Shepstone enticing Matyana, he says he knows it very well, but he is afraid to tell it, because it belongs to another tribe, though he and his were there for a certainty. But he says he knows well that the cunning of the whitemen is great. And his people believed that, if Langalibalele went forth openly to Mahoiza, he would not be saved alive: they thought perhaps he would shoot him with a pistol and he would die. That's why the young men said, 'We know that little trick of yours; we too were there at Matyana's affair: take off and let us see.' But he does not wish to tell that story: he is afraid.

*Statement of Ngwadhla (Maqobodo), Headman of
Langalibalele.*

NGWADHLA says that he was there amidst that body of (*amadoda*) men which was sitting without [the Chief's kraal] asking Mahoiza about his mission. He says that he then for the first time saw Mahoiza as he was sitting among them telling about his mission; and all the men were sitting listening quietly to the story. *Assegais* were carried by all the young men mounted on horses, who bore

¹ Mhlaba afterwards explained that it did not actually arrive, but it was ordered, and would have arrived, if they had not started so early.

them all in sheaves upon their backs. But when he was called by the Chief there was uttered a word that he had better take off his clothes, for they thought he carried a pistol with which he would shoot the Chief. He took off his coat [apparently he took off both coats at one stroke], and there remained his trowsers, shirt, and waistcoat: that was all he took off. In the hut too he was given beer in a large vessel which he could not lift; he poured it into another small vessel, and drank out of it; it was poured twice into that small *ukamba* so that it was filled, and in the third pouring it came to an end. After that Langelibalele told Mahoiza to go and sleep at Singcungu's, who would find him an ox and (food) beer, so that he might eat comfortably. But that ox Mahoiza left behind: he ran away in the morning, I don't know why.

Statement of Ndabezimbi, Body-Servant of Mahoiza, when he went to Langelibalele.

HE says that they started on Saturday [Oct.*11.]¹ As they went, however, they were continually supplied with goats and oxen at all the kraals until they arrived at Mr. Macfarlane's on Thursday [Oct. 16].

They slept at Mr. Macfarlane's at the kraal of one of his indunas. Mr. M. gave them a sheep for food, and sent an order to that induna to find an ox for them: but that ox never appeared.

Well! they proceeded and reached a great kraal of Langelibalele named Epangweni. The induna there took them to a small kraal beyond Epangweni, belonging to a man (Mahlala) who lived there, and they slept at that kraal [Oct. 17].

In the morning [Oct. 18] they slaughtered a three-year-old ox. When they reached Epangweni, the indunas of Langelibalele asked Mahoiza what he had come about. But Mahoiza told them that he was sent by the Supreme Chief to their Chief, and that he would tell Langelibalele all that he was sent about, but did not choose to tell them (the indunas), because he was not sent to them. The indunas sent to Langelibalele to say, 'Mahoiza has come, and wishes to speak with the Chief as to a matter about which he has been sent by the S.C.' On the return of these messengers they said, 'Langelibalele is much pleased at the arrival of Mahoiza, and, though he is ill, he will

¹ The *Sentence and Introduction* (to the Official Records) say that they started on October 4, which would alter some of the dates following. Even in this case, they would have eaten at the rate of two oxen a week.

come and speak with Mahoiza.' They said also that Langalibalele had ordered that plenty of 'food' should be made ['food' here = Kafir-beer] and given to Mahoiza until he came. But that 'food' was not made according to the Chief's word; only they ate at that kraal where they stayed; they never ate 'food' from Epangweni.

During all that time, however, they continually saw many people carrying loads, others driving cattle and goats and sheep, taking all off, to hide it abroad [lit. 'on the mountains,' but meaning 'in the open'] far away. Whereupon Mahoiza asked at last the indunas why they were going off. The indunas said, 'they were running away because they had seen the white people living near them running away.'

They stayed there a fortnight [? ten days],¹ getting slaughter-oxen continually coming from the Chief and from the people, and ate comfortably during all those days and were filled, having such food cooked for them as they liked, together with meat; only they got no food (i.e. Kafir-beer) from Epangweni. The cattle, however, which they ate were three oxen and a heifer, besides a fifth which Mahoiza asked for from a man of Putini's tribe. All those they ate during two weeks, not yet coming face to face with Langalibalele, because he was at another of his kraals.² But when that heifer, the fourth beast, came, the man who drove it told Mahoiza pleasantly that he had better eat slowly that heifer's meat, because another ox would not soon arrive, so that he should eat it slowly and not be in a hurry to finish it. But Ndabezimbi says that it is quite true that those people of Langalibalele had no 'food' [i.e. Kafir-beer] at that time: for at the arrival of Mahoiza and party they were sleeping abroad, being in fear because they had seen the white people running away. There was no grain prepared for making enough beer for them to drink all the time: 'so that, as to their pleading inability, we too believed that they spoke the truth. They gave us just enough for our purposes.'³

Well! as to that running away of people carrying loads, it was

¹ Nofhilela said he thought it was ten days, but he could not speak certainly. It must have been either ten or seventeen, according as they started on October 11 or October 4.

² The whole party of Mahoiza, men and boys, numbered about twenty, but they seem to have had considerable 'eating' power.

³ *Note by Magema.* There are women also [captives], who testify clearly about those words of Ndabezimbi, and support his statement entirely, saying, 'There was no grain prepared that we should make 'food' for Mahoiza, for we were sleeping abroad, in fear because we had seen the white people run away.' All these too declare positively that this happened not through any wish to stint Mahoiza, but solely from what has been said above.

going on in their sight continually, till at last one day Mahoiza sent Ndabezimbi to Mr. Macfarlane to say, 'Mahoiza sees continually people carrying loads going off to hide them, but he does not know why it's done.'¹ And Mr. Macfarlane told Ndabezimbi that he had heard this was the case, and that he had heard it from indunas of Langalibalele, who had come to him and told him that 'Langalibalele together with his tribe wished to pay a fine to Mahoiza, because of his refusal in not going to the S.C., when Umnyembe was sent previously, and on account of all the coming of the indunas of the S.C., and that Langalibalele did not wish to go down even now, and that the whole tribe of Langalibalele was running away' Ndabezimbi heard all that from Mr. Macfarlane, who had been told it by the indunas of Langalibalele the day before. As to that paying a fine, however, Mr. Macfarlane said to Langalibalele's indunas that he did not wish to intrude himself and interfere with an affair which was not his own, but belonged to the S.C.; and he told the indunas to go to Mahoiza and speak with him about that matter, as he had been sent by the S.C. So the indunas spoke to Mahoiza and told him that the tribe, together with the Chief, desired to pay a fine to the S.C., because their Chief had refused to go to Maritzburg, since he was ill: they were also very much afraid that their Chief should be carried and borne thither. But Mahoiza refused that and said that he was not sent to make him pay a fine, but only to summon Langalibalele, and that Langalibalele was to come and speak with the S.C. about the matters concerning which he had differences with Mr. Macfarlane; so Mahoiza refused to speak about a fine.

At that time there came a message to the indunas of that place (Epangweni) to the effect that Langalibalele no longer wished to speak with Mahoiza, and that Mahoiza had better now go down and go home;² but Mahoiza refused and said that he would positively not go down until he had seen Langalibalele himself. There came forward two indunas, Macaleni and Umzilikazi, who said that they would take Mahoiza to the Chief, because (said they) it was not right that Mahoiza should be prevented and go away without the knowledge of the Chief. So Macaleni sent Umzilikazi to go and say to the Chief that Mahoiza was coming and that they wished to bring

¹ It seems impossible that Mahoiza should have dawdled a whole fortnight before he sent this message. In other words, he started on Oct. 11, not Oct. 4.

² From Umpiko's evidence, produced at a very late stage in the trial of the Sons, this change of purpose appears to have been caused by a young man from Epangweni having gone up and reported to the Chief that he had seen a pistol secreted about Mahoiza's person.

him, and that the Chief must not be surprised to see Mahoiza coming with them.

Well! Umzilikazi carried off that word [Monday, Oct. 27], and the next day Mahoiza started with Macaleni, and they went straight for the Chief. The sun had not yet set when they reached another kraal and passed by it, going to one beyond it. On entering they found there a lamentation. Oh! the women of that kraal raised a wail, saying why had Macaleni brought an induna of the S.C. to sleep there, whereas it was a kraal of widows? for in truth their husband was dead, and the kraal was now managed by young lads. Thereupon they returned back to that kraal which they had passed by before, on their way to that widows' kraal. When they arrived there, a young man, owner of the kraal, was very angry with Macaleni, and refused to give food although they asked for it, being hungry; yes, he refused, saying, how was it that they had passed by and had not told him that they would come and lie at his kraal? saying that they had treated him with disrespect in so doing. That was the day on which they went to sleep having eaten nothing at all at that young man's kraal¹; but that was the *first* of their being hungry.

In the morning [Wednesday, Oct. 29] they arose before sunrise, and went straight on. They arrived at the kraal of Singcungu while it was yet morning, about eight o'clock, and sat down and asked for 'food.' That man gave them beer and cooked mealies, and they ate and were satisfied. At that kraal Macaleni parted from them and went on to the Chief, for the Chief's kraal was near at hand. He left them because Umzilikazi, who had been sent by Macaleni to the Chief while they were below, had not yet appeared on his return. When Macaleni had gone, they sat there a long time; for the Chief's kraal was about the distance off which Manxele's kraal is from Maritzburg (about 3 miles). The delay of Macaleni was long; it was about noon while they still sat by themselves, Macaleni not having yet arrived. About that time Mahoiza sent another man (Mahlala), who had come up with them when they started from those kraals of Epangweni, I mean the owner of that kraal at Epangweni where Mahoiza slept. Well! he sent that man to Umzilikazi and Macaleni, that they should tell the Chief that

¹ 'Having eaten nothing at all,' means having had no *beef* or *beer* that day; for Mahoiza says in his evidence, p. 11, 'We eventually decided to sleep at that kraal, but the people objected, and it was only owing to Macaleni's good offices that we procured a hut and *something to eat*.'

'Mahoiza had long arrived and was now tired, and wished to finish all the business and go back home, because a great deal of time had been wasted.'

When that man returned he said, 'Mahoiza is called to the Chief.' He said also, 'I do not wish to conceal from you, induna, that I was asked a great deal, it being said that you carry a (little gun) pistol. And, when I denied it, they said that I also was concealing; for we too know that little trick of the white men, we too were there at Matyana's affair.' But Mahoiza strongly denied to that man that he carried a gun for killing their Chief. So Mahoiza and his party went on straight to the Chief. When they arrived, the men (*amadoda*) were sitting outside a long way from the kraal, the headmen, of course. The distance of the Chief's kraal from there was like that between Bishopstowe and the Farm (half-a-mile.)

Well! Mahoiza and his party sat down there among the headmen. Now all those men were carrying assegais and shields; the young men were all mounted on horses, carrying assegais on their backs, but carrying no assegai in their hands, with powder-horns bound upon their shoulders; but there was not a man among them who carried a gun, except perhaps one or two. All the guns remained at home, having been left there purposely; for when Mahoiza and his party returned, having now parted from Langalibalele, before even they had reached that kraal (Singcungu's) which had been assigned to them to sleep at, they heard the sound of many guns [*i.e.* which they had kept loaded in the huts], the people now discharging the bullets that were within; which clearly shows that the arming was with the idea that they might kill the Chief, and then they should be fired at with those bullets. This is just like that expedition of the Inkos' Somtseu (Mr. Shepstone) to Zululand, when it was done at the suspicion of the soldiers who went with him: those soldiers of his, having loaded their guns with bullets, stood quiet with them, not firing at all, only watching what might be done to their Chief, so that, if they attempted anything, they might shoot them immediately. Well! and so those people of Langalibalele did just the same; for it was said that there was a little trick in hand, like that in the attempt to seize Matyana

While Mahoiza and his party were still there without, there came four great troops of young men, riding on horses, as I have said. And when Mahoiza wished to go to a suitable place [for ascending to the kraal], Langalibalele's men said, 'Stay there!' They disputed together till at last Mahoiza consented to stay there

below the stony hill. And then Mahoiza told the story of his mission. Said Langalibalele's people, 'The Chief is ill.' There was nothing done but sitting there, and answering one another with words. 'We never saw many other things [that are talked about]; they did not lift their assegais against us; they did not make feints at us with the assegai, and, as to the sitting upon our weapons, I saw nothing of it; I don't know about others of our party; for myself I am certain as to that.'

After that, the indunas took Mahoiza's words to the Chief; and when they returned they called Mahoiza and Umnyembe, saying 'the Chief says so.' As they were about to go, there was heard a word saying, 'I say, Mahoiza, what is that thing you have got hidden?' Mahoiza denied: they said, 'Take off, and let us see.' For Mahoiza wore trousers and shirt and waistcoat, and small coat (jacket), and another large warm one, because he thought it would rain, and therefore he had put on that large coat; though it was not needed because of there being no rain. Well! when they said 'Take off,' he took off those two coats; there remained trousers and shirt and waistcoat only. Umnyembe, however, did not take off anything, for he only had on a jersey, I mean that jersey which has no pocket.¹ Gayede wore a shirt and jersey; he took off that jersey, there remained a little white shirt. When Mahoiza had stripped off those two coats, they were carried by Ndabezimbi; and when Ndabezimbi was summoned, he called another of their party, and left them [with him], and went into the Chief's hut. Gayede gave his jersey to Somtyiza, when he went into the hut to the Chief. But, when Mahoiza and his people had stripped off those clothes, Mhlaba shouted among all his people, saying, 'Au, men! what do you mean by telling a messenger of the S.C. to take off his things? Are not you killing him by that act? What? is a messenger of another Chief killed, eh?'—Mhlaba not meaning by this that we should be 'killed' literally, but only that it was bad that we should be told to take off our things. And so, too, we were not really 'killed' at that time.

Well! they went all three of them to the Chief's hut thus clad, and, when they arrived, they sat down there a long time. 'At last I was called too.' And so Ndabezimbi went, and, before he entered the hut, Langalibalele told him to take off his jersey and leave it outside at the entrance. So Ndabezimbi took off that

¹ This is a mistake; Umnyembe took off his coat, and gave it to his man, still wearing his jersey,

jersey, and entered with nothing on but his *umutya*. He found there Mahoiza by the entrance, together with Umnyembe and others, sitting and drinking beer, Mahoiza drinking out of a vessel handy to be carried; but his beer was in a great calabash which a man could not lift to drink out of, and Langalibalele had a similar one, their vessels being alike.

While Ndabezimbi was in the hut, Langalibalele spoke to Mahoiza saying, 'As to my saying, "Strip off your garments," I did it because I thought that you carried a pistol with which you would kill me. Why, don't you know well that we were there with you,¹ Mahoiza? Matyana—how was it done to him, eh? Why, wasn't it the fact that Matyana, utterly unsuspecting, was taken by surprise when Mr. John Shepstone pulled out a pistol and fired at him with it? And I too was afraid of that.' He told him also, saying, 'I am very ill, Mahoiza; I have pain here in my leg; this illness began with me long ago when I was a boy. But, as to that business of going down, I am now very much afraid, I can't go down. For, when I was a boy in Zululand, my brother, my own brother, was called by the king, and, when he went there, he was killed. Well, and I too imagine that same thing. I don't like to be called; I like to go of my own accord merely to the Chief, when I wish to go and pay my respects; but I don't at all like being called. But as for me I wish to pay a fine for my being called and so have done with it. But, you see, Moshesh—he is a great Chief: I will pay a fine with a penny.² You had better therefore go down, and go home, and go and tell the S.C. that "Langalibalele is afraid to go down to the Chief." For indeed, if the Chief desires to kill me, he shall kill me here on the spot at home, I won't run away.'

Mahoiza then asked for food, that he might be able to eat to-day and to-morrow, for his people had none. Said Langalibalele to Mahoiza, 'This stomach of thine, so big, what shall I put into it? for you too know, Mahoiza, that a long time ago I began to lie in the veldt (abroad), when I saw that indeed we should be killed. There is no food here.' Said Mahoiza, 'Chief, even if my stomach is big, you will look out what it shall stow away.' Mahoiza also asked the Chief, 'These people here, who are running away—whither are they going? What's the meaning of it? for, you know, I have not

¹ 'We' = the people of Langalibalele's tribe, 'you' = those of Mahoiza's tribe: it is not meant that Langalibalele and Mahoiza were themselves present.

² i.e. a threepenny bit, the smallest coin in use among the natives: he means to say that he is an insignificant person compared with the Basuto power, and must be fined accordingly. Where is there any 'defiance' of the Govt. in this?

brought any bad message.' Said Langalibalele, 'No! it is not because you have brought any bad word: it's because we too see the white people, our neighbours, running away: on that account we see that we too had best run away.'

After that, when they had now finished drinking, Mahoiza wished to bid the Chief farewell and go. But the Chief had told him that he should go and lie at Singcungu's, and that Singcungu should find him 'food' [i.e. beer] and give him meat also—meaning that he should find him a slaughter-ox. So Mahoiza said farewell; the Chief was silent; he repeated it a second time; the Chief merely looked at him with his eyes.¹ They went off and went to sleep at Singcungu's.

Well! Mahoiza and his party went to Singcungu's. As they descended the ridge which hides the kraal, they heard those guns which were fired to discharge the bullets. They reached the kraal, and waited and waited, the sun having set, but it being not yet dark. Mahoiza sent Ndabezimbi together with Singcungu to go and beg for an ox from the Chief, because there was none at Singcungu's. As Ndabezimbi, &c., were going to the kraal, before they had entered, they met a young son of Langalibalele and asked where the Chief was. Said he, 'There is my father going with the young men mounted on horses!' So they returned, and arose in the morning [Thursday, Oct. 30], and went away to Mr. Macfarlane.²

II. MAHOIZA'S FALSEHOODS EXPOSED IN THE OFFICE OF THE S. N. A.

THERE were present (Jan. 27) Mr. Shepstone (Somtseu) and the Bishop of Natal (Sobantu), with the whole council (about twenty) of indunas and some native chiefs, who came to hear the words spoken by four witnesses, *Mhlaba*, induna of Langalibalele, and *Nguudhla*, headman of Langalibalele, together with *Nofihlela* and *Ndabezimbi*, men of Mahoiza, the latter being also Mahoiza's induna. All these four had come repeatedly to Sobantu, to tell the story of what they knew, and I, *Magama*, wrote all this which they spoke.

¹ I asked the Chief in Gaol what he meant by this, and he said that it was because he felt that the parting salutation of Mahoiza, 'Live pleasantly,' was but a mockery as addressed to one in his circumstances.

² They sent on to report their return to Mr. Macfarlane at Estcourt, on Friday, October 31, and reached Estcourt the day after, Saturday, November 1, and on the same day Mr. Shepstone with the Govt. force arrived.

Well! Sobantu first called Nofihlela to relate all their journey, as he had heard it from his mouth and in his written words. So he came forward, and his story was produced, and given to Magama, who read it in the midst of the assembled company. By the bye, at first, when Nofihlela entered the room, Somtseu addressed these words to the indunas and chiefs:—'Men! as to this our meeting, here has come this Inkos' Sobantu, because he wishes to hear clearly about the matter of Mahoiza's mission. For he does not understand exactly when he looks at the report in the newspapers of the words which Mahoiza spoke, and does not know how he was really treated. Now there are four men here who have come with him to testify about that which they knew, which they saw clearly with their own eyes. Of course, if there is even one little word not right and straight, you had best listen attentively that it may be properly corrected, before the case of Langelibalele is decided. Therefore I give this youth this story of Nofihlela, since he wrote it, that he may tell us what it says.'

So, when the Inkos' had said this, he gave me Nofihlela's story, and I read it, going through all the words about their journey, till I ended with their return, according to what I was told by Nofihlela,—how all the time they lodged comfortably, and ate, and were satisfied, and were given four slaughter-cattle, and a fifth was asked for by Mahoiza from a man of Putini's tribe; and further at the end of his story he says that he was also told by Mhlaba that there was an ox left behind when they went away on their return to Mr. Macfarlane. Well! when I had finished the story, the Inkos' asked, 'Are those words yours, Nofihlela?' Said he, 'They are mine, Sir.' Said the Inkos', 'Make your remarks, my men, if there's anything which you see.'

Said Zatsuke, chief induna of Somtseu—'Yes, it is very nice, my lad, since it is you who are the writer! It is quite right that we should hear from you how it stands about those words, from you who originated them! For, you see, you know how to write the words of one man and leave out those of another. What's the reason that you have kept back those of Mahoiza and only give plainly those of Langelibalele?' Said I, 'Excuse me, Induna: I have not done it with any idea of making plain the words of Langelibalele, and keeping back those of Mahoiza. I wrote simply what I was told by the men, and not for the purpose of getting up a case. Just so Mahoiza too of his own accord wanted to come to the Inkos' and tell him his story, but was prevented by the sickness of his

wife; and so he sent Luhai to say that he would come at another time. But, if he had come, I should have written all his words like those of the others. Nor am I one who fights with Mahoiza; I am on very good terms with Mahoiza there; this is no contrivance for fighting with Mahoiza.' Said Zatschuke to me, 'It is all very fine that you tell us in your writing that Langalibalele said that he would stay at his kraal and not run away: but was he found there, I pray? It is all very fine, too, that you tell us that Langalibalele said he would not run away, for he had no power to go, because he was ill: but where does he come back from to-day? Your writings are not correct; they leave out the speaking upon one side, just as if you were pleading a case. Let all Mahoiza's words be right like Langalibalele's, which you *make* right.' At that speech of Zatschuke I was silent, and merely looked at him, but did not answer a word, because I perceived that he was speaking to me ironically. Said the Inkos', 'So then, Zatschuke, you do not understand what is the matter talked about? Did I not bid you listen how the words of the witnesses differ [from those of Mahoiza]? We are not now considering the offence of Langalibalele, but Mahoiza's account of the treatment he received; for these say that they were well treated, whereas Mahoiza says that he was ill treated. Answer to that.' Said Zatschuke, 'We had better hear from Nofihlela's own mouth, and leave off being told by this writing.'

So Nofihlela sat up in front, and told his story, saying—'Yes, Sir, those words of the writing are mine. For when I went to the Inkos' at Bishopstowe, this young man, Magwaza's son, wrote down my words. Well! I went with Mahoiza, he being behind, and I going on in advance.¹ We arrived at Estcourt, and slept at Mr. Macfarlane's, and in the morning we arose and went on to Epangweni. We found that Langalibalele was not there, but was far away, they said, at Nobamba. We were taken on to another small kraal of that place at which we were to sleep. Next morning we went to Epangweni; as soon as we came to the induna, we said that we wanted the Chief. They told us that the Chief was ill, far away at Nobamba; we said he must be summoned that we might speak the words of the Supreme Chief. Well, they went to tell the Chief about that, and word came back that he was glad, and would come to Mahoiza: it was said also that he had ordered that plenty of beer should be made for us, and we should be supplied freely till he came. But that beer was not made as Langalibalele had

¹ As a sort of spy, going about a mile ahead, as the custom is in such cases.

ordered. I don't wish to 'eat up' the good words of a man even though I don't see him—[i.e. I will do justice to Langalibalele, who had ordered us to be properly treated.] But, Sir, during our stay there we slaughtered a three-year-old ox at Mahlala's at whose kraal we slept. I was told to go and ask for another ox from the induna Macaleni; I went, and Macaleni said, 'Have you already finished the other?' There appeared a young man, a son of Langalibalele, who said to me, 'It is that little man with the head-ring who corrupts the induna, I expect. Speak in a proper manner, for we will certainly beat another [who should come in this fashion].' I turned, intending to go to our kraal, and lo! there arrives another three-year-old ox coming from the induna, which was slaughtered next day.¹ After that we heard that the Chief had said that Macaleni should find us a fine beast, and the Chief himself would find us another, that Mahoiza might be honoured with the slaughter of those oxen. While we were still looking Macaleni was already bringing a small three-year-old ox; and there came also a heifer which was said to come from Langalibalele himself.² What then, men? why do you say that we are not to say that those cattle came from Langalibalele? I for my part considered that they did come from him, because they came from his indunas, they were cattle of the Chief's place.'

So Nofhlele talked away with many words which I did not know and which I had not written, until they were very many; and at last he came to what happened on the day when they went to Langalibalele, and told how they stayed and talked with the people, though the Chief himself was not there. Among other things he said that,

¹ *Note by Magema.* Nofhlele had asked for a supply of food, saying that he was sent by the induna Mahoiza. But the son of Langalibalele was much put out when he saw a man coming to ask for an ox, though they had slaughtered one only the day before. He heard also Nofhlele giving himself airs, saying that he had come from the Supreme Chief; and so he fancied that he was altogether bad, and that it was not Mahoiza's doing but Nofhlele's, hearing his big words boasting himself as above them, although they had given them an ox for slaughter by Mahlala, that man of the Chief. So he too answered him sharply, wishing to imitate Nofhlele's manner towards them in speaking sharply. But after a while he came back and spoke pleasantly, seeing that Nofhlele also spoke pleasantly; and Nofhlele went away not finding any fault with him at all. In fact, that ox arrived all right from the induna Macaleni.

² They were just ten days at Epangweni, and the party (twenty in number, men and boys) ate up five oxen, including one asked for by Mahoiza from Putini's people! Or, if they were seventeen days there, they ate at the rate of two oxen a week.

on the day when they set out from Epangweni in the morning, they arrived at another kraal. At that kraal there were sitting a number of men, carrying mealie-cobs, apparently about to sow with them. But those men were silent, and looked at them with their eyes, but did not salute them. Thereupon the induna Mahoiza saluted them; but they kept silence, and looked at him.¹ It was about the morning milking-time. There came out a young man carrying a reim for tying up a cow: he called out as they went past him, 'Wo! Undi is not to be climbed by men!'—meaning, 'You'll find it as hard to kill our Chief as to climb the Drakensberg (Undi).' Mahoiza and his party were silent, and went on in front.

Nofihlela ending with saying 'When they told Mahoiza to take off his clothes, by that we saw that this was the beginning of their killing us.'² So Mahoiza took off his two coats, the little under-coat, and the big one which he thought he would put on because it seemed likely to rain: there remained his shirt and waistcoat and trowsers upon his body altogether. To Umnyembe there remained his jersey; he took off his coat. To Gayede there remained his little white shirt; he took off his jersey. And so they went on to the Chief. There I stop; I know nothing besides; I only heard by being told. I myself went no further; I stayed with the rest of our party; we remained with Mhlaba; but he afterwards went

¹ *Note by Magena.* I have heard during the past days, and still hear, from many of Langalibalele's women, that, when it was heard that the induna Mahoiza was coming, an ugly rumour went abroad that 'a stern man was coming (meaning Mahoiza), who would kill the chief Langalibalele with the well-known pistol.' I think, therefore, that when Mahoiza arrived among all those kraals through which they passed, at the sight of him they were bitter in heart, thinking 'this is the very man who is going to kill our Chief,' and altogether disliked him.

² Here was the mistake of Mahoiza and his party; they were frightened when there really was no cause for it, as the women said, 'Why should we have given them so many heads of cattle, if we meant to kill them?' Thus a friend writes, 'Mahoiza no doubt lied at the time he was up there: a Kafir of Langalibalele's, who was present, and who is now at large, told a neighbour of mine that he (Mahoiza) was so frightened, he could not deliver his message properly'—that 'message full of mercy as well as of justice,' on which the *Sentence* lays such stress, which occupies two-thirds of a column of small print in the *Natal Witness*, but of which, judging from the above, as well as from Mahoiza's own evidence, very little seems to have reached the Chief's ears, from the lips of this 'stern' but chicken-hearted messenger. It may be as well to mention that this same Mahoiza and his men were ordered back from the front for cowardice, but made a grand stroke to recover their lost reputation by rushing unbidden into a bush, where they had probably seen some women and children taking refuge, and killing a number of them, and a few old men.

away and went there [to the Chief's kraal], and left us sitting all the while.¹

Mr. Shepstone agreed with him and said, 'No! of course, you do not know those things; we wish to know what you saw with your own eyes.' Again Mr. Shepstone said to Nofihlela, 'I wish to know whether you yourself were in all that affair.' Nofihlela said 'Yes.' The Inkos' (Mr. Shepstone) began to ask him about many little matters which he had not told me previously, saying, 'Did you tell that to this lad?' Nofihlela to all these said 'No!' Said the Inkos', 'How is it that you told him some words and left out others?' Said Nofihlela, 'Sir, I told him what I told him, such as would make the story run straight; but all this I left out as being merely words which I thought were of no use.' Said the Inkos', 'I, for my part, was thinking that all those words of yours were not words of no use.' Afterwards he asked Nofihlela again about like small matters, whether he had mentioned them to me. And now Nofihlela began to assent, and say to everything, 'Yes, Sir,' but merely assenting.²

So Nofihlela was let go. I was then given the written story of Mhlaba who was now called together with Ngwadhla. I read that of Mhlaba and that of Ngwadhla also. That of Mhlaba, we know, says positively, 'Certainly I did not save Mahoiza by my word: who am I that I should be able to save a man from the hand of Langalibalele if he wished to kill him?' And that of Ngwadhla tells the tale in such words as occurred to him, contradicting the story of Mahoiza's being 'killed' on that day. Both of them contradicted entirely the statement that Mahoiza was indecently exposed and went naked, and that Langalibalele had ordered that he should be treated thus.

After that there was called another man, Ndabezimbi: but the messenger said that 'Ndabezimbi had said that he was very ill with pain in his head and back.'³ However, I was given his written

¹ And apparently no one disturbed or insulted them in any way, while thus left alone.

² It was plain that his 'Yes, Sir,' had no real meaning; in fact, there was not the slightest ground for suspecting Magema's integrity in the matter. The witness in each case first related to me (sometimes my daughter also being present) all his story, and then I told Magema to go and write it; and I am certain that the written statement was substantially identical with the spoken one, except that I had to send Magema back several times to add some little feature of the story, which I remembered and he had forgotten to insert.

³ This man's evidence was of great importance, as he was Mahoiza's body-servant and induna. Mr. Shepstone's messenger, asking me to bring in all four witnesses, together with Magema, on Tuesday morning, reached me on Monday

story and read it. It says, we know, that all the time they were staying at Langelibalele's they were living comfortably, eating and being filled every day, getting meat and a little beer, because there was not sufficient malt to make much beer, since they were no longer living in the kraals, but were running away, Ndabezimbi fully allowing this, because they saw with their own eyes the running away of the people. It ended, however, with these words—'Langelibalele said that we were to sleep at Singcungu's, and that he was to find us with food and meat. But, when we had started and had not yet gone far, we heard the report of many guns let off, which had been loaded in order to shoot us in case we should kill their Chief. . . . When we got to the kraal, there was no beer at Singcungu's nor that ox. Therefore Mahoiza sent Ndabezimbi and Singcungu to go and tell the Chief that there was no ox according to his word. When they approached the Chief's kraal, they met a young son of Langelibalele who told them that the Chief had now gone—"There is my Father on horseback with the young men!" So they returned and slept, and in the morning they went on to Mr. Macfarlane's.'

When I had finished that story of Ndabezimbi, the Inkos' asked me, 'Those words of Nofihlela, which he uttered just now here in this room, what say you, do you know them?' I answered and said to the Inkos', 'Sir, as to those words of Nofihlela which he spoke just now, part of them I know and part I do not know. As to the commencement of their journey, as far as their arrival at Epangweni, there is much which I do not know, and only a little which I know. From their starting from Epangweni till their arrival at the place where the people stood without and made enquiries of them, there is much which I know, and only a little which I do not know. But among what I do know are those words which make very plain the manner in which they were treated. As to that ox which I say Nofihlela said they left behind, I did not by any means say that Nofihlela heard that when he was up there; I said that he had said that they heard all about that ox from Mhlaba who had told them *here* among us. But that word agrees with Ndabezimbi's, and I believe that Mhlaba told Nofihlela the truth.' Said Mahoiza, 'Did Nofihlela hear about that ox from you, Mhlaba?' Said

evening. I sent him on to Magema, who undertook to bring the other three, but sent him early on Tuesday morning two miles further to summon Ndabezimbi. But the latter pretended sickness as a reason for not coming into town to bear witness against Mahoiza, upon whose favour he so much depended.

Mhlaba, 'Yes! It is quite true that the Chief was looking out for that ox for you, but you left it behind: I for my part know that. And you, too, I thought would know that that was said.' Said the Inkos' to me, 'Who did Ndabezimbi say was with him, when he heard that about the ox?' Said I, 'Sir, he said that all heard it who were there in the hut.' The Inkos' asked Umyembe whether he had heard it: Umyembe said 'No!'

Then Gayede was called, and was asked about all their journey from the starting-point. So, Gayede began to narrate until he came to the words about the day when they talked with Langalibalele's people who were sitting outside asking them about their mission, and the account of their stripping off their clothes; and he said that Mahoiza himself took off those garments of his, viz. two coats and the rest remained, according to the statement of Nofhlela, and that he had heard nothing about that ox which was spoken of by Ndabezimbi and Mhlaba; and he ended with their sleeping and rising in the morning at Singcungu's, when they were on their way to Mr. M.'s. He too, therefore, contradicted about that ox: but he said that he saw Singcungu whispering¹ with the Chief, that was all; he did not hear anything of what they said; and Mahoiza said that, and Umyembe said that also.²

¹ But every Kafir would know what that 'whispering' to the man, who was to be their host by the Chief's direction, most probably *meant* under the circumstances. In fact they were kindly treated by Singcungu, and supplied with beer and cooked mealies, and ate and were filled, as mentioned above. It is clear that the Chief did not mean to stint them. It was too late to find a beast for them that evening, as the cattle were not kept at the kraal, and 'it was now getting dark,' says Mahoiza, before they left the Chief's hut. So when Molappo's son Jonathan, with his sixty followers, came across Langalibalele as he was wandering in the wilderness, we read (*Official Record*, p. 44), 'Jonathan asked for a beast to eat, and we made some exertion to get one, but it was so late that we did not secure the animal until the next morning.'

² As Mahoiza has made so much of their being starved, I have obtained from Nofhlela an account of what they really had that evening and the next day. 'When they came back from Langalibalele, they came to Singcungu's, who found them with food and gave them beer and cooked mealies; they ate and were filled and slept. In the morning they arose early and set out on their return to Mr. Macfarlane's, but they got no food that morning because they did not apply for it, but just went off without eating, until they came to a daughter (half-caste) of Mr. Ogle's, married to a whiteman; and she gave them beer, nothing more. They went on until they came to the kraal of Sabulawa, son of Mavuka, where they slept. There, at Sabulawa's, they found plenty of beer; for Mahoiza had ordered Sabulawa, as he passed up, that beer should be made for him there. That man, Sabulawa, was one of those who went with the Government from the first, being a man of the Government and not one of Langalibalele's

The Inkos' asked Gayede who took those things off Mahoiza's body. Said Gayede, 'Mahoiza took them off himself.' Said the Inkos', 'Were Langalibalele's men standing far off, or near him?' Said he, 'They were near him.' 'But they did not touch him?' 'No! they did not touch him.' 'By whom were those things taken when he had put them off?' 'They were taken by Langalibalele's people, who gave them to ours.' 'To whom did they give them?' 'I don't know.' The Inkos' asked Nofhlela, 'By whom were those things carried?' Said Nofhlela, 'By Ndabezimbi.'

After that the Inkos' asked Umnyembe how that matter was of their arriving where the people were gathered together. So Umnyembe began far back at his own first journey, until he came to the day when they spoke with the people, and said, 'Mahoiza took off his two coats, there remained his trowsers, shirt, and shoes.' Said the Inkos' to Nofhlela, 'Did you see them take off what he had on his legs'—('gaiters,' or rather, 'antigropelos')? Said Nofhlela, 'I did, not see it.' The Inkos' asked Gayede, and he too denied that he had seen it.¹

Nondenisa answered and said, 'Whether all that was done or not, what does it mean that a messenger of the Supreme Chief should be told to strip off his clothes?' No one answered: but Manxele [Induna of the S.N.A.] and Zatshuke [Head Induna of the Government] agreed with him.

The Inkos' answered them and said, 'You men, don't you see what it is that we are enquiring about? Did I not tell you that the Inkos' here had come with his witnesses, who knew all about the matter? Did I not bid you also hear carefully and listen to the difference of the stories? What? Don't you perceive that these witnesses all contradict Mahoiza? Why, when I was at Estcourt, did not Mahoiza tell me that he was stripped of all his clothes, there was nothing left on his body, he remained perfectly exposed? Were

at that time. They left Sabulawa's in the morning and went and slept at Umtyityizelwa's, an induna of Mr. Macfarlane, at whose kraal they had slept at first, when passing on to Langalibalele. They came and slaughtered that ox which Mr. Macfarlane had ordered to be found for them as they went up [stopping to eat it, it seems, though charged with a message of such moment, and merely sending on that day a messenger to Mr. Macfarlane to say that they had returned safe, but had been in great danger of their lives]. They reached Mr. M. on the morning of Saturday (November 1), and on the same day our force arrived at Estcourt.'

¹ His words were, 'I did not see it clearly, and I rather think, though I do not wish to speak positively, that they were not taken off.'

you not there with me, Zatschuke? and you, Manxele? Well! what do you say to that? Tell me, all of you, the word which you see that I may hear now.'

Then Mafingo [induna of the Durban Magistracy] replied and said, 'Sir, I perceive this day that Mahoiza is a liar; for he told us there in the presence of the Supreme Chief that he was stripped of everything, there remained only his trowsers.¹ Again he told us that he was stripped by the people, and did not strip himself; but now we find all the witnesses, who went with him, contradicting him; for we also hear that he stripped himself with his own hands, and was not stripped by any one. Well, then! his truth, where is it, since he says he was stripped of all his clothes except his trowsers only, whereas to-day all just say the contrary? He is a liar.'

Zatschuke answered Mafingo and said, 'No, Mafingo! that which Mahoiza has said is true: for he did not do that of his own accord, and in taking off those two coats he was employed on a business he did not like; it was done to show contempt of the Supreme Chief.'

Said Mafingo, 'Not so, Zatschuke! We have not come here to talk about the matter of Langalibalele: we have only come to hear about the stripping of Mahoiza. But do you mean that we are at once to imagine, because Mahoiza was told to strip, and are therefore to say that he was stripped of all his clothes? Did not Mahoiza say that he did not strip himself, but was stripped? You too know that up there before the Supreme Chief the other day he said there remained only his trowsers.'

Wo! upon that there arose a hubbub among the indunas: I could no longer distinguish who spoke or answered, though Manxele, together with Umqundane (Jantye) and Nondenisa, supported Zatschuke in everything.

Mahoiza began now to speak a pretence and said, 'I had on my shirt also: but, in my taking off my two coats, the shirt came up here in front and my stomach was exposed.' Said the Inkos', 'Do you also know that, Nofihlela?' Said Nofihlela, 'Sir, I think it was as the induna says.' Tetelegu answered him and said, 'What do you mean, Nofihlela, by saying that now? Did you not tell us plainly at first? And now do you wish to contradict your own words?' The Inkos' enquired strictly of Nofihlela saying, 'I

¹ And this he only said on the Fourth Day of the trial, in answer to a question from the S.C., which really came from Mr. Hawkins (as he told me) after having received information from myself. On the second day, in his evidence in chief, he led the whole Court to believe that he was stripped naked.

desire that you tell me truly whether you saw that exposure of the stomach.' Said Nofihlela, 'I did not see it, Sir.' The Inkos' asked Gayede, and he too denied having seen it.

After that the Inkos' said, 'I am at a loss, men, because Mahoiza told me a different story at Estcourt, and said that he was stripped of all his clothes. And, when asked by the Supreme Chief, he said that he was stripped of all his clothes except only his trowsers and shoes, and that all the upper part of his body lay bare.¹ But now he says that his shirt remained and his stomach was exposed. I no longer understand clearly about that. Where are your witnesses, Mahoiza?' He said, 'They are at home.' And, said Mahoiza, 'Is this said because I am not a whiteman? If this had been done to a whiteman, would it not have been said that he was stripped?'

After that everyone spoke for himself. At last we went out, there being nothing more to say, it being now quite clear that Mahoiza was a liar, according to that saying of Mafingo, a faithful induna of the Supreme Chief.

MAGEMA.

¹ The extent to which the Government and the whole Colony has been deceived by Mahoiza will appear from the following extract from the *Natal Mercury* (January 24)—'These messengers were treated in the most ignominious manner. They were stript (ostensibly to see if poisoned spears were not upon them), pricked with assegais, and subjected to every insult. At one time their lives were in danger.' In fact, it is well known that, when the force started from Maritzburg, there was nothing very serious against Langalibalele, nothing, at all events to warrant any very severe measures being taken against him or his tribe. But immediately on Mr. Shepstone's arrival at Estcourt, he heard from Mahoiza the report of these gross insults offered to the messengers—how Langalibalele had kept them waiting a long while, and had ordered his young men to strip them, and they stripped them naked, taking away their assegais and all their clothes, which they threw down and trampled with their feet, in sign of contempt for the S.C.—how they had threatened the messengers, pointing their assegais at them, and even went so far as to prod Mahoiza with one from behind, on feeling the point of which he called out, 'Stick it in further! why don't you kill me at once?'—how they were rescued from death by an old induna (Mhlaba), who severely reprovved the young men—how Mahoiza had shown great courage, and bore himself manfully throughout, though he and his party had undoubtedly been in very great danger—every bit of which is false, except the first statement that they were 'kept waiting a long while'—during which time, however, they were well fed, and the Chief was sending messengers to ask that he might be allowed to pay a fine for his fault.

Accordingly, the S.C. in his proclamation of November 11, 1873, says, 'And whereas, emboldened by the great forbearance shown by the Government, the said Chief and tribe have grossly insulted and maltreated messengers sent by

N.B. As the Natal Press has complained of my 'taking up the time' of the S.N.A. by the above enquiry,—the *Natal Mercury* remarking, 'We hear moreover for the first time, that it is permitted to a Bishop, or to any other man, to conduct a private enquiry in a Govt. office, into the accuracy of evidence given before a public tribunal presided over by the Governor at a trial still pending,' and pronouncing that 'the enquiry, as conducted and by whomsoever conducted, was mistimed, mischievous, and most irregular,' justice and truth being apparently of little consequence to the editor, since only a Kafir's life was concerned,—I may as well observe that the enquiry in question was not of my seeking. I am only responsible for having brought to the notice of the S.N.A. certain facts which had come to my knowledge, and which seemed to throw great doubt on the veracity of Mahoiza's evidence. Mr. Shepstone said that it was a very serious matter, and that he must have the witnesses face to face with Mahoiza, and, if they were found to have defamed a Govt. messenger, they must be severely punished—which challenge I at once accepted on their behalf, though without asking their consent. Accordingly, they were brought in for examination, as it were, with a rope about their neck, but with the result above mentioned. I certainly did rather expect that their evidence would have been produced in open Court—more especially as, after the proceedings had been formally concluded on the Fourth Day, by statements to that effect from the Public Prosecutor and the Supreme Chief, 'additional evidence' was heard, which, however, did not include that of the above witnesses.

III. MAHOIZA AMONG THE CHIEFS AND INDUNAS.

ON Thursday, Jan. 29, Mahoiza went to the Inkos' Somtseu (Mr. Shepstone) with his witnesses, many in number, whose names were Umtyololo, Sipongomana, Mampuntu, Sigodosimaholo, and others unknown, together with Ndabezimbi, the man who came to the me as S.C. again to order the said Chief to appear before me.' It is not too much to say that these lies of Mahoiza have poisoned the whole feeling of the Colony towards the Chief and his tribe, and, followed immediately by the unfortunate affair of the Bushman's River Pass, have led as much as anything to a mere 'running-away' being mistaken for a defiant, insolent, and malignant 'rebellion,' of which there is no trace in the rest of the evidence hitherto published.

Inkos' Sobantu (Bp. of Natal) and told all the story of Mahoiza's going and doing, but now contradicts that written account of his, saying 'it speaks what he knows nothing about,' and 'Magema wrote such words as he chose, of which I know nothing.'

When Mahoiza had come to the Inkos' (Mr. Shepstone), he went in person to inform him that his witnesses had arrived, all of them, and that he wished that the Inkos' would consent to hear from them concerning his contradicting the witnesses of the Inkos' Sobantu (the Bishop). Thereupon the Inkos' Somtseu said, 'I don't see, Mahoiza, as to what point your witnesses will help you.' Said Mahoiza, 'Sir, they will help me as to those words which I spoke, because indeed the words of Nofhlela are lies, and those of Mhlaba and the others. And Ndabezimbi too says that lies were invented for him: to-day he has come to relate what he knows.'

Said the Inkos' to Mahoiza, 'You had better take those witnesses of yours that you speak of, and go with them to the Inkos' Sobantu; I don't want to have anything to do with them. Perhaps, when they come to Sobantu, he may hear what they have to say: I won't hear them.'

Said Mahoiza, 'Wo, Sir! Am I go to Sobantu, and put myself deeper in the mud there?' The Inkos' laughed and said, 'Go along with them! I don't want to have anything to do with your witnesses: they won't help you at all in any of your words.'

Mahoiza went out and went to the indunas, and begged them to consent to hear the words of his witnesses. Said Zatschuke, 'That's rather hard, Mahoiza, that, when the Inkos' tells you that your witnesses are good for nothing, you should wish to entreat us to talk over that matter again. Don't you see that the Inkos' tells you plainly that your new witnesses won't speak the truth?' Said Mahoiza, 'Yes, but notwithstanding I very much wish that you would just hear what my witnesses say.' The indunas agreed, and called them, and they came.

Zatschuke bade one of them begin the story. But Manyosi objected, saying, 'No! I don't wish that any should begin but Ndabezimbi. It's proper that Ndabezimbi should begin, as he contradicts his former words which he told the Inkos' Sobantu at Bishopstowe, and has come to tell the truth here to-day.' The indunas agreed.

So Ndabezimbi told his story, with words contradicting his former words, and others agreeing with them, until he came to those words at Epangweni about the slaughtering of the three oxen and

the heifer, and said, 'That little ox, however, which we slaughtered at that little kraal by Epangweni, Mahlala's, where we slept,—that ox was not Langalibalele's; it was just so much *isijingi* [mixture of mealie porridge and pumpkin] made for us by Mahlala. That also which came from Macaleni—that was not an ox of Langalibalele's. Two oxen only were Langalibalele's.' He told also about their going up when they went to Nobamba, where the Chief was staying. Said he, 'When we came to the people we found many there. And when Mahoiza had finished all his speaking about his mission, after it was said that he was to go to the Chief to the hut, they said that there was something hidden by Mahoiza, and he must strip. He took off his two coats and his waistcoat, together with his gaiters also on his legs; they stripped him; his shirt came up high and his stomach appeared, and in this state he went on to Langalibalele.' He continued with a few words more like what is in the written account, trying throughout to run away from his own former words, trying to speak with other words through wishing to follow the words of Mahoiza. He contradicted utterly the statement that 'they ate and were filled every day,' and that other, 'they were certain that there was no malt there, because ever since they came they were continually seeing people carrying loads, going to hide them abroad.'

Umqundane (Jantye) answered and said, 'I don't see clearly, indunas, about this word of Ndabezimbi, to wit, "the ox is mere *isijingi*." I don't agree myself with the words of Ndabezimbi; that "the ox which came from Macaleni was not one of Langalibalele's." I supposed that, when Macaleni gave Mahoiza a kraal to sleep in, he gave him a kraal together with food, forasmuch as Macaleni was Langalibalele himself, since he was an induna. Why, is there any man who has an ox of his own? Do not all the cattle belong to Langalibalele which belong to his people? What is the meaning of this that an ox of a man of Langalibalele's should be called *isijingi*? Au! we don't assent to that.'

Said Zatshuke, 'Yes, Umqundane, I for my part agree with Ndabezimbi, that that ox was so much *isijingi* prepared by Mahlala for an induna of the Government.' Manyosi agreed with Umqundane, and contradicted Zatshuke. Tetelegu agreed with Umqundane and Manyosi, and contradicted Zatshuke; and so they left off that little point.

Said Manyosi, 'We wish to hear from you clearly, Ndabezimbi, with reference to those coats and waistcoat, how Mahoiza took them off.'

Ndabezimbi replied, 'He took off those two coats together with the waistcoat: it came off at the same time with them: Langalibalele's people came near and took them off, and took them and gave them to me.'

Said Umqndane, 'We don't understand what you say, Ndabezimbi. A waistcoat does not generally come off at the same time with coats, as you tell us. Did those people of Langalibalele, when they took off the coats, undo the buttons of the waistcoat, eh?'

Ndabezimbi answered, 'The buttons were undone by Mahoiza as they came near, because it was hot.'

Manyosi and Tetelegu objected to that and said, 'There is no man who, when surrounded by a hostile force as you describe it, would loosen the things upon his person.' And the other indunas agreed with them.

So they went on asking questions of Ndabezimbi till at last he said, 'I can't answer any more: now you must ask other witnesses.' And so they left him, having now admitted other words which he had before contradicted.

Now it was said that another witness should come forward. He told his story, and agreed with Mahoiza in everything. The indunas asked him some questions, and after a time they left him. Another was called, Mahoiza's third witness, Sipongomana, who lives beyond the Umgeni. So he told his tale, and contradicted the other two witnesses, and said they were liars, and agreed in all his words with Nofihlela. A fourth was called, and he agreed with Sipongomana and all the words of Nofihlela. A fifth witness (Mamputu) of Mahoiza was called, and he contradicted those two and agreed with Mahoiza; only he said 'Mahoiza was stripped, and indecently exposed entirely, there was left nothing on his body.' The indunas now utterly derided Mahoiza, saying, 'Are these your witnesses, whom you wish to bring before the Inkos'—these here, who speak, some this thing, some that, but don't agree with one another? You see, those two will condemn you entirely; and that last one also—you think that he supports you, whereas we perceive that he condemns you, because he says "he was indecently exposed, there was nothing left on his body."'

After that Gayede was bid to tell his story: and he spoke those words of his which we know, and was very firm and positive.

After him Umnyembe was bid to tell his story. Umnyembe related according to the words of Gayede and Sipongomana and Nofihlela and that other. When he had finished Zatshuge said to

him, 'How is it, Umnyembe, that at Estcourt you allowed Mahoiza to tell the Inkos' falsely?'

Said Umnyembe, 'I did not know that [what he said] would be seriously blamed.'

'Indeed, Umnyembe,' said Zatshuke, 'you seem to me to have allowed Mahoiza to fall into a ditch. That's very bad.' Umqundane and Tetelegu assented to the words of Zatshuke.

Mafingo, however [the induna from Durban], came at first and stood a little while, knitting his brows as if he did not like it, and refused to listen to that story among the indunas, saying he did not need to hear again those new witnesses. And so he passed on his own way.

Mahoiza, when he heard the piercing words of Umqundane and Tetelegu pronounced over him, was very angry, and said to Umqundane, 'Do you suppose that you will help me, you, by your words?' Umqundane replied, 'Did not you say that we were to listen to the words of your witnesses? Why do you now speak hard words against me?' Said Mahoiza, 'Because I don't care the least for your words. Why, do you suppose that I shall get anything [*i.e.* any punishment]?¹ I don't trust in any man for my part: I will speak for myself to the Inkos', and say all I have to say in my own defence: I don't care the least for any one else.' Said Umqundane, 'Why, did you suppose, Mahoiza, that we should assent of set purpose to what we did not properly understand?' Said Manyosi, 'But there is no reason for your being angry with Umqundane, Mahoiza.' Said Mahoiza to Manyosi, 'And I don't care for you either.' Manyosi was silent.

All the indunas dispersed, because they now saw that there was a great quarrel between Mahoiza and Umqundane. But Manxele was with those who agreed with Umqundane. Zatshuke and Nondenisa both supported Mahoiza at first: but at the end they both gave it up, having heard the truth clearly from Umnyembe and Gayede.

MAGEMA.

¹ In point of fact, Mahoiza to this day retains his post as Induna to the Magistrate's Court at Maritzburg, by whom all native cases are heard and decided before they go to the Magistrate. And, of course, he has received many head of cattle as a reward for his conduct in the affair of Langalibalele and his Tribe.

IV. ILLUSTRATIONS OF THE TREATMENT OF THE TWO TRIBES.

The following appears in the *Natal Witness* of Nov. 25, 1873 :—

Cattle were needed to accompany Capt. Allison's column, to serve as food, and the chief of Putini's Tribe [Umbalo], whose loyalty there has been some reason to doubt, was ordered to furnish 500 head, for which, of course, he would be paid. Instead of sending to Headquarters the number required, only 130 were supplied, 70 of which were not fit for the purpose, and were returned. Mr. Macfarlane then went with a considerable force to the boundary of the location inhabited by this tribe, and proceeding with his interpreter to the chief's kraal, told that contumacious potentate that as he had chosen to insult the Government, and to show a bad example to the tribe he had been placed over by sending so paltry a lot of cattle, he (the magistrate) must require him to furnish the full number at once, of a suitable kind, and in addition to pay a fine of 200 head.

Mr. Macfarlane, during these proceedings, and shortly thereafter, heard sufficient to justify him in suspecting that the people were allies of the rebel, Langalibalele, and had been giving him assistance. Mr. Macfarlane consequently moved up all the force under his own command and those under Capt. Lucas and Capt. Allison, until he had formed a complete circle around the suspected tribe. This accomplished, the chief and his councillors were requested to meet Mr. Macfarlane. When all were assembled, the magistrate, addressing the Chief, said : ' You are accused of sheltering a number of Langalibalele's people and cattle, and some portion of his family, particularly his favourite wife.' After some parley, the truth of the charge was admitted ; and Mr. Macfarlane, who had received full liberty of action from Sir B. Pine, then told the assembled representatives of the tribe that they had violated what they knew to be their duty, and had broken the law by harbouring the friends and property of the enemies of the Government, and that therefore they must now pay a fine of 2,000 head of cattle, in addition to the contribution of 500 as previously requested,—that they must give up all their fire-arms, and, as they had proved themselves untrustworthy as a tribe, they would be broken up and placed in different parts of the colony,—that the chief should no longer continue a chief, but should be for ever deposed because of his unfaithfulness, and that henceforth they would be governed by Kafir officers of Government.'

Though surrounded by the army of Mr. Macfarlane, Umbalo and his Indunas dared to hesitate to comply with the demands of their Magistrate (!) And in consequence Mr. Macfarlane, with most commendable promptness, nipped the incipient rebellion in the bud, by ordering his forces to capture the whole of the cattle, to disarm the entire tribe, and

to take the Chief and his Indunas into custody. On Friday last over 9,000 head of cattle had been captured, and more than 200 guns. No casualty had occurred, except that one of the oxen had knocked Mr. Macfarlane over, though without doing him any injury, and one of the rebels ventured to strike one of the Kafir allies, who instantly shot him dead for resisting.

Let us now hear the Native accounts of the above transaction.

Statement of Umbalo.

As to the origin of the eating up of Putini's tribe, Umbalo does not know why it occurred. But he says there's no reason for it that he knows of.

Before the impi (force) set out, Mr. Macfarlane called Umbalo and said to him, 'You had better stay, Umbalo, and cultivate your land properly; you are not concerned at all, it is only Langalibalele. Just as you remember that, when we ate up Matyana, we passed close by Nodada's, but did him no harm at all; and so you must just stay quiet and not be afraid at all.' So at those words Umbalo stayed, and was quiet, and cultivated—I mean the whole tribe of Putini.

Well! when the force came, Capt. Lucas ate up 13 oxen and 7 horses. At that time the force had done nothing to the people; it was on its march up to Langalibalele, not having yet reached him. Upon this being done Umbalo asked what evil he had done. Said Capt. Lucas, 'This is not eating up; these cattle and horses will be restored again; if you wish for money, you will be paid in money, or if you wish for cattle, you will be given cattle, or if horses, horses.'

Then Umbalo was asked by Mr. Macfarlane to supply 50 head of cattle for the force, and they gave those cattle. When those cattle were brought, it was said they were small ones, and he was ordered to produce 500 head of cattle. When he had given 300, the whole number not being yet produced, the force arrived at his kraal. It was ordered that he should complete those 200 that still remained, and make up the whole number to 580. When Umbalo had given 200, but had not yet given the remaining 80, all the cattle were eaten up,¹ the whole land of Putini.

¹ I have very good authority for stating that at least 200 horses were taken from this tribe, and from 8,000 to 10,000 head of cattle. The cattle were all sold, and their value may be set at about £20,000. The horses have not yet been sold (July 1), but will, no doubt, be 'eaten up' somehow.

When the cattle had been eaten up, the guns were demanded, and assegais and shields, from all of them, and all that was brought; everything was demanded, even tiger skins, and all that was brought. Then the people were carried off, male and female, all was eaten up.

Statement of Lutuli, Madhloi, Unkopolo, &c., four sons of Putini and two grandsons.

These six (after Umbalo's death) thoroughly confirm the above, and add that, when Capt. Lucas had eaten up those 7 horses and 13 oxen, according to Umbalo's statement, Umbalo sent the next day a white ox to Capt. Lucas to salute him, according to the custom of gratifying an Inkos'. Capt. Lucas received it with thanks, and then a demand was made for those 50 oxen.

They say also that the delay, in not hastening the completion of all the cattle at one time, arose from the great extent of Putini's tribe.¹ For Umbalo kept sending messengers among all the tribe, asking the people to bring those oxen which were asked for by the authorities. All the head-men however, were quite desirous that the Supreme Chief should be helped with those cattle which were needed as food for his force; there was not a man, that is, not a young man, who would have uttered a word of objection to the force of the Supreme Chief being helped.

Well! Umtyolozi and Unkolongwane had been sent by Umtyolozi's elder brother, Umoya, to take to Umbalo those cattle which had been asked for by Mr. Macfarlane and Capt. Lucas, which were to be given in addition to those five hundred. As they were on their way back, they arrived at the kraal of Mankebe, and found the Government force already at Mankebe's, eating up the cattle. They were both mounted on horses, carrying each a sjambok (whip of hide) and nothing else. In that force were some sons of Ngoza together with a son of Fulatelwa. Well! those sons, as soon as they saw them, said, 'Get off from those horses!' Unkolongwane got off; but Umtyolozi refused to get off his horse, not knowing that the force had come to eat them up; so they shot him at once, and he died, and then they ate up those

¹ Langalibalele's tribe (10,000 people) occupied an extent of country about as large as Bedfordshire; and Putini's (5,000) probably occupied a proportionate extent.

two horses and the cattle of that kraal, and of the whole tribe of Putini.

N.B. Lutyungu, the young chief of Ngoza's tribe, received 470 of Putini's cattle and 600 of Langalibalele's, for his services in 'eating up' the two tribes—besides 500 women and children which Capt. Lucas gave him, though this act was afterwards countermanded by the Secretary for Native Affairs.

*The Burning of Putini's Location, as described
by a Volunteer.*

Putini's Location is almost entirely included in one large valley through which runs the Little Tugela river. The valley is very deep (1,500 to 2,000 feet,) and the approach from the upper end, by which we entered it, is such that the valley is not seen until you are close upon it. Then almost all the kraals of the tribe are visible at once. It is the most thickly hatted part of the country I have ever seen; it is rich and well wooded, and there was a great deal of cultivation.

On Dec. 31, the order was given to burn down this Location, and it was thoroughly carried out, every hut being burnt to the ground—many full of grain. Langalibalele's huts were fired on the same two days as Putini's (Dec. 31 and Jan. 1). There were a good many old women of Langalibalele's left behind, who must have perished of starvation and exposure.

Death of Umbalo.

Umbalo, son of the old Putini, and Acting Chief of the tribe in the name of his nephew, a mere boy, died about the beginning of March, after a painful illness of fourteen days. On being brought down a prisoner with the rest of the tribe some two months before, he was put in the charge of Mahoiza, on land belonging to the Bishop of Natal, to whom he presented a letter from the Rev. Mr. Neizel, a missionary in Putini's location, addressed to any missionary near whom Umbalo might be placed, and asking that news might be sent of his whereabouts and well-being to those members of his family who had been left in Mr. Neizel's charge. The Bishop wrote as requested, and in due time received an answer, telling Umbalo that a daughter had been born to him in his absence. The poor fellow, whose appearance and manners showed very little

signs of a 'rebel,' was delighted at the tidings, and sent back affectionate messages, adding that he hoped soon to return to them, and live under the care of the Missionary. Shortly after this Mahoiza sent him off to another kraal of his, some fourteen miles distant, across the Umgeni; and it is probable that he caught cold on the way, as there was heavy rain about that time. At all events, on Sunday, March 8, three sons, also prisoners on parole, pending the 'Trial' of the tribe, which has been delayed until that of Langalibalele and his people should be finished, came to report to the Bishop that their father was dead. No tidings of his illness had reached the Bishop, or any of the sons, so that an effort might have been made to obtain medical help for him; but one of the latter, hearing of it from some passer by, hurried to see his father, and was with him for the last six days. The other two only arrived to find him buried, and with him probably the chief evidence as to the wrongs inflicted on Putini's tribe.

Statement of Baso, son of Putini.

Baso separated from his father's tribe at the time of Mr. Shepstone's going to Zululand (the end of July, 1873). He received from Mr. Macfarlane a ticket of separation, to say that he had gone out from the tribe of his father Putini, and that he was no longer a man of Putini at that time. For there had been a great dispute between him and his brother Umbalo, about some tribal affairs, and other matters connected with the death of another brother.

When he separated, he crossed the Tugela, and went to live under Capt. Lucas as magistrate, residing on the land of Mr. Walton, and under his protection. About the end of September he sent a wagon to fetch his Kafir corn, and the wagon went twice; but afterwards, while it was on its way, the Government force came, and so that corn was left there until this day.

Well! the force ate up all his cattle, those still left behind in Putini's tribe, viz., 35 oxen, 1 horse, 15 goats, and those which he had removed across the Tugeka, viz., 66 oxen, 2 horses, 34 goats—in all, 101 oxen, 3 horses, 49 goats. However, Capt. Allison, when he heard that Baso was not one of Putini's men, restored to him all those captured across the Tugela.

Afterwards, however, in January, 1874, Capt. Lucas ate up again that property of Baso, that is, the cattle across the Tugela, within his magistracy. Mr. Macfarlane ate up Baso's cattle, together

with those of Putini's tribe, not being informed; and Capt. Lucas too was present with Mr. Macfarlane when they ate up those cattle. But Capt. Lucas knew well the state of the case, for he was told by the young men that those cattle across the Tugela were Baso's; but he refused positively to give them up.

Baso wishes to know clearly why he has been eaten up, though not a man of Putini's tribe; he asks for that property of his, since he does not know what fault he has committed.

Capt. Lucas took away his 'note of residence' upon Mr. Walton's land, and Mr. Macfarlane's 'note of separation'; he took also Capt. Allison's note, allowing Baso's cattle to go free because he was not a man of Putini. For Capt. Allison had written a note, saying, that Baso's cattle should not be eaten up, having heard clearly from Mr. Macfarlane that Baso is not a man of Putini. Those three notes Capt. Lucas took and kept, and to-day he still keeps them.

Capt. Lucas imprisoned six wives of Baso, together with two wives of his man; and they are now in the gaol at Ladismith. They were imprisoned together with their little ones, the children being fifteen altogether, male and female. [It is to be presumed that these have since been released.]

Three young men, his sons, were brought to Maritzburg, together with a middle-aged man, the husband of those two women; all four were in the gaol at Maritzburg. Another son was staying at home with his mother; he does not know whether that boy was seized.

Two had been lent to black people—Kanjana and Nomatyinyina. As to those also he does not know where they are.

One of Baso's sons had gone to the Diamond Fields. Before he reached home, he gave his clothes to another young man to take home for him. All those things were plundered by the force of Capt. Lucas. And at this very day those clothes are seen upon the back of Ndomba, Capt. Lucas's Induna. Does the law, then, of the Supreme Chief allow that the property of innocent people should be taken and given to the Indunas?

Yesterday (March, 1874) arrived a young man of Baso's people, Luhungu, driver for a whiteman of those parts, who told him how affairs were going on at home.

Now Baso had not yet built his huts at that place at Ladismith on Mr. Walton's land. On his arrival, he busied himself in cultivating, living with a man of Zikali's tribe, named Umtunzi:

and when those two wagon-loads of Kafir-corn arrived, which he brought from Putini's, it was stored at Umtunzi's, about 40 sacks of corn altogether, the wagoner receiving £7 10s. for his labour.

Well! while that corn remained there with Umtunzi, Zikali's man, the eating up of Putini's tribe took place; Baso himself, and all his children, were imprisoned; but they left that Kafir-corn in Umtunzi's hands. But Baso, while still (March, 1874) kept here by the Authorities (under surveillance), heard yesterday from that young man Luhungu, who is well acquainted with his family, that Bebezele and Undamane, policemen of Siguqa, white chief at Ladismith, set forth and plundered all that store of corn belonging to Baso from Umtunzi, though he refused to give it to them; but they were too much for him, and carried off that corn to their kraals.

To-day (April, 1874) Baso has been told by Juba, policeman of Capt. Lucas, that his son, who used to herd his oxen, is dead. They were three, of about the same age: but, when Baso was brought down here to the gaol, those sons of his, with their mothers and all his children, were taken to Ladismith, and, as he *hears*, his whole family was taken to the Chief Umncakwana's. Thus all that he had has gone to ruin, while he knows not what evil he has done. He now asks to be allowed to go to his people and to look after all his affairs, for he has committed no fault whatever that he knows of. For his own part, he desires to pray the Supreme Chief that all Putini's people should be permitted to return to their place; though he is no longer one of them, yet he mourns for them as the people of his father, uttering in fact their word of lamentation.

Statement of Polile, servant of Baso.

Polile left Putini's Location about sixteen years ago, but was all that time a servant of Baso, ruled by Putini, Baso's father.

About July, 1872, he bought a gun from a whiteman for two oxen. Shortly afterwards an Umsutu (*Eng. Basuto*) came and bought that gun from Polile for a horse and 50s. He paid him at once the 50s., but the horse has not yet arrived, and the *impi* also interfered to prevent it.

Well! when these troubles of Putini's tribe began, he was informed against to the Authorities by one of his own people, it being said that he had a gun which he had bought. Thereupon all his

cattle were eaten up; there remained only his children at home; he himself was taken and brought down here to the gaol, together with the rest of Putini's people.

This surprises Polile very much, because he no longer possessed the gun, and was not living in Putini's tribe, and yet all his cattle were plundered, viz., 105 oxen, 5 goats, and some of his children also were seized and imprisoned.

Statement of Lukula, son of Mabula.

Lukula had built a kraal of two huts across the Tugela under Capt. Lucas, as Magistrate, and had lived there for a long time, though being a man of Putini [who with his tribe was under Mr. Macfarlane]. Near his kraal, however, his brother, Umpenjana, had built his two huts. Lukula had his hut-tax receipt separately for his two huts, and Umpenjana for his.

Well! Umpenjana had a gun, which he had bought from Sabulawa, son of Mayuka, a ['loyal'] man of Langalibalele. But Lukula knows nothing about the matter of the gun. When the force of Capt. Lucas arrived, it found the gun there in one of Umpenjana's huts, Umpenjana himself not being there, but away at the time working at Maritzburg. Lukula, however, was at home. So when the *impi* arrived, it said that the gun must be brought out of the hut. Lukula told them that he had no gun, and that the one they saw belonged to his brother; and the *impi* entered the hut and took it.

Thereupon the *impi* drove Lukula and his children and wives and brothers, and took them to Mr. Walton, the whiteman under whom Baso lived; and, when they came to him, the order was given that Lukula should be imprisoned. He told them that the gun was not his. But Mr. Walton said he would not release him, until the owner of the gun himself, Umpenjana, appeared, and then he should be released. All his cattle were eaten up—24 oxen and 6 goats. All that was taken to Ladismith; and he was driven down to Maritzburg, and imprisoned in gaol. But all his family were left at home.

This 'eating up' of Lukula astonishes him exceedingly. For he had no gun, and he told the authorities plainly that the one in question was not his own. But he cannot understand it at all, because he has not the least idea for what fault he has been eaten up. He wishes to know if it is the law of the Supreme Chief to eat up *all*

that ever belonged to Putini's tribe: He says this because he sees some of his tribe, who had no guns, living on at their homes. Moreover, it was not right to eat him up for another man's affair. He told them plainly that the kraal (where they found the gun) was not his, and that Umpenjana had his own kraal by himself, as he had, and that he had not yet arrived from Maritzburg. As soon as he did arrive, however, they imprisoned Umpenjana also, and ate him up, leaving only his family at home.

That Umpenjana had just separated from his elder brother Mapungwana; and his hut-tax paper had not yet been taken off from that of Mapungwana. But he had his ticket of leave to reside with those two huts on Mr. Walton's land.

Lukula, however, had kept both his tickets, that for rent to the whiteman, and that for hut-tax to the Government. Those two tickets were siezed by the force of Capt. Lucas.

Statement of Manxeba.

It is now seventeen years since Manxeba left his tribe, *viz* Putini's, and went to live under a whiteman (John), and built his kraal on this side of the Tugela, on that whiteman's land. That removal of his from Putini's tribe arose from his wish to live under a whiteman, and acquire little arts [of civilization, *e.g.* ploughing, &c.] such as he desired. At his separation, however, he was not allowed to take off the tax-ticket for his own huts, though he asked that it should be separated entirely from that of Putini's tribe. But the magistrate would not allow it, and said that it did not matter; [it would have caused a little extra trouble to have collected it separately;] only he was allowed to leave the tribe and settle under that whiteman.

Well! when that eating up of Putini's tribe took place, Faku, Mr. Macfarlane's Induna, ate up all his cattle, 110 oxen, 2 horses, 200 goats. Afterwards Pakade's *impi* came, under the direction of Capt. Lucas, which carried off eight of his children and one of his wives, who were seized and carried to Pakade's, while two of the females of his family were carried to another place, Langabi's.

His whiteman, when he saw that, wrote a letter for him to inform the force that he was not a man of Putini's. Nevertheless, *Jim*, Capt. Lucas's interpreter, refused to pay any attention to that letter, and drove him on to the force, where it was halting, at Mahlalela's.

In all this Manxeba is surprised at the action of the Government, because it was well known by those white Chiefs that he was not one of Putini's men, but the man of a whiteman, as testified by that letter which was refused by the white Chiefs. It appears this day in the eyes of Putini's people as if the law was nothing to the white Chiefs. He had no gun, and had not broken the law in anything.

Statement of Umvula.

Umvula is one of Putini's men, whose cattle (twenty-four) were eaten up his family remaining in the deserted kraals. All his people, with whom he lived, are living quietly at their homes. Only he was eaten up for the matter of another man of theirs, Unkonka, who lives across the river on Mr. Walton's land.

When the force arrived, Umvula saw some cattle in his mealie-field in the morning, when he awoke from sleep: those were Unkonka's cattle. Well! when he saw those cattle, he drove them across towards their own place. A month or so afterwards, the force came again, and Undamane told the force, 'There were some cattle which had crossed over to Umvula's.' Thereupon he was eaten up, because the force, hearing that 'the cattle had crossed,' fancied that Umvula was connected with those who had guns and were eaten up. There is not a single point which can be laid as a charge against him, except the above. Umvula wishes to inquire why he has been eaten up.

N.B.—The above statements were forwarded to H. E., the Lieutenant-Governor, on April 21; the receipt of them was acknowledged (April 23), but since then no notice whatever has been taken of them, nor has any attempt been made to rectify the wrongs in question, which are believed to be only a sample of a multitude of others of a similar character, as for instance, the following.

Statement of Lunkonko, son of Gidizela.

Lunkonko, brother of Manxeba, had settled on a whiteman's land with his father; that whiteman's name was Makata (? M'Arthur); but Makata was not living there; a whiteman named Mbabala managed the land for Makata, at the Little Tugela. Manxeba had settled on the land of a whiteman John.

Lunkonko had just arrived from the Fields, and had slept three nights at home, when the Government Force came and ate up the

cattle of the amaNgwe (Putini's tribe) on the fourth day after his return, in company with a young man of the tribe, Dolo, who had a gun which the whiteman, for whom he had worked, had bought for him for £5. The cattle of his father Gidizela which were eaten up were these—14 oxen trained to plough, 90 cows and calves, 2 horses which Lunkonko had brought from the 'Fields altogether 106, and then the women and children were carried off as prisoners. They seized Lunkonko, and took away from him all the clothes on his person. He went to tell his whiteman that story, who wrote a note for him to take to the white Chief there. But that Force was under the Indunas, Ndomba and Faku; there was no whiteman with it: so Lunkonko's whiteman advised him to stay and be quiet for a while until the white Chief came. At last Motywetywe (Mr. Walton) arrived, and Lunkonko told his whiteman, and went to Mr. Walton and informed him how all his things had been 'eaten up' when he had done no wrong whatever. Well! Mr. Walton asked what wrong Lunkonko had done. The Indunas said he had sworn at the people in the whiteman's tongue. Mr. Walton asked, 'What did he say?' They said they didn't know. Thereupon it was allowed that he should be given back his jacket only. Afterwards he was taken to Ladismith to Capt. Lucas; and, when he was told that story of Lunkonko, he sent for him, and, when he entered, the Inkos' (Capt. Lucas) asked, 'What do you mean by annoying the Government Force?' and immediately ordered that he should receive 50 lashes, and not be given back any of his property; and he was told 'The Inkos' says, it would have been right if they had killed you at once.'

The things of which he was plundered, besides the cattle, were these—his sleeping blankets, two pairs of trowsers, shirt, and £10 in money: all those things, together with his money, were plundered. He received the 50 lashes, without his being allowed to say a word in his own defence to Capt. Lucas. They flogged him until he brought up blood in his mouth, and he is still sick, and blood still comes from his chest through his mouth.

His brother Manxeba too was beaten with sticks with 25 strokes.

[I saw this poor fellow, Lunkonko, six months after his flogging, and his back was still in a horrible state. He had been a fine young man; but by his brutal treatment at the hands of Capt. Lucas he has been totally disabled for the present and rendered unfit for work—as he asserts, without having given the slightest

ground of offence, or 'sworn' a single word 'in the whiteman's tongue,' as Ndomba and Faku stated, without being able to testify what he had said, but simply for making complaint to the white Chief (Mr. Walton) of his treatment by the Government Force.]

The following are instances of the treatment of men of the amaHlubi tribe.

The Case of Umnyengeza.

Bishopstowe, April 4, 1874.

Sir,—I have the honour to request that, in the absence of the S.N.A. who (I understand) has gone to Durban, you will be so good as to lay before His Excellency the Lieut.-Governor without delay the following statement of facts.

An old headman of Langalibalele, Umnyengeza, the most aged and feeble of the two who signed the Petition to H.E. [See p. 284] that an appeal might be allowed to Langalibalele in accordance with the Ordinance, No. 3, 1849, has been 'found guilty under the first count' of the indictment against him, 'in that he did agree and conspire to withdraw into fastnesses or other places of concealment, for the purpose of avoiding obedience to the laws of the Colony and setting at defiance the lawful orders of the Supreme Chief,' and for the above offence has been condemned to 'two years' imprisonment with hard labour.'

Having been informed by two old native men that this was a mistake, as Umnyengeza had never been out at all in the late disturbance and had never 'withdrawn into fastnesses' for the purpose of concealment, and that one of his wives, an old woman, was now living, as she had been for the last two or three months, on the land of Chief-Justice Harding, under the charge of the Induna Manyonyo, I have obtained from her the following account of her husband's doings. She declares positively that Umnyengeza never went out after Langalibalele, and never hid himself in caves or other fastnesses, as other old men did. At the time when the force of the Supreme Chief arrived, he was living on at his home on a whiteman's farm. He had previously gone to a daughter of his, living among the people of Uncwane, taking for her the "spoon-goat" (*imbuzi yokezo*)—that is, according to native custom, a goat, to persuade his newly-married daughter to eat the first *amasi* at her husband's kraal. On returning home he found that his brother's son had taken off his cattle in his absence, his own son also not being at home at the time, having gone to the amaSwazi country. When that son arrived, he went away after his father's cattle. Umnyengeza remained at home continually after his return from his daughter's, and went nowhere. When Capt. Lucas's force was on its way back, it found him living at home, and took him prisoner, and carried him off to Ladismith, where he was imprisoned till he was brought down here.

I feel assured that, if it should appear upon enquiry that such a mistake as the above has been made, so that an aged man has been torn from his wives and children, and condemned to 'two years' imprisonment

with hard labour' for an offence which he never committed, H.E. will be anxious to rectify it as soon as possible, considering the prisoner's advanced time of life, even without a formal appeal having been made under the Ordinance. But, should such an appeal be considered to be necessary, I should, of course, be prepared to forward it, to be presented to H.E. on behalf of the wife and the prisoner himself.

I have the honour to be, Sir,
Your very faithful and obedient Servant,
J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Government House, April 6, 1874.

My Lord,—In the absence of the Secretary for Native Affairs I am directed by His Excellency the Lieut.-Governor to acknowledge your Lordship's letter of the 4th inst., and to inform you that, if you are correctly informed regarding the case to which you refer, His Excellency has no doubt that it may and should be dealt with at once by himself, without the necessity of an appeal.

Your letter has been sent to Mr. Shepstone by to-day's post for his report.

I have the honour to be, my Lord,
Your Lordship's most obedient humble Servant,
W. H. BEAUMONT,
Private Secretary.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, April 21, 1874.

Sir,—In your letter of April 6, written by direction of H.E. the Lieut.-Govr., you informed me that, if I was correctly informed as to the case of Umnyengeza, H.E. had no doubt that it might and should be dealt with at once by himself, without the necessity of an appeal.

I know not what steps, if any, have been taken to ascertain the guilt or innocence of the prisoner. But I am aware that his wife has not yet been examined, to whom I referred in my letter of April 4, as able to give information about his proceedings.

More than a fortnight has now elapsed since the receipt of the promise contained in your letter, and H.E. has now sailed for Capetown. The man is aged, and it seems hard that, if perfectly innocent of the charge upon which he has been condemned, he should be debarred the free enjoyment of the short remainder of his life. I have therefore the honour to request that you will be so good as to bring the matter without delay under the notice of H.E. the Administrator of the Government.

At the same time I beg permission to enclose, for the information of H.E., a printed statement, describing a series of wrongs committed by the force under Capt. Lucas upon a number of innocent persons of Putini's tribe, which I feel sure will receive at the hands of H.E. the same prompt and merciful consideration as the case of Umnyengeza.

I have, &c.,
Lieut. Beaumont, Private Secretary. J. W. NATAL.

N.B. Enclosed were the cases of BASO, POLILE, LUKULA, MANXEBA, and UMVULA (given above, p. 268-273).

Government House, 23rd April, 1874.

My Lord,—I have the honour to acknowledge Your Lordship's letter of the 21st inst. relating to your letter of the 4th inst., and forwarding certain printed statements.

I have laid your letters before H.E. the Administrator of the Government, and am directed by him to forward to your Lordship the enclosed report (copy) made by the Board appointed to try the rebel prisoners, on the case of Umnyengeza.

I have, &c.,

W. II. BEAUMONT, Private Sec.

The Right Rev. the Lord Bishop of Natal.

Report on letter from the Right Rev. the Lord Bishop of Natal, dated April 4, 1874.

Umnyengeza was found guilty under the *second* count of the indictment, in that he did wrongfully and illegally, and with rebellious intent, remove, or assist to remove, the cattle of the Tribe, without the sanction, and in defiance of the authority, of the S.C., and not, as the Bishop supposes, under the first count.

Prisoner pleaded that, although all his cattle had gone over the Mountain with his sons, he was away at Cwana's kraal when this removal took place. It is unnecessary to point out that under Native Law it was impossible for the Court to accept the fact of the prisoner's temporary absence as relieving him from the responsibility attaching to the removal of his own cattle by his own son. Prisoner could not urge, as others did, the excuse of residing among the Tribe, where he would have been more or less subject to constraint; he lived on the Tugela, where he and his family were at full liberty to act as they thought best. Nor could the Court take account of the prisoner's age; it was bound to pronounce its judgment and sentence irrespective of such considerations.

There was no mistake in the matter, every step was taken with the greatest care, and under a sense of serious responsibility; and, although the duty was both unpleasant and difficult, it was discharged by the members of the Court to the best of their ability.

It was understood that, as the S.N.A. was a member of the Court, circumstances, which might be properly pressed upon the attention of the S.C., but which could not rightly weigh with the Court, should be brought by that Officer to H.E.'s notice; and, although he had not had time to do this formally before the date of the Bishop's letter, he had verbally informed the S.C. that there were cases of the kind, and had received his assurance that they should be as favourably considered as possible.

Not only would this subsequent interposition of the S.N.A. have saved Umnyengeza from being subjected, at his age, to hard labour, but it was recorded and explained in passing sentence, that the hard labour would in each case be such as should be determined by the S.C. The

general scheme of hard labour under the sentences of this Court contemplates that the convicted rebels shall be placed with their families, in such a position, and under such circumstances, that the able-bodied only shall be required to labour. Umnyengeza is not able-bodied, and the effect of the sentence passed on him will not be, and would not under any circumstances have been, anything more than a very necessary, but not a painful, surveillance.

Pietermaritzburg, April 18th, 1874.

T. SHEPSTONE, S.N.A.

ARTHUR C. HAWKINS, R.M.

JOHN BIRD, R.M.

Bishopstowe, April 25, 1784.

Sir,—I have the honour to acknowledge the receipt of your letter of the 23rd inst., forwarding to me, by direction of H.E. the Admr. of the Government, a copy of the Report made by the Board appointed to try the rebel prisoners, on the case of Umnyengeza, for which I beg you to convey my thanks to H.E.

From the Report I find that I have been mistaken in supposing that Umnyengeza was one of the twenty-four condemned to two years' imprisonment with hard labour for withdrawing into fastnesses. It appears that he was one of the ten sentenced to the same punishment, 'in that they did wrongfully and illegally, and with rebellious intent, remove, or assist to remove, the Cattle of the Tribe, without the sanction, and in defiance of the authority, of the S.C.'

The Report further states that 'it is unnecessary to point out that, under Native Law, it was impossible for the Court to accept the fact of the prisoner's temporary absence as relieving him from the responsibility attaching to the removal of his own cattle by his own son.'

In ordinary times, I imagine, it would not have been unlawful, even under Native Law, to remove cattle from one part of a location to another without first obtaining the sanction from the Government,—and such removals, in point of fact, are continually occurring,—or even to take them over the Mountain, inasmuch as the 'loyal' Induna Umpiko stated in his published evidence, 'The cattle were on the Mountain for a long time: but that was partly to be accounted for by the fact that it was very dry below, and they were in the habit of sending the cattle up there.' [But the 'Mountain' here may not mean the Drakensberg.]

But in the present instance, of course, the charge is that the cattle were removed some time after the trouble in the tribe had begun, to rescue them from the approaching Government force. And I venture respectfully to submit to H.E. that it is impossible, with any show of justice, even under Native Law, to hold Umnyengeza responsible for the act in question under the circumstances.

I gather from the language of the Report that nothing has been done since my letter of April 4 to ascertain more thoroughly the facts of the case, as by examining the prisoner's wife, now living under surveillance on the land of the late Chief Justice, and that the Board rely upon the

admission of Umnyengeza himself, that, 'although all his cattle had gone over the Mountain, with his sons and his brother's sons, he was away at Cwana's kraal when this removal took place.' But Umnyengeza is aged and feeble, so much so that Mr. Bird, when examining into the matter of his having signed the Petition for an appeal in the case of Langalibalele, enquired [p. 289] if he was not 'an old man, who was no longer strong in the head.' And it seems clear, from his wife's statements, that he merely answered helplessly to the questions of the Court, without fully understanding what he was saying.

The facts are, as I have learned them from his wife, that he has, or had, only one son, Utonsi, who did not arrive from Swazi-land till the third day after the cattle were gone—that Umnyengeza had really no means of knowing whether his cattle went over the Mountain at all, or whether his son ever went with them, or whether the nephew, who is supposed to have taken them off, really did so, or not. All that is known is, that the lad, who was herding the cattle, came in when the force of Capt. Lucas appeared upon the neighbouring heights, to ask if he should run away with them, as others around them had done—that this wife and the lad's elder brother, who were the only persons at home, forbid him doing so in the absence of Umnyengeza, who had gone across the Tugela to discharge a father's duty to his married daughter—that the lad assented, went away to herd the cattle as before, and was never seen again—that at evening the cattle and the lad were missing, as well as the goat-boy and the goats, which last certainly did not go over the Mountain—that, for anything known to her husband and herself, both cattle and goats may have been seized by the force, which came down upon their kraal that same evening, and must have witnessed the removal or attempt at removal, if it really took place, and therefore in all probability captured the live-stock—and that the two boys may have perhaps escaped, leaving the cattle and goats and running away, or they may have been killed. Moreover, the simple fact, that Umnyengeza kept his cattle and goats by him so long after the troubles began, till the force actually appeared, is itself a sign that he was not in any way a party to the alleged removal.

If the above statements are found to be correct, I trust that H.E. will feel that this is a case in which his clemency may rightly be extended to the prisoner, by releasing him from Gaol and allowing him to return as a free man to the farm on which he was settled, and collect his family around him, or, if H.E. pleases, I would willingly find him a place on this Mission-land.

I have, &c.,

Lieut. Beaumont, Private Secretary.

J. W. NATAL.

On May 18 the Bishop was informed officially by the S.N.A. that Mhlaba and Umnyengeza would be released and allowed to live with their families at Bishopstowe. As some days passed without their appearing, the Bishop concluded that the prison doors would

be opened to them when the guns fired at noon on Monday, May 25, in honour of Her Majesty's birthday. On that day, in fact, they were released on his application, but too late for them to reach Bishopstowe (six miles from the Gaol) that evening. They slept at a native policeman's hut, and started next morning without food to walk to Bishopstowe. As they were both aged and infirm, and through their imprisonment—one for two, the other for three, months—still more enfeebled for walking—Mhlaba, moreover, having fallen down stairs at the Gaol and severely bruised himself, so as only to be able to limp painfully with the help of a stick, and Umnyengeza, with his snow-white hair, being 'no longer strong in the head,' as Mr. Bird said, and being likely at all events to lose his way—a wagon would have been sent to fetch them if the day and hour of their release had been notified beforehand.

About 11 A.M. on Tuesday a messenger arrived to say that they were on their way. The Bishop waited till 4 P.M., and then, having to drive into town on his way to Durban, he heard on the way that Mhlaba was completely knocked up with walking a short distance, and had stopped at a hovel inhabited by stray Kafirs about a mile from Town. The Bishop found him there, and directed that his carriage, on its return from Town, should take him up, and so he reached Bishopstowe about 8 P.M. on a *bitterly cold evening*.

Umnyengeza (according to Mhlaba) went on towards Bishopstowe, and presently disappeared around a corner. As he did not appear that night or the next morning, enquiries were made in all directions, and bushes, kloofs, the river-banks, &c., were searched every day for a week, but all in vain. At last on Thursday, June 25, his remains were found, charred by a grass-fire, three or four miles from Bishopstowe, but only a short distance from the place where his old wife lived on the late Chief Justice Harding's farm. He may have been trying to make his way to her; but it seems more likely that he took a wrong path, shortly after leaving Mhlaba, and went on till he fell and perished of hunger, cold, and fatigue.

So died this poor old man, a headman of some note in the tribe, but apparently innocent of any crime against the Government, as the letters above quoted show. At this moment (June 30), there are a number of other aged 'rebels,' who have been detained as prisoners for the last six months, and who would probably, if their cases were carefully enquired into, be found to be as innocent of any real crime as Umnyengeza. They are imprisoned, it seems, with the notion of maintaining the *prestige* of the Government

which, not having been able to catch many of the younger men of the tribe, must show its vigour by punishing the old!

Just so, while more than fifty sons of the Chief have not been captured, of whom more than twenty are adults, the three 'loyal' sons, Mango, Manaba, and Mbaimbai, have been doomed to two years' imprisonment with hard labour, while another, Ngungwana, bringing an excellent character for the last six years from his white master, whose service he had left only a few days before the Government Force started from Maritzburg, so that he had taken no part whatever in any previous proceedings of the tribe, was sentenced to two years and a half of like punishment, and the two young lads, Mazwi and Siyepu, who had merely followed their father's steps, to six months of the same. Siyepu, however, having been seriously ill with dysentery, was allowed to go out of the Gaol to stay with his mother under *surveillance* at the end of four months' imprisonment (July 1).

Statement of Umlanduli.

Umlanduli, son of Macoba, of the amaHlubi Tribe, went to work at the Fields with twenty-two others of his tribe and two others of the amaNgwe—twenty-four altogether, who all bought guns: but most of them did not wish to come down, only Umlanduli and six others. Umlanduli himself had bought two guns, one for £10, another for £6: 10: 0. He earned 25s. a week for heavy work at the Fields; and was helped in buying those guns by his white employer, *Milis*. For at the Fields no native can buy a gun without a note from his white employer. In this way all of his party bought their guns.

When Umlanduli had finished five months, he went down home with six others of his tribe, Hauzana, Mjiba, Nodwengu, Malambule, Makwezi, and Mqele. On their way down, having reached Basutoland, Moshesh's country, they were seized by the white police who saw that they carried guns, and who drove on Umlanduli and Hauzana and Tula—this last being not one of their tribe, but one of the Boer Territory—seeing that they carried each two guns; they drove them on until they reached a white Chief named Ellis [? Capt. Allison], where was a brother, or perhaps a son, of Mr. Shepstone [? Mr. A. Shepstone, stationed at Olivier's Hoek Pass]. That white Chief scolded much because he saw people brought who had no fault, carrying guns together with their notes, according to the law of the authorities at the Fields, and he let them go. When

they arrived at that place at which they were seized before, they sold some guns and kept others. Umlanduli bought a horse for the gun which he bought for £6: 10, and kept that which he bought for £10, and Tula sold his two guns. At this time the others of their tribe, who were travelling with them, had now gone ahead. Umlanduli and Hauzana were now riding on horseback; but their guns were seized by the white Chief (Austin).

Well! they went on and reached the Pondo Country, to the white Chief in office among the Pondos; and there they found their companions who had gone before, already caught by that Chief, who had seized their guns, and they were still detained there, having no longer a gun among them. All of them were now detained there six months, and in the seventh month they were allowed to go down to Natal, and it is now five weeks since they arrived.

Now Umlanduli had betrothed a daughter of Ngenela, an Induna of Langalibalele, and had *lobola'd* her for eight head of cattle; and he went to the Fields to get the £5 marriage-tax for the Government, wishing to make her his wife. When he returned he had already (in the third month) sent home that money by the hands of some of his tribe who had returned before him, while he still remained working on at the Fields; but it had not yet been paid to the Government

On his arrival here, however, Umlanduli, and his other companions, were greatly astonished to find their country already desolated. Moreover, he now finds that girl, whom he wished to marry, having *lobola'd* her for his eight head of cattle, and sent the money for the Government,—he finds his wife given by Capt. Lucas to one of Mr. Shepstone's men, Adam, while her sister also was given by Capt. Lucas to Mahoiza. That girl, when she heard that her bridegroom had come, left Adam's one Sunday and came to see him. She went to Mr. A. Shepstone and told him that she did not wish to be Adam's wife: but Mr. A. Shepstone said that she had better return to Adam's and stay there. Afterwards she went to the S.N.A. and told him the same: but he said it was not his affair, but Capt. Lucas's—he had nothing to do with it. Thereupon Adam was very angry with her and beat her, and forcibly deflowered her.

This causes great pain to the husband and to the girl also, and they don't know what to do.

The girl lives now in distress at Adam's, because of her grief and unwillingness to be Adam's wife. She has reported the matter

strongly to the Authorities; but the Authorities don't trouble themselves about it. And Umlanduli is much distressed for his wife, and is greatly astonished that the Authorities are able to give her away by force to another man, while her husband is here and is not dead.

Upon hearing the above story from the young man, and afterwards from the girl herself, the Bishop wrote to the Resident Magistrate as follows.

To J. BIRD, Esq., R.M.

Bishopstowe, June 26, 1874.

My dear Mr. Bird,—I have directed one of my men to take to you a girl, Umvulazana, who complains that she has been forcibly deflowered by Adam, living, I believe, on Mr. Shepstone's farm, under the following circumstances.

Capt. Lucas gave her as a captive to Adam, not to be under *surveillance*, but to be his wife, as he has also given her sister to Mahoiza. They were daughters of Ngenela, an Induna of Langalibalele, who was killed by the Govt. force. A young man, Umlanduli, to whom she was attached, and who had *lobola'd* her with eight oxen long before the disturbance broke out, then went to the Fields and there raised the £5 for the marriage-tax, which he sent down to his friends, but it was never paid to the Govt. On arriving himself, about six weeks ago, he found the girl in Adam's possession. On hearing of her lover's arrival, she went to see him at Zatshuge's, where he was placed under *surveillance*. She subsequently went to Mr. A. Shepstone, and told him that she did not wish to be Adam's wife, and Mr. A. Shepstone said, 'Very well; but she must return and stay at his kraal,' which she did. The next day she went to Mr. Shepstone, who said 'It was not his affair, but Capt. Lucas's.' The next day Adam took her by force and violated her.

She now wishes to be protected from Adam, and allowed to go to her intended husband.

I presume that this is a case for the Magistrate to deal with—at least as far as Adam is concerned, whose offence has been committed in a time of peace. But I am not sure whether it falls within your jurisdiction or Mr. Clarke's. Will you kindly do what is necessary in the matter?

Yours, &c.,

J. W. NATAL.

Mr. Bird being absent from illness, the girl was ordered to stay for the present at Umtungwana's kraal at Bishopstowe.

A day or two afterwards the case was heard by Mr. Clarke, who dismissed the charge of rape against Adam, because some female witnesses stated that the girl had not screamed or resisted, and had more than once submitted to him—the fact being that a 'reign of terror' prevails among these poor creatures, who look to the right and

left, but there is no helper or comforter. Here was this girl, who had just found her lover after long separation, who had gone to Mr. A. Shepstone, and then to Mr. Shepstone, begging to be allowed to join him, or at least not to be given up to Adam; she is driven back into Adam's power, and is terrified into submission to his brutal will; and this is regarded as consent, and so Adam gets off unpunished, though Mr. Clarke allowed the girl to leave him.

This Adam was one of the two 'heralds' who made that ridiculous journey throughout the Location, as large as the county of Middlesex, in two days on foot, proclaiming to a few men, women, and goats, that all 'loyal' natives were to return to their kraals, as on the third day an armed force would be sent against them.

V. THE APPEAL TO THE LIEUTENANT-GOVERNOR AND THE EXECUTIVE COUNCIL.

(i) *Petition of Ungwadhla and Umyengeza.*

By the advice of the Senior Member of the Natal Bar (not including of course the Attorney-General), the following Petition was addressed to the Supreme Chief, and forwarded through the Secretary for Native Affairs by the Bishop of Natal.

To His Excellency SIR BENJAMIN CAMPBELL CHILLEY PINE, K.C.M.G. &c. &c. &c. Lieutenant-Governor of the Colony of Natal, Vice-Admiral, and Supreme Chief over the Native Population,

The Humble Petition of Ungwadhla, late Headman, and Umyengeza, late Head of a Kraal, of the Tribe of the amaHlubi,

Humbly Sheweth,

That their late Chief, Langalibalele, has been tried under Kafir Law, by a Court presided over by Your Excellency, and convicted of certain crimes, and sentenced to banishment for life from the Colony of Natal.

That the question of their late Chief's trial and condemnation affects, vitally, the whole tribe, as well as their Chief.

That the tribe having been broken-up, and their late chief being in prison, Your Petitioners are unable to obtain the assent of the Indunas and other headmen of the tribe, and of the prisoner himself, to this Petition, and they therefore pray Your Excellency to regard them as representing the tribe and the prisoner.

That Your Petitioners pray that Your Excellency will be pleased to allow to their said late Chief the right of appeal from the said sentence, to which he is entitled under the Ordinance No. 3 of 1849, and to permit free access for Counsel to the prisoner for the purpose of preparing his appeal, and conducting it before the Court of appeal.

And Your Petitioners will ever pray,

In the presence of $\left\{ \begin{array}{l} \text{William Ngidi} \\ \text{Magema Magwaza} \end{array} \right.$ $\left. \begin{array}{l} \text{The mark of Ungwadhla.} \\ \text{The mark of Umnyengeza.} \end{array} \right.$

Dated at Bishopstowe this 1st day of March, 1874.

(ii) *The Ordinance, No. 3, 1849.*

1. Repeals former Ordinances.

2. And be it enacted, that it shall and may be lawful for the Lieut.-Governor to appoint any fit and proper person or persons, with authority to controul, revise, and direct the administration of justice, according to the native law throughout this District, or in such parts of the same as to him may seem fit; provided, however, that all such fines and forfeitures as, according to the native law or usage, would accrue to the Supreme Chief, or to such person or persons as aforesaid, shall be paid into the treasury of the District.

3. And be it enacted, that there shall be an appeal to the Lieut.-Governor, acting with the advice of the Executive Council of this District, for the time being, in all cases whatsoever, between natives, and which have been tried according to native law, and that the decision of the said Lieut.-Governor, so acting as aforesaid, shall be final.

4. And be it enacted, that the Lieut.-Governor of this District shall hold and enjoy, over all the chiefs and natives in this District, all the power and authority which, according to the laws, customs, and usages of the natives, are held and enjoyed by any supreme or paramount native chief, with full power to appoint and remove the subordinate chiefs, or other authorities among them.

5. And be it enacted, that all crimes heretofore committed, or which may hereafter be committed, by any of the said natives, against the persons or property of any of them, as well as all transactions between themselves, shall be cognizable according to the native law, under the provisions of this Ordinance, and not otherwise; and that all acts, matters, and things, and all decisions or judgments, heretofore done or performed, or pronounced or executed, by any of the said chiefs, or other persons in authority among them, or by any officer acting under the authority of the British Government, in pursuance of native law, usage, or custom, shall be, and the same are hereby, ratified and confirmed—subject only to the revision, and final decision, of the Lieut.-Governor, so acting in appeal as aforesaid.

6. And be it enacted, that all officers, chiefs, and persons as aforesaid, who shall so have acted as last aforesaid prior to the passing of this Ordinance, shall be, and they are hereby, jointly and severally, indemni-

fied, freed, and discharged, from and against all actions, suits, prosecutions, and penalties whatsoever, under the Colonial or Roman Dutch Law, for, or on account, or in respect, of all or any acts, matters, and things whatsoever, done, ordered, directed, or authorised by them, so acting in pursuance of native law, custom, or usage.

7. And be it enacted, that all crimes, which may be deemed repugnant to the general principles of humanity, recognized throughout the whole civilized world, which have heretofore been, or may hereafter be, committed by any of the said natives, against the persons or property of any of them, shall be only subject to prosecution in the Colonial Courts, at the instance of the Crown Prosecutor, and not otherwise.

8. And be it enacted, that this Ordinance shall take effect from and after the date of the promulgation thereof.

(iii) *Examination of Ungwadhla and Umnyengeza.*

THE two Petitioners were summoned on Wednesday, March 4, by the S.N.A.

Ungwadhla says that, when they were called into the room, there were present Mr. Shepstone and Mr. Bird, and some other white chiefs, together with the Indunas and black chiefs.

Mr. Shepstone questioned Ungwadhla severely (*ngamandhla*) saying, 'So! it is you who write this, wishing to have the case [of your Chief] heard over again, because, forsooth, you are such a great man, you surpass all the rest of the amaHlubi tribe! Is it so?' Ungwadhla denied, saying, 'No, Sir! there is no such word in the paper as that. I don't know anything about it.' Said Mr. Shepstone, 'It is written here in the paper. It is not we who say so, it is your paper.'

Umnyengeza was called and was questioned. But he spoke just nonsense, forsaking his former words, because, forsooth, he had already been told by the Indunas that he would be put in prison. Therefore he allowed that he had signed (the paper), but that he was pressed to sign it. After this Mr. Shepstone together with the white and black chiefs and the Indunas laughed at him. Mr. Bird was the only one who did not laugh at him, and it was he who wrote down Ungwadhla's and Umnyengeza's words.

That the old men were kept back and frightened is shown also by the fact that, on the day when William and Magema were summoned, the clever Induna, who had Umnyengeza in charge, said that he was sick and had stuck a splinter of wood into his foot, whereas really there was nothing at all the matter with him.

MAGEMA.

(iv) *Examination of William and Magema.*

ON Saturday, Mar. 7, I went to town with William. On the way as we were just about to enter the city, we fell in with Ungwadhla and some other old men of their tribe, who were also going to Maritzburg. Well! we asked Ungwadhla, 'What's the news?' He answered, 'Au! I am greatly in fault. It is said that I have said in the paper that I am a great man who surpass all the Indunas of the amaHlubi, for wishing that the cause of Langalibalele should be heard a second time—that I have gone to law with the Supreme Chief and Somtseu (Mr. Shepstone), and that I shall be put in prison. But I know nothing about all that. Why, you too were there!' We asked, 'Who tells you that?' Said he, 'The Indunas.' Said we, 'Of where? Of whom?' Said he, 'Of here.' Said we, 'Are you certain of that?' He said, 'Yes.' Said we, 'All right! we too are going there; but don't let any one lead you astray in your words.' And so we went on.

We stayed a long time until sun-set, before we were called to speak. I was first called, for I was sitting outside, William being in the room, where the people of Langalibalele were being examined, telling about their doings one by one, each relating his own. When their case was ended Somtseu went out, and there remained Mr. Bird, and Mr. Bennett, the interpreter at Greytown, together with all the Indunas and Chiefs. Well! I was called and went in, and sat before Mr. Bird, who had a pen and ink, ready to write in a book all our words.

Mr. B. I see your name in Ungwadhla's petition. Is that true?
Magema. Sir, it's true, that's my name.

Mr. B. How was it that your name was written in the Petition? Do you know what was stated by the old men?

M. I know it, Sir.

Mr. B. What does it mean?

M. The old men were lamenting themselves very much about the ruin of their House, and bewailing their Chief.

Mr. B. Did they go to the Bishop himself to make a plaint (*kala*) about that?

M. Yes, Sir. But, as to their plaint, they had lamented themselves before to the Inkos' there. So in these last days it was the Inkos' who called them, and told them the matter of this Petition; because the Inkos' too remembered that they would desire that, as they had made their plaint beforehand.

Mr. B. That plaint—what does it mean ?

M. Sir, the plaint is just that of a man in distress.

Mr. B. I ask, that plaint—what does it mean ?

M. Sir, the old men also desired that the cause of their Chief should be heard again, making a plaint with their hearts.

Mr. B. Don't you mean that they *complained* (*mangala*, go to law) to the Bishop ?

M. No, Sir, I don't know that they complained.

Mr. B. Don't fence with me, Magema, tell me the truth. Do you say that they made a plaint only ?

M. Yes, Sir, they made a plaint, because, when they looked at the affair of their Chief, they did not understand it properly, and desired that it should be heard again, if it should so please the Supreme Chief.

Mr. B. Do you remember the day on which that Petition was written ?

M. I remember it, Sir ; it was Sunday.

Mr. B. Was the Bishop there on that day ?

M. No, Sir ; only the young lady, his daughter, was there.

Mr. B. Did the young lady say that they were to write ?

M. Yes, Sir.

Mr. B. How did the young lady begin to act in the matter ? Did they know what they wrote ?

M. They knew it, Sir. For, before they wrote, the young lady spoke with them, and told them all the words, and said they were to write if they chose to do so. Thereupon they gave their assent, and wrote, wishing to make a plaint to the Supreme Chief, that he should allow that the case of Langalibalele should be heard again.

Mr. B. Did the young lady herself speak personally to those old men ? Or was there anyone who produced properly her words to the old men ?

M. Sir, it was I, who told the old men—I and William.

Mr. B. That going of the old men to the Bishop at first, which you speak of, going to lament themselves to him—do you know about that ?

M. Sir, I know about it.

Mr. B. Did the Bishop personally speak with the old men ? Or did some one interpret for him ?

M. Sir, he spoke personally with them.

Mr. B. How then do you know anything about it ?

M. Sir, I know it because I was always sitting with the Bishop. He never sat alone, even if I was not there, if anyone would speak with him.

Mr. B. Do you see that Umnyengeza is an old man who is no longer strong in his head ?

M. I see, Sir, that he is now old ; but I know nothing else as to his state. I fancy he is like all old men ; only I don't see that he is very quick of understanding.

Mr. B. How is it that you don't see that he is very quick of understanding ?

M. It is because I saw, on the day when we wrote this Petition, that he was continually saying, 'I don't quite understand, I don't quite understand.'

Mr. B. Are you sure that he afterwards understood well ?

M. Sir, he afterwards understood well ; and then he wrote, understanding the propriety of asking the Supreme Chief that the case of his chief might be heard again.

Mr. B. Did Ungwadhla understand well ?

M. He understood the whole clearly, Sir.

Mr. B. And did Umnyengeza ever come to the Bishop making a plaint about that affair of Langalibalele ?

M. No, Sir, he never came, nor do I know him well. But his entering into the affair arose through Mhlaba being imprisoned. Therefore we sought for another man of Langalibalele's, knowing that they are all making their plaint, and so, Sir, he came, and assented.

Mr. B. Ay, Magema, now I understand. But, if there is any other word you wish to tell me, say it.

M. Sir, I wish to tell you that to-day I met with the old men in the way, coming here to Maritzburg ; and they told me that they blame themselves very much, and they don't know what they shall do, because they have brought themselves greatly into fault, it being said that they have gone to law with the Supreme Chief, and that they will be put in prison. They said they were told that by the Indunas.

So the Inkos' wrote all that in the book. Then William was called, and he, too, said the same words.

Mr. B. Have you heard all these words which have been spoken by Magema ?

W. Yes, Sir, I have heard them ; I agree with them entirely. There is only one word, Sir, in respect of which I should differ with Magema, even if he had agreed with you—to wit, that these

people did not come to go to law. Why, is not going to law paying 5s. to the Magistrate, that another may be summoned? I am certain that they merely lamented to the Inkos'.

Mr. B. Did the young lady produce all those words of the Petition at one time, or did she produce them a few at a time, until they were finished?

W. Sir, she produced them a few at a time, in order that we might understand them well, and that the old men might understand them well.

Mr. B. Did Umnyengeza understand them well?

W. Sir, he understood them well, but not at first; until, when he heard that it was a Petition to 'the Supreme Chief' that the case of Langalibalele should be heard again, he understood well, and held up his finger and said delighted, 'We did not know where a man could come from to help us about our Chief.' But Ungwadhla said, 'I don't know whether it will help, because the Supreme Chief has already decided.' So they wrote, knowing well what they wrote, both of them.

He said also, 'Sir, I have heard this morning from the old men that they are now wishing to withdraw from the affair, because the Indunas say that they will be put in prison, inasmuch as they have gone to law with the Supreme Chief and with Somtseu. I don't wish to hide these words from you, Sir.'

MAGEMA.

(v) *Correspondence of the Bishop with the Government.*

The Bishop received an official reply, dated March 6, merely acknowledging the receipt of the Petition, after which the following correspondence took place.

Bishopstowe, March 18, 1874.

Sir,—I have the honour to acknowledge the receipt of your letter of March 6, stating by command of His Excellency, that a memorial, signed by Ungwadhla and Umnyengeza, forwarded by my letter of Feb. 28, had been received.

As some time has since elapsed, and His Excellency has left the city for Durban, I request to be informed what, if any, reply has been, or will be, given by His Excellency to the prayer of the Petitioners.

I have the honour to be, Sir, yours faithfully,

The Hon. the Secretary for Native Affairs, C.M.G. J. W. NATAL.

Office of Secretary for Native Affairs, March 19, 1874.

My Lord,—With reference to my letter of the 6th instant, acknowledging the receipt of your Lordship's letter of the 28th ultimo, for-

warding a petition to the Lieutenant-Governor, signed on the 1st instant, praying that the right of appeal be allowed to Langalibalele, I have the honour to inform you that, when the Supreme Chief directed two of the members of the Court to enquire of Petitioners the grounds of their Petition, they repudiated any intention of urging the request they had signed.

I have the honour to be,

Your Lordship's most obedient Servant,

T. SHEPSTONE,

Sec. for Native Affairs.

The Right Rev. the Lord Bishop of Natal, Bishopstowe.

Bishopstowe, March 23, 1874.

Sir,—With reference to your letter of March 19, 1874, in which you state that, 'when the Supreme Chief directed two of the Members of the Court to enquire of Petitioners the grounds of their Petition, they repudiated any intention of urging the request they had signed,' I have the honour to inform you that the two Petitioners have been intimidated by one or more of the Indunas, and have been told that, having gone to law with the Supreme Chief and the Secretary for Native Affairs, they would certainly be put in prison; and I am aware also that they still go about in dread of being imprisoned, or otherwise punished, for what they have done. Under these circumstances it is not at all surprising that, when (as I understand) severely interrogated by yourself, they in their terror 'repudiated'—not only any idea of going to law with the Supreme Chief or complaining in any way of the proceedings against their late Chief and his Tribe, but even—'any intention of urging the request they had signed.'

I am aware also that the fact of such intimidation having been practised was communicated to Mr. Bird, Resident Magistrate, when on Saturday, March 7—I presume by direction of the Supreme Chief—he strictly examined the two natives who had witnessed the signing of the document, and who also at the same time informed him that the Petitioners thoroughly understood the meaning of the request they had signed—so far as natives can be expected to understand the sense of an English Ordinance, intended, of course, mainly for the guidance of their European friends or advisers, legal or otherwise—and gave their hearty assent to it. I venture, however, to submit that the Ordinance, which expressly enacts 'that *there shall be an appeal* to the Lieutenant Governor, acting with the advice of the Executive Council of this District, for the time being, in all cases whatsoever between natives, and which have been tried according to Native Law,' does not require proof of such thorough insight and co-operation on the part of Native Petitioners as His Excellency seems to think necessary, and that the appeal in question might have been moved for by any competent person, interested on behalf of the Prisoner, *e.g.* by myself.

But I beg also to state, for the information of His Excellency, that I

am prepared to prove that the Petitioners in this case did thoroughly understand the meaning of the Petition, and heartily adopted it, at the time when they signed it, not only by the evidence of the two native witnesses above-mentioned, but by that of my eldest daughter, who acted for me in the matter by my directions, during my absence in Durban, and who is ready to declare upon oath that the meaning of the Petition was carefully and repeatedly explained to them, and that they clearly understood and heartily assented to it, before they signed it, and that—however little they might be able to appreciate the importance of their act,—they perfectly knew that they were asking, according to law, that an appeal might be allowed from the decision of the Supreme Chief in his Native Court to that of the Lieutenant-Governor in his Council.

I respectfully beg to be informed if His Excellency, after the above explanation, still decides to decline to accede to the prayer of the Petitioners; and in that case I have the honour further to request that His Excellency will be pleased to forward a copy of the Petition in question, and of this correspondence which has taken place in connexion with it, by the next mail to the Secretary of State.

I have the honour to be Sir,

Your very faithful and obedient Servant,

The Hon. the Secretary for Native Affairs, C.M.G.

J. W. NATAL.

Office of Secretary for Native Affairs, March 28, 1874.

My Lord,—The Lieutenant-Governor requests me to acknowledge Your Lordship's letter of the 23rd instant, and to inform you that the very grave imputations, which you have cast upon the honour of myself and other officers, of having by intimidation attempted to impede the course of justice, will receive His Excellency's serious attention on his arrival in the City on Monday or Tuesday next.

The subject of allowing an appeal to Langalibalele will be fully considered.

I have the honour to be, Your Lordship's most obedient Servant,

T. SHEPSTONE,

Sec. for Native Affairs.

The Right Rev. the Lord Bishop of Natal, Bishopstowe.

Bishopstowe, March 30, 1874.

Sir,—I have the honour to acknowledge the receipt of your letter of March 28, in which you say 'The Lieut.-Governor requests me to acknowledge your Lordship's letter of the 23rd instant, and to inform you that the very grave imputations, which you have cast upon the honour of myself and other officers, of having by intimidation attempted

to impede the course of justice, will receive His Excellency's serious attention on his arrival in the City on Monday or Tuesday next.'

I shall be glad that H.E. should make enquiry into the truth or falsehood of the allegations made in my letter. But I respectfully beg leave to deny that I have 'cast any imputations upon the honour of yourself and other officers'—meaning, I presume, European Officers of Government—'of having by intimidation attempted to impede the course of justice.'

With respect to yourself, I assumed, of course, that, when interrogating the two Petitioners, you were wholly unaware that they had been 'intimidated by one or more of the indunas.'

With respect to Mr. Bird, it seemed very probable that, if the whole body of indunas positively denied that any such intimidation had taken place, he—perhaps in common with yourself—might have regarded such denial as more worthy of credence than the information given by the two witnesses whom he examined.

I therefore stated in my letter that I was prepared to prove, not only on the testimony of these two native witnesses, but on that of an adult European, that the Petitioners 'thoroughly understood' and 'heartily adopted' the substance of the Petition at the time when they signed it.

But I felt it necessary to represent the fact of the intimidation in question, not only as accounting for their having 'repudiated any intention of urging the request they had signed,' but also because it seemed to be an imputation on my own honour that I had forwarded to His Excellency a frivolous and fictitious petition, signed by persons who either did not understand, or did not really mean, what they were doing.

I have the honour to be, Sir,

Your very faithful and obedient Servant,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Office of Secretary for Native Affairs, April 9, 1874.

My Lord,—In reply to your Lordship's letter of the 23rd March last, I am directed by the Lieutenant-Governor to inform you, that he has himself always been desirous that the decision of the Court of Enquiry on the case of Langalibalele should be brought before the Executive Council, provided this could be done without danger to the peace of the Colony. His Excellency therefore is not disposed to offer any objection to your Lordship's appealing to the Executive Council on behalf of Langalibalele. The Lieutenant-Governor is perfectly confident that your sole object in this matter is to further the ends of justice, and not to endanger the public peace of the Colony by exciting the feelings of the Natives. He therefore considers that the best course you could adopt will be, to place a plain and concise written statement before the Executive Council, containing the grounds on which you consider the sentence objectionable, and your reasons in support of such grounds.

It will rest with the Executive Council itself, when the case is

submitted to it, to decide the question as to the admission of Counsel on behalf of the appeal. I need scarcely remind you that the Executive Council, according to the prescribed practice, meets with closed doors.

I have the honour to be, my Lord,

Your most obedient servant,

D. ERSKINE,

for S.N.A. absent on duty.

The Right Rev. the Lord Bishop of Natal, Bishopstowe.

Bishopstowe, April 16, 1874.

Sir,—In acknowledgment of your letter of April 9, I beg you to convey to H.E. my respectful thanks for the favour which he has granted in allowing me to appeal to the Executive Council on behalf of Langalibalele. I would also assure H.E. that my sole object in this matter is, as he believes, to further the ends of justice, upon the strict maintenance of which the public peace of the Colony will, I am persuaded, be found ultimately to depend, and that I am utterly averse to exciting the feelings of the Natives on this or any other question.

I assent entirely to the view expressed by H.E. that the best course I can adopt under the circumstances will be in the first instance to place before the Executive Council a written statement, as plain and concise as possible, of the grounds on which I venture to demur to the Sentence passed on Langalibalele, and my reasons in support of such grounds. But, as some of those reasons will depend on legal questions, which I desire to submit for the consideration of the Hon. the Attorney-General, as a member of the Executive Council, and responsible legal adviser of the Government, I trust that, should it be necessary, Counsel may be permitted afterwards to argue the case on behalf of the Prisoner.

I have further to request that, for the purpose of preparing the written statement in question, H.E. will be pleased to allow me free access to the prisoner, accompanied by a native who will assist me in conversing with him, according to my usual practice in such cases, as there are several points on which I desire to obtain accurate information from the prisoner himself.

And, as the statements of Mr. Macfarlane, the Magistrate at Estcourt, and his Induna, Umtyityizelwa, respecting the origin of the disturbance, have been publicly contradicted on some points by the letter of March 1, 1874, published in the *Natal Witness*, from the late (and present) Acting-Magistrate, Mr. G. Mellersh, I have also to ask that H.E. will be pleased to direct that I may be furnished with a copy of any records in the Magistrate's Office at Estcourt, which may supply the dates of the different messages sent to the prisoner and complaints sent to the S.N.A., as stated in Mr. Macfarlane's evidence, as also the date at which the prisoner went down to Estcourt, and found the Magistrate absent, but saw Mr. Rudolph, as stated in Umpiko's evidence, and that I may be allowed also to inspect the register of guns licensed for natives in the custody of Mr. Perrin.

Further I trust that, in order to save the time of H.E. and the Executive Council, I may be permitted to include in this appeal the cases of the sons of Langalibalele and his late Induna Mhlaba—more especially as much of the evidence produced on the later trials affects materially the case of Langalibalele himself.

I have the honour to be, Sir,

Your very faithful and obedient Servant,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Bishopstowe, April 28, 1874

Sir,—In my letter of April 16 I requested (among other matters) that I might be allowed free access to the prisoner Langalibalele in gaol, for the purpose of informing myself more correctly upon certain points in connexion with the appeal which by permission of H. E. the Lieut.-Governor I am about to prepare on the prisoner's behalf. As nearly a fortnight has elapsed, and I shall be much engaged during next week with a meeting of the Church Council of the Diocese of Natal, and afterwards shall be obliged to leave the neighbourhood of the City for Durban, I should be glad if it should please H. E. the Administrator of the Government to favour me at his convenience with a reply to the above request.

I have &c.

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

The following notices having appeared in the Natal Journals—

'A bus left town mysteriously last night. Whom did it take? Could it have been the late rebel Chief?' *Natal Witness*, May 1—

'Langalibalele and Malambule, both heavily manacled, were driven down to Durban yesterday, we are informed, by Mr. J. Freeman. We suppose they will have their first experience of salt water shortly,' *Times of Natal*, May 2—

the Bishop of Natal addressed the following letter to the Lieut.-Governor's Private Secretary—doubting the truth of the report, and, at all events, disbelieving utterly that the Administrator of the Government could have sanctioned such a breach of good faith as the last of the above notices implied.

Bishopstowe, May 2, 1874.

Sir,—On April 9 I was officially informed by the Hon. Major Erskine, in the absence of the S. N. A., that H. E. the Lieut.-Governor had been pleased to allow me to appeal to the Executive Council on behalf of the prisoner Langalibalele.

On April 16, in acknowledging the receipt of the above information, I

asked permission to have free access to the prisoner in gaol, in order to satisfy myself on certain points connected with the appeal by personal enquiry.

On April 28, not having received any reply to my request, I addressed a second letter to the S. N. A., requesting that I might be favoured, at the convenience of H. E. the Admr. of the Govt., with his decision on the matter.

As no reply has been vouchsafed to either of my letters, I can only suppose that they have not been submitted to H. E.'s consideration.

I have the honour therefore to request that you will be so good as to represent the matter to H.E., as I am anxious to see the prisoner, with a view to the appeal on his behalf, so soon as my own arrangements will allow me to do so.

I am, &c.,

J. W. NATAL.

W. H. Beaumont, Esq., Private Secretary.

Office of S.N.A., May 1, 1874 (received May 4).

My Lord,—In reply to your Lordship's letter of the 16th ultimo, I am directed by the Admr. of the Government to transmit for your information the substance of the opinion of the Attorney-General thereon, by which all further proceedings in the case must be guided.

I have further to inform you, that it has been found absolutely necessary to remove Langalibalele and his son Malambule to Durban. But such removal will not prejudice any permission which may hereafter be granted to your Lordship for access to the first-named prisoner; and, as in your letter of the 28th ultimo you mention that you will shortly be obliged to go to Durban, H.E. concludes that no inconvenience will be caused to you by such removal.

The application made in the last paragraph of your Lordship's letter now under acknowledgment, to be permitted to include the sons of Langalibalele and his late Induna Mhlaba in the appeal you wish to prosecute on behalf of Langalibalele himself, cannot, I am to inform you, be complied with.

I have, &c.,

T. SHEPSTONE,

Sec. for N. A.

The Rt. Rev. the Lord Bishop of Natal, Bishopstowe.

Extract from opinion of the Hon. the Attorney-General,
dated April 30, 1874.

'The Ordinance No. 3, 1849, Sec. 3, grants an appeal to the Lt. Governor of Natal, acting with the advice of the Executive Council in all cases which have been tried according to Native Law.

'The Bishop of Natal has been informed that he will be allowed to lodge an appeal on behalf of Langalibalele, in terms of that Section, and I am requested by H.E. to give my opinion on this application, especially as to the scope and effect of the appeal allowed by Ord. 3, 1849.

'In compliance with that request, I have to express my opinion, that the Governor, acting with the advice of the Executive Council, is an appellate tribunal, and that no power is conferred on him and them, by that or any other Ordinance or Law in Natal, to admit evidence not adduced on the trial of the case appealed against. To comply with the Bishop's request would be to exercise original jurisdiction, which this appellate Tribunal has no power to do, and to ask this Tribunal to decide upon grounds which were not submitted to the Court which primarily decided the case.' * * *

'In my opinion the Lord Bishop of Natal is only entitled to appeal upon the record and proceedings, and that, for that purpose, he is only entitled to obtain true and exact copies of all evidence, proceedings, judgments, sentences, had or made in the prosecution of Langalibalele in the Court below, of all the reasons given by the Members of that Court, and of all documents referred to on the trial.' * * *

M. H. GALLWEY.

Bishopstowe, May 5, 1874.

Sir,—I have the honour to acknowledge the receipt of your letter of May 1, forwarding by direction of the Admr. of the Government the substance of the opinion of the Hon. the Attorney-General upon my letter of April 16, and stating that my application, to be permitted to include the sons of Langalibalele and his late Induna Mhlaba in the Appeal I wish to prosecute on behalf of Langalibalele himself, cannot be complied with.

I now respectfully request permission to make a separate Appeal under the Ord. No. 3, 1849, Sec. 3, on behalf of the sons of Langalibalele and his late Induna Mhlaba.

With reference to the Appeal on behalf of Langalibalele, it is unfortunate for the prisoner that, in consequence of the S.C. having decided 'that it would not be desirable to allow or ask anyone else to say anything or act for the prisoner,' when Mr. Escombe had declined the duty of defending him, not a single witness was called on his behalf, and the evidence of the witnesses for the prosecution was received just as given, with hardly a question asked by way of cross-examination on the prisoner's behalf. Moreover the evidence of the 'loyal' Induna Umpiko, in favour of the prisoner, was only produced on the Trial of his sons. I must submit myself, however, to the necessities of the case, as laid down by the Attorney-General. And I therefore beg to be informed if I may regard the Blue Book Report of the 'Minutes of Proceedings of the Court of Enquiry into certain charges preferred against Langalibalele, late Chief of the amaHlubi Tribe,' as containing a 'true and exact copy of all the evidence and proceedings, the judgment and the sentence, had or made in the prosecution of Langalibalele in the Court below,' as also 'of all the reasons given by the Members of that Court' for the said proceedings, judgment, and sentence.

Further, I respectfully repeat my request to be allowed free access to the prisoner Langalibalele, in order to satisfy myself on certain points

with reference to this Appeal; as, though it will not be so convenient for me to see him at Durban as it would have been at Maritzburg, near my own residence, at any time during the two months which have elapsed since the Petition for the Appeal was first presented, I should desire to avail myself of such permission, if granted, as soon as possible.

As some small expense will be incurred by me in taking my Native interpreter to Durban, as also in obtaining legal advice in preparing the Appeal, so as to prevent its straying beyond the limits fixed by law in such cases, and as the prisoner's cattle and other effects have been confiscated by the S.C., I venture also to request that any moderate sum, which I may find it necessary to expend on these accounts, may receive the kind consideration of H.E., and, if found to be just, may be refunded.

Though Mr. Macfarlane refers in his evidence to the Acting-Magistrate, and, very loosely, without any mention of dates, to certain messages sent by him to Langalibalele and to yourself, I hardly know whether I may ask to be furnished with the dates—

(1) When the Acting-Magistrate in question began and ceased to act for Mr. Macfarlane in February and March 1873—

(2) When Mr. Macfarlane sent the different messages to Langalibalele, of which he speaks in his published evidence, if any record of them is kept in his Office—

(3) When Mr. Macfarlane first reported the conduct of Langalibalele to yourself.

But I should be glad to be supplied with these dates, if there is no objection to giving them, even if I may not be allowed to use them expressly in the Appeal itself, as they are obviously of consequence in determining the extent of the prisoner's alleged contumacy towards the Magistrate, with which these troubles began.

Further, I presume that I must not ask for the date of the prisoner's going to Estcourt and seeing Mr. Rudolph in the absence of the Magistrate, since this important fact was not mentioned on the Trial of Langalibalele himself, by Mr. Macfarlane or any other witness, and it only came out incidentally during the Trial of the sons, in the evidence of the 'loyal' Induna Umpiko.

But, as Mr. Perrin produced in Court the Register of licenses, authorising natives to hold fire-arms, I conclude that I may request, in accordance with the opinion of the Attorney-General, to be allowed to inspect it.

I have, &c.,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Office of S.N.A., May 13th, 1874.

My Lord,—In reply to your letter of the 5th inst., I am directed to say, that the question of allowing the appeals on behalf of the sons and

the Induna of Langalibalele is of so important a nature, that the decision of it has been postponed to a full meeting of the Executive Council.

I transmit a copy of the record of the trial of Langalibalele, which for all practical purposes may be regarded as correct. The other points raised and questions asked in your letter await H.E. Lt. Govr. Pine's presence, hourly expected.

I have, &c.,

T. SHEPSTONE, S.N.A.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, May 16, 1874.

Sir,—With reference to your letter of May 13, as I understand that the Basuto has arrived, but has not brought H.E. Lt. Gov. Pine, and as I am desirous to complete my arrangements for going to Durban next week, if possible, I shall be glad if I may be informed whether I shall be allowed free access to the prisoner Langalibalele for the purpose of preparing the appeal on his behalf.

I have, &c.,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Office of S.N.A., May 16, 1874.

My Lord,—I am directed to acknowledge your Lordship's letter of yesterday's date, and to inform you that directions have been issued to the Governor of the Gaol at Durban to allow you and your interpreter access to the prisoner Langalibalele at reasonable hours.

I have &c.

T. SHEPSTONE, S.N.A.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, June 8, 1874.

Sir,—As I am now engaged in preparing the appeal on behalf of the prisoner Langalibalele, I should be glad to be informed if His Excellency has been pleased to accede to certain requests made in my letter of May 5, viz. that I may be supplied with the date when Mr. Macfarlane first reported the conduct of Langalibalele to yourself, and may also be allowed to inspect the register of guns licensed for Natives in the custody of Mr. Perrin.

I would also ask to be permitted to consult any records as to the arrival of the amaHlubi in the colony and their removal to their late Location, which may exist in the Colonial Office or in that of the Secretary for Native Affairs.

I have, &c.,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Office of Secretary for Native Affairs, June 10, 1874.

My Lord,—I am directed by the Lieut.-Governor to acknowledge your Lordship's letter of yesterday's date. A certified copy of the register of

Licenses to Natives to possess guns produced by Mr. Perrin at the trial is transmitted herewith: but, should your Lordship wish to inspect the book itself, Mr. Perrin has been instructed to produce it to you at any place in the City most convenient to you. With regard to the date when Mr. Macfarlane first reported to me the conduct of Langalibalele, no document was produced on the trial, nor did my statement allude to official, so much as private, intimations from that officer of the state of matters between him and the Chief, which induced me, at the Magistrate's request, to require the Chief's attendance at the seat of Government, with the view of placing their relations on a better footing.

The records of the circumstances connected with the arrival of the amaHlubi in the Colony and their removal to their late Location were not among the documents produced at the trial, and cannot therefore be looked upon as in any way necessary for the prosecution of the appeal. I am further directed to request your Lordship will be so good as to state when you will be prepared to go on with the appeal, as the question is so disturbing to the minds of the whole population both white and black that it is desirable it should be settled without delay.

I have, &c.,

T. SHEPSTONE, S.N.A.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, June 12, 1874.

Sir,—I have the honour to acknowledge the receipt of your letter of June 10, with a list enclosed of guns registered for members of the Hlubi tribe, for which I am much obliged.

You ask when I shall be prepared to go on with the Appeal on behalf of Langalibalele, as the delay is causing inconvenience. The delay in question is, of course, to be regretted on all accounts: but it is one for which I am not myself responsible. The first Petition in the matter was presented on March 1, and more than five weeks elapsed before permission to appeal was granted (April 9); and then my request to be allowed to see the Prisoner with a view to preparing the appeal, first made on April 16, was not granted till a month afterwards (May 16), at which time the prisoner had been removed to Durban (May 1), which involved a delay of ten days more. Moreover the permission to inspect Mr. Perrin's Register, asked for at the same date (April 16), reached me only yesterday (June 11), and I purpose to avail myself of it to-day. Also you inform me that you are unable to supply me with the date of Mr. Macfarlane first reporting to yourself the Prisoner's conduct in respect of the guns, which is a point of considerable importance in judging of the extent of the contumacy originally charged against him by Mr. Macfarlane.

Under these circumstances I have been much hindered and inconvenienced in the work of preparing the Appeal, having had to expend much time in endeavouring, by a laborious comparison of the evidence, to arrive with some degree of confidence at facts which an interview

with the Prisoner himself, the inspection of Mr. Perrin's Register, or the supply of certain dates from the records in your Office, would have enabled me to ascertain at once.

I trust, however, to be prepared to lay the written Appeal, as desired, before H.E. and the Executive Council about the end of next week or the beginning of the week following.

I have, &c.,

J. W. NATAL.

The Hon. the Secretary for Native Affairs, C.M.G.

Office of S.N.A., Natal, June 15th, 1874.

My Lord,—I am directed by the Lieut.-Governor to acknowledge the receipt of your Lordship's letter of the 12th inst., and to appoint Wednesday, the 24th inst., noon, at the Executive Council Chamber, for the reception of the written Appeal on behalf of Langalibalele, which you purpose to present.

I have, &c.,

T. SHEPSTONE, S.N.A.

The Lord Bishop of Natal, Bishopstowe.

* Bishopstowe, June 24, 1874.

Sir,—In accordance with H. E.'s desire, I have the honour to forward a written Appeal on behalf of the prisoner Langalibalele, which I beg you to lay before H.E.

I enclose also a copy of the 'Kafir Laws and Customs' of the Cape colony, referred to in the appeal, and I shall be obliged by your returning it when the appeal is decided.

I shall be happy to give, in writing or in person, explanations of any portions of the appeal, or any further information which H.E. may desire.

I trust that, should it be necessary, Counsel may be permitted to argue, on behalf of the prisoner, any points that may require elucidation.

I have, &c.,

J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex. Council.

(vi) *Appeal on behalf of Langalibalele.*

TO HIS EXCELLENCY SIR BENJAMIN CHILLEY CAMPBELL PINE, K.C.M.G., &c. &c. &c., Lieutenant-Governor of the Colony of Natal, Vice-Admiral, and Supreme Chief over the Native Population, acting with the advice of the Executive Council of the said Colony as the Court of Appeal in all cases whatsoever between Natives, and which have been tried according to Native Law—

The humble Petition of LANGALIBALELE, late Chief of the

amaHlubi Tribe in the said Colony, appearing by the Bishop of NATAL—

Sheweth—

That Petitioner has been tried under Kafir Law, convicted of certain crimes, and sentenced to banishment for life.

That certain members of Petitioner's tribe, feeling themselves aggrieved by such trial, conviction, and sentence, prayed that Petitioner might be allowed to appeal from the said Sentence under the Ordinance No. 3, 1849, to Your Excellency acting with the advice of the Executive Council of the Colony, which leave was graciously allowed to be exercised by the Bishop of Natal on Petitioner's behalf, in accordance with which permission Petitioner begs leave respectfully to represent as follows.

First, Petitioner submits that the appeal in the present instance is not from a judgment pronounced by an inferior Court between two litigant parties, in which case it would be right and necessary that all arguments should be strictly confined to the evidence or documents produced on the trial, but is an Appeal from a Judgment and Sentence pronounced on a prisoner, and resembles therefore more a reference from a sentence of death pronounced in a Criminal Court of England to the Secretary of State. In such a case the Secretary of State would not refuse to receive and allow due weight to any trustworthy evidence in favour of the prisoner, which might be laid before him, though it might not have been produced in Court. And so Petitioner had hoped that, even if the strict letter of the law, as laid down by the Hon. the Attorney-General, did not authorise it, yet, considering the irregularities committed in the course of his trial, *e.g.* the admission of fresh evidence on the Fifth Day, five days after the Crown Prosecutor had closed his case, and the Supreme Chief had said 'he had now heard all Petitioner had to say on the whole case,' some indulgence might have been shown to him in this respect, and that, in fact, the Supreme Chief would be rejoiced if trustworthy proofs could be laid before him to show that the children, whom he had so severely punished, were not so guilty as he had supposed.

And Petitioner had especially hoped that he might have been allowed the liberty of appealing to the Official Record of the Trial of his Sons, inasmuch as the Court itself has appealed to it, having found him guilty of an offence, *viz.* of having 'on one occasion insulted the Magistrate's Messenger,' p. 36, without a particle of evidence before it, even so much as mentioning, much less proving,

the offence in question, the charge resting only on the evidence of Umtyityizelwa on the Fifth Day of the Trial of his Sons, p. 65, a man who had a blood-feud with Petitioner and his Tribe,—stated when Petitioner was not himself present to answer the charge and had been, in fact, already condemned and sentenced,—and virtually contradicted by the 'loyal' Induna Umpiko, who says (p. 82) that, though present on the occasion, 'it did not occur to him' that any such insult was offered to the Messenger.

Being restricted, however, closely to the record and proceedings of the First Trial, and being required in the first instance to place before the Executive Council 'a plain and concise written statement of the grounds on which he considers the Sentence objectionable, and his reasons in support of such grounds,' Petitioner says—

1. That the Court, by which Petitioner was tried, was wrongfully and illegally constituted:—

(i) Because the Ordinance No. 3, 1849, does not give His Excellency the Lieutenant-Governor any power, as Supreme Chief over the Native population,—nor has he derived the power from any other source,—to form a Court such as that by which Petitioner was tried, consisting of His Excellency himself as Supreme Chief, the Secretary for Native Affairs, certain Administrators of Native Law, and certain Native Chiefs and Indunas.

(ii) Because under that Ordinance His Excellency the Lieutenant-Governor was debarred from sitting as Judge in such a Court, by Section 3, which provides that he shall be the sole Judge in the Court of Appeal from all cases tried under Native Law.

(iii) Because His Excellency the Lieutenant-Governor was already committed to a decision adverse to Petitioner, by having issued the Proclamation of Nov. 11, 1873, declaring that Petitioner and his Tribe had 'set themselves in open revolt and rebellion against Her Majesty's Government in this Colony,' and 'proclaiming and making known that Petitioner and the amaHlubi Tribe were in rebellion and were hereby declared to be outlaws,' and that 'the said Tribe was broken up and from that day forth had ceased to exist,' and by further seizing and confiscating all the cattle and property of the said Tribe within reach, deposing Petitioner from his chieftainship, and otherwise treating Petitioner and his Tribe as rebels, and therefore could not possibly be considered an unprejudiced Judge of the first instance in Petitioner's case.

2. That, even if the Court was duly constituted, the proceedings under it were irregular and illegal :—

(i) Because, by the practice of this Colony, up to the date of Petitioner's Trial for 'high treason' and 'rebellion,' described by His Excellency as 'the greatest crime that can be committed, because it involves all other crimes,' no serious crime has been tried in a Native Court, in proof of which may be cited the statements of the Secretary for Native Affairs, in his Answers to Questions by Lt.-Gov. SCOTT, *Despatch*, No. 34, 1864 :—

'All serious criminal charges against Natives have for some time past been tried according to the ordinary criminal law of the Colony before the Supreme Court.'

'It must be observed that all the more serious criminal offences, such as murder, rape, arson, &c., have been transferred to the Supreme Court of the Colony to be tried under the general Criminal Law, and in accordance with civilized usages and rules of evidence, in the same manner as if such crimes had been committed by a whiteman.'

(ii) Because, with respect to the charge of 'pointing his weapons of war against the Supreme Chief, and wounding his person by killing the subjects of Her Majesty the Queen,'—the act in question took place beyond the boundary of the Colony, [which is declared in the Proclamation of Sir P. MAITLAND, Aug. 21, 1845 (MOODIE'S Ordinances, II. p. 17), defining the boundaries of the District of Natal, to be 'in a direct line along the South-Eastern base of the Drakensberg Mountains,' and even took place] beyond the watershed, upon one of the sources of the Orange River; and, consequently, under the Imperial Act, 26 and 27 Victoria, cap. xxxiv, it could only have been tried in the Colonial Court under the laws now in force in the Cape Colony, and not in a Kafir Court.

(iii) Because contrary to all Kafir Law and Usage, *e.g.* that of the Cape Colony (*Kafir Laws and Customs*, p. 38-40), Petitioner was not allowed the help of counsel, white or black, in the hearing of his case, even to watch the proceedings on his behalf or to cross-examine the witnesses; and, consequently, the Official Record is merely an *ex parte* statement of the case derived from witnesses selected by the Supreme Chief, examined by the Crown Prosecutor, and not cross-examined at all on Petitioner's behalf; whereas such assistance is distinctly recognized as in accordance with Kafir Law by the Crown Prosecutor himself on p. 25, where he says 'Under Kafir Law it was allowable to defend as well as prefer charges.'

(iv) Because the Court insisted repeatedly, p. 7, 21, that Petitioner had pleaded guilty, when he had merely admitted that he had done certain acts, but desired witnesses to be called whose 'evidence would justify or extenuate what he had done,' p. 3, a plea which in any ordinary Court would be recorded as a plea of 'Not guilty'; and accordingly, after the prisoner had pleaded, one of the members of the Court, Zatshuke, assuming that Petitioner had admitted the truth of the charge of having 'undressed and stripped the Messengers,' said that 'he would have been better satisfied if prisoner had admitted the truth of all the other charges, for it appeared to him that a denial only aggravated the offence,' p. 2-6.

(v) Because, when one of the chief witnesses for the Prosecution, Mahoiza, had stated in his evidence in chief, on the Second Day, that Petitioner's people had 'taken all his things from him,' p. 11, and had 'stripped and taken him naked' into Petitioner's presence, and on the Fourth Day, in answer to His Excellency, had said that they had 'intended to strip him altogether, but had allowed him to retain his trowsers and boots,' p. 26, whereas according to Mhlaba they had merely said that 'he must take off his clothes' and he was 'told to strip,' p. 16, the Court being asked by His Excellency 'whether it wished further evidence in support or otherwise of Mahoiza's statement as to his being stripped,' 'required no further evidence on this point,' p. 31, and did not even ask his two companions, Mnyembe and Gayede, to describe this 'stripping,' though both these were examined, Mnyembe's evidence in chief having been cut short *before* he came to that part of the story, and Gayede's taken up just *after* it.

(vi) Because Petitioner was kept in solitary confinement from the day when he was brought down to Maritzburg, Dec. 31, till the day when his sons were sentenced, Feb. 27, not being allowed to converse with any of his sons, or with any members of his tribe, or with any friend or adviser, white or black; so that it was utterly out of his power to find witnesses who would have shown, as Mnyembe and Gayede would have done, that Mahoiza's statements about the 'stripping' were false—that he still wore his waistcoat, shirt, trowsers, boots, and gaiters, when he was taken to Petitioner, and that the 'stripping' in question only amounted to this, that he himself put off his two coats, by Petitioner's order, 'as a matter of precaution caused by fear,' and not for the purpose of insulting the messenger or defying the Supreme Chief, and would have satisfied the Court also that other acts charged against Petitioner arose from

fear and dread of the Supreme Chief and not from a spirit of defiance.

(vii) Because the sentence was *ultra vires* of the Court to pronounce, inasmuch as Clause 4 of the Ordinance limits the power of the Supreme Chief to 'appointing or removing the subordinate chiefs or other authorities' among the natives, but gives him no power to sentence to death or to 'banishment or transportation for life to such place as the Supreme Chief or Lieut.-Governor may appoint.' When Petitioner had been 'removed' from his chieftainship, and himself and the bulk of his tribe 'driven over the mountain out of the colony' by the Govt. force, as announced in the bulletin of Nov. 13, 1873, the cattle within the colony seized, and many of the tribe killed in resisting the attempt to seize them, the Supreme Chief, under Native Law, had expended his power.

(viii) Because banishment is a punishment wholly unknown to Kafir Law, as is plainly stated in *Kafir Laws and Customs*, p. 39, 'As banishment, &c., are all unknown to Kafir Jurisprudence, the property of the people constitutes the great fund out of which the debts of justice are paid.' For Petitioner banishment to Robben Island would be a far more dreadful punishment than it was for Macomo and other rebel chiefs of the Cape colony, who indeed were not 'banished' at all, but were merely imprisoned in a portion of their own Supreme Chief's territory, where at proper times they could be visited occasionally by members of their families and of their tribes. Moreover, those chiefs were duly tried and convicted of serious crime committed by themselves individually, and they had actually resisted by force their Supreme Chief's force within his territory. Petitioner has not made any such resistance; he merely 'stripped himself,' 'tore himself off' (*hlubuka*), from the Supreme Chief of Natal; he was a runaway, a refugee, a 'deserter,' but not a 'rebel'; he has not been tried and condemned for any crime in the Colonial Court; and banishment for life to Robben Island would be for him a separation from his wives and children, and all the members of his tribe, without the hope of seeing one of them again, except his son Malambule, condemned also to transportation for five years.

(ix) Because the seven Native Chiefs and Indunas, who sat as members of the Court and signed the Judgment, the contents of which had been 'interpreted' to them, and their signatures 'witnessed,' could not possibly, except under some strong influence, such as prejudice against Petitioner, or undue fear of the Supreme

Chief or desire to please him,—one of them being ‘Head Induna of the Natal Government,’ and another the ‘Induna to the Secretary for Native Affairs,’—have declared in that Judgment that Petitioner ‘appeared before them convicted, on clear evidence, of several acts, for some of which he would be liable to forfeit his life under the law of every civilized country in the world,’ whereas they are totally ignorant of the law of *any* civilized country.

(x) Because His Excellency the Supreme Chief, the Secretary for Native Affairs, and the Administrators of Native Law, have also signed their names to the above statement, which seems to imply that the Court was predisposed to believe Petitioner to be guilty of some heinous and capital crimes, inasmuch as five of the six charges, on which he has been found guilty, are not punishable with death, as he is informed, under the law of any civilized country whatever, namely:—

(i) ‘Setting at nought the authority of the Magistrate, in a manner not indeed sufficiently palpable to warrant the use of forcible coercion according to *our* [civilized] laws and customs’;

(ii) ‘Permitting, or probably encouraging, his tribe to possess fire-arms, and retain them contrary to law’;

(iii) ‘With reference to these fire-arms, defying the authority of the Magistrate, and once insulting the Messenger’;

(iv) ‘Refusing to appear before’ the Supreme Chief when summoned, ‘excusing his refusal by evasion and falsehood,’ and ‘insulting his Messenger’;

(v) ‘Directing his cattle and other effects to be taken out of the colony under an armed escort.’

There remains only the sixth charge, that of causing the death of Her Majesty’s subjects at the Bushman’s River Pass, for which Petitioner does not believe he would, under the circumstances, be held responsible under civilized law, as more fully explained below.

3. That under Native Law as ‘prevailing among the inhabitants of this district previously to the assertion of sovereignty over the said district’ (Royal Instructions, March 8, 1848, Moodie’s Ordinances, II., p. 279), Petitioner could not be tried at all in a Kafir Court in this colony, inasmuch as he had escaped out of the jurisdiction of the Supreme Chief of Natal.

This Native Law is laid down in the ‘Compendium of Kafir Laws and Customs,’ compiled by direction of Col. Maclean, C.B., Chief Commissioner of British Kaffaria, and published under the

authority of the Cape Government. Under this law Petitioner claims to be judged, whose principles are more humane than those derived from the savage practices of Zululand since Chaka's time, and are in accordance with those which prevailed in Natal and Zululand before the introduction of 'the cruel policy pursued by the Zulu Chiefs,' Chaka, Dingane, and Panda, as stated by the Secretary for Native Affairs, in Lieut.-Governor Scott's Despatch, No. 34, 1864, as follows:—

'The two countries at present known as the Colony of Natal and Zululand were thickly inhabited by numerous native tribes closely located together, and never, within the territory now known as the Colony of Natal, did war cause the destruction of a tribe. . . . The lives of women and children were respected; prisoners taken in battle were not put to death, but detained till ransomed; and victory, rather than plunder and devastation, seems to have been the great object of these encounters.' p. 51.

Dingiswayo 'never utterly destroyed or permanently dispersed any people with whom he went to war; they usually reoccupied their country and acknowledged Dingiswayo as their paramount chief, *until it suited them to do otherwise*. Chaka disapproved of this policy, because he thought it would lead to dangerous combinations against the Supreme Chief. He thought that the only safe plan was to inflict such an injury as would thoroughly disorganize. Hence, when he acquired power, he adopted the uncompromising system which raised the Zulu power to such renown in South Africa.' p. 52.

'It has been a received doctrine that they [the Natal Kafirs] are naturally blood-thirsty and savage in their character, and nomadic in their habits. This belief has evidently originated from the imperfect acquaintance which most white men have with their past history, and from judging by the events which transpired so shortly before their contact with civilization and the cruel policy still pursued by the Zulu Chiefs. No doubt, the Zulus show an utter disregard of the value of human life. But investigation has shown that this was a peculiarity which was introduced by Chaka.' *Answers* appended to the above, p. 2.

And Petitioner says that under Native Law, properly so called as above, he could not have been tried at all, because he would not have been delivered up, either by the Basuto Chief, Molappo, or by Mr. Griffith, as Supreme Chief of British Basutoland, into the hands of the Supreme Chief of Natal, but would have been protected in person, himself and his tribe,—his cattle, perhaps, some or all of

them, being returned to the Supreme Chief of Natal,—even as the Supreme Chief of Natal himself protects the persons, but restores the cattle, of all refugees from the Supreme Chief of Zululand, as soon as they have crossed his boundary.

‘Refugees are always received by the Chief to whom they fly, whatever might have been the nature of the crime for which they fled from their own chief; and they are never demanded, for, if they should be, they would not be given up.’—*Kafir Laws and Customs*, p. 75.

Petitioner, therefore, supposes that Mr. Griffith must have surrendered him under civilized, not under Kafir, law, to the Lieut.-Governor, not to the Supreme Chief, of Natal; and, therefore, he submits he should have been tried for the offences charged against him in a Colonial, not in a Kafir, Court.

4. That under Native Law Petitioner cannot justly be punished with severity for any of the offences of which he has been found guilty.

(i.) As regards having ‘for a considerable time past set at nought the authority of his Magistrate, in a manner not sufficiently palpable to warrant the use of forcible coercion according to our laws and customs, but perfectly clear and significant according to native law and custom,’ Petitioner would represent that he has been for twenty-five years the chief of a large tribe in this colony,—that the Magistrate himself has stated that ‘this was the first time the prisoner ever refused to appear before him when ordered to do so,’ (p. 29),—and that for more than twenty years, from 1849, when he was removed to his late location, till after the new Marriage Regulations had been published in 1869, he had never been reported for any fault whatever; and he could explain, he believes the matter then complained of, with respect to the Marriage Regulations, to the satisfaction of the Supreme Chief, if this were the proper time to do so.

(ii.) As regards his having ‘at least permitted, and probably encouraged, his tribe to possess themselves of fire-arms, and to retain them in direct violation of the law,’ Petitioner denied in Court that ‘his young men had procured the guns in consequence of an order from himself or with any purpose whatever’ (p. 3), and he still denies it; and if he were allowed to appeal to the Official Record of his sons’ trial, he would point to the fact that six of the seven sons

captured with him had no guns, as a proof that he did not 'encourage his tribe to possess themselves of fire-arms.'

That he 'permitted' his young men to 'possess themselves of fire-arms, and to retain them in direct violation of the law,' is true—so far as that he did not actively exert himself to compel them to take them in for registration, when the Government Notice of Feb. 14, 1872, gave free permission for natives to register and retain their guns. But he did not consider that it was his duty as a Chief to institute a search, by himself or his Indunas, in the huts of his young men for unregistered guns; and he left them to suffer the consequences of any breach of the colonial law, viz. loss of the gun and a fine not exceeding 50*l.* in each case, if caught with guns unregistered. In any case he did no more or worse than many or most of the chiefs of the colony: since it appears, from Mr. Perrin's Register, that during the years 1871-2-3, which were those of greatest activity at the Diamond Fields, the following was the number of guns registered in eight of the principal Northern tribes in the colony, living for the most part in Weenen County, and Ndomba and Faku being indeed Mr. Macfarlane's Indunas:—

| | Huts | 1871 | 1872 | 1873 |
|-------------------|-------|------|------|------|
| Ndomba . . . | 1,190 | — | — | — |
| Faku . . . | 2,071 | — | 2 | — |
| Mganu . . . | 1,277 | — | — | 1 |
| Pakade . . . | 2,222 | 1 | — | 1 |
| Zikali . . . | 1,651 | — | 1 | — |
| Nodada . . . | 3,000 | — | 1 | 2 |
| Putini . . . | 1,239 | — | 1 | — |
| Langalibalele . . | 2,244 | — | 9 | 4 |

From the above it will be seen that in the years 1871-3 Petitioner sent in for registration 13 guns (besides five others sent in, but confiscated), while the other seven chiefs together sent in only 10; and it appears also from the Register, that in the whole County of Weenen, for the year ending August 31, in 1871-2 only 24 guns were registered, and in 1872-3 only 21, including 13 from Petitioner, whereas 'in the years 1871-2 large numbers of fire-arms were brought from the Diamond Fields into the colony by members of Petitioner's tribe and others.' p. 34. And even since the destruction of Petitioner's tribe, during the first six months of 1874, only 11 guns have been registered throughout the whole colony, viz. 7 by Ngoza, 2 by Faku, and 2 by Tinta, except that Zikali registered 36 on May 14, and 30 on June 16.

Further, Petitioner submits that any fault of his in respect of the guns was not an offence under Kafir Law, and could only have been tried in the Colonial Court under the ordinary law of the colony.

(iii) With respect to Petitioner's having 'with reference to the unlawful possession of these fire-arms set the authority of the Magistrate at defiance, and, on one occasion, insulted his messenger,' Petitioner has already represented that there is no proof whatever, in the Official Record of his own trial, of his having on one occasion 'insulted the messenger,' nor is the fact of his having done so even mentioned in it. And Petitioner says that, if he could be allowed to appeal to the evidence produced on his sons' trial, it would be seen that the 'defiance' in question consisted only in his having replied to the Magistrate that he could not send in five boys of Sibanda, who had been frightened by the course pursued by the Magistrate's messenger, Umtiyizelwa, and had run away he knew not whither, and that he could not find eight other boys, who were said to belong to his tribe and to have come into the colony with guns, unless their names were given to him—though he did send in three of these very boys with their guns and two belonging to others of their party, as soon as their names were notified to him, besides sending in with their guns those who had worked for Mr. W. E. Shepstone—also that he excused himself at first from going to his Magistrate on the score of illness, but shortly afterwards went, found the Magistrate absent, and spoke with his clerk. p 78.

(iv) With reference to his having 'refused to appear before' the Supreme Chief, when summoned, 'excusing his refusal by evasion and deliberate falsehood,' and 'insulting his messengers,' Petitioner desires to say that the very fact of his 'excusing his refusal by evasion and falsehood,' which he admits, was a plain sign that his refusal was dictated by fear, and not by a spirit of defiance, Petitioner's brother having been killed in Zululand, when he obeyed a summons to go to the Supreme Chief, p. 12, and that the 'insults' in question have been greatly exaggerated, and were caused merely by Petitioner's fear that Maloiza might attempt his life with a concealed fire-arm, as was formerly done in the case of Matyana, within the knowledge of his tribe, when Matyana in like manner had refused, through fear, to obey a summons to go to the Supreme Chief.

(v) With respect to his having 'directed his cattle and other

effects to be taken out of the colony with an armed escort, thereby manifesting a determination to resist the Government with force and arms,' Petitioner says that he had formed no such determination, but on the contrary, if he were allowed to refer to the evidence produced on his sons' trial, it would be seen that he had given strict charge to his people 'that in no case were the forces of the Government to be resisted or fired upon, not even if the men got in amongst the cattle of the tribe,' pp. 48, 51, 68, and his men were merely carrying their arms as usual, and not with any idea of fighting with the Government.

But as to removing his cattle Petitioner says that under Kafir Law he was at liberty to do so if he could, though he and his people were liable to be killed if resisting any attempt of the Supreme Chief to 'eat up' their cattle within his territory.

'When a Kafir wishes to leave his own chief and join another, he can only do so by flying at night in the most stealthy manner, if he has any live stock; for, should his intention be known, he would most certainly be "eaten up."'—*Kafir Laws and Customs*, p. 75.

'When a kraal or clan is rebellious the custom of "eating up" is resorted to. If they resist, they are fired upon or assailed without ceremony.'—*Ib.*, p. 73.

'In time of peace, if a refugee is guilty of taking any of his neighbours' cattle with him, or if any law-suit was pending before he fled, such case may be laid before the Chief to whom he has fled, and who generally settles such matters impartially, though there appears to be no international law binding him to do so.'—*Ib.* p. 75.

(vi) With regard to the affair at the Bushman's River Pass, when five of Her Majesty's subjects were killed by Petitioner's men, he deeply regrets and very strongly condemns the conduct of his people in respect of that fatal occurrence, which he knew at once had destroyed him with the Supreme Chief, who would never believe that he was not himself a party to it. Nevertheless, the evidence on his sons' trial shows, as above stated, that the act in question was contrary to his own express orders; and though, of course, it would not have occurred if he had ordered his men, when they fled, to leave their arms behind, yet this could hardly have been expected, as they were about to make their way amidst unknown dangers, through a trackless wilderness; and not all the consequences even of a thoroughly illegal act are to be charged on

the offender, but only such as, if not inevitable, may reasonably and naturally follow it—not such as are ‘of a distinct and unsequential nature.’ (Blackstone, IV. 37.) There was nothing unlawful in his people having their arms while driving their cattle from one place to another in their Location, much less when travelling beyond the boundary of the colony; and it was by no means a direct consequence of their carrying arms for use amidst the dangers of their journey or when settled elsewhere, that they should attack the Government force, especially when Petitioner had strictly charged them on no account to do so.

But, while again expressing his grief for this occurrence, and protesting against being held responsible for it under the circumstances, Petitioner would observe that the Government force made the first attack upon his people, by killing a cow (p. 49), and ‘taking some guns from some of his young men whom they had found asleep’ (p. 51), and that these acts, which may amount to little in the eyes of white men, would be under Native Law a serious assault. Under civilized law, as the force had no magistrate or policemen with them, nor any sign of magisterial authority, it may be a question if they were justified in pursuing and attacking beyond the colonial boundary men who had committed no crime whatever before leaving their location, who had not killed, robbed, destroyed farmhouses, carried off cattle, sheep, or horses, or in any way injured their neighbours, white or black, not even the members of the tribe who remained behind. And under Native Law, when once they had escaped from the territory of their own Supreme Chief, his power over them ceased, and they had a right to defend themselves, and even to retaliate, if attacked.

Nevertheless, Petitioner from the bottom of his heart laments this occurrence, which appears to have been due to the wilfulness of his young men, led on by the example of the Induna Mabudhle, but which has added much bitterness to this disturbance. He can only trust that, looking at the actual facts as above stated, His Excellency will be disposed to consider that he and his tribe have been punished enough for the faults they have really committed or, as far as appears in evidence, ever intended to commit,—that the claims of justice have been satisfied, the authority of the Government sufficiently asserted, and any rightful demands of the white man complied with, by the ruin and dispersion of the tribe, and the confiscation of all their property, and will now graciously permit Petitioner to sink into the obscurity of private life, and settle somewhere in this

colony, where he may collect around him his family, under the surveillance of the Government.

(Signed) On behalf of the prisoner Langalibalele,
Bishopstowe, June 24, 1874. J. W. NATAL.

(vii) *Correspondence as to the hearing of Counsel in support of the Appeal.*

Government House, June 24th, 1874.

My Lord,—I am directed by H.E. the Lt. Governor to inform your Lordship that your letter of this day's date and its enclosure have been received and read at a session of the Executive Council, and that Friday next, the 26th inst., at noon, in the Executive Council Chamber, has been fixed to hear anything you or Counsel employed by you may have to urge in support of the grounds of the appeal which you have lodged.

I have, &c.,

W. H. BEAUMONT,
Clerk to the Ex. Council.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, June 25, 1874.

Sir,—In acknowledging the receipt of your letter of yesterday's date, in which you inform me that H.E. has fixed to-morrow at noon to hear anything which I or Counsel employed by me may have to urge in support of the grounds of the appeal which I have lodged, I have the honour to say in reply, that, as it does not appear that H.E. and the members of the Executive Council desire additional explanation on any point raised in the appeal, I do not think it necessary to urge in person anything further in support of the grounds of the said appeal.

I have, however, secured the services of the Senior Advocate of the Supreme Court to plead the case before H.E. and the Ex. Council, if permitted to do so. But, as he resides in Durban, it is, of course, impossible that he should attend for that purpose to-morrow. Under these circumstances I have the honour to request that H.E. may be pleased to fix some later day when Counsel may be heard on the Prisoner's behalf, and also, since the cattle and other effects of the Prisoner and his tribe have been confiscated, may be pleased to allow a moderate sum towards the said Advocate's expenses, as already requested in my letter of May 5 to the Hon. the S.N.A., with reference to legal and other small expenses incurred in preparing the written Appeal. I have, &c.,

J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex. Council.

Executive Council Chamber, June 26, 1874.

My Lord,—I am directed by H.E. the Lt. Governor to acknowledge your Lordship's letter of yesterday's date, declining to urge in person

anything further in support of the grounds of the appeal lodged by you on the 24th inst., and requesting that some later day should be fixed when Counsel may be heard on the prisoner's behalf.

In reply I am to inform your Lordship that Wednesday next, the 1st inst., at noon, in the Executive Council Chamber, has been fixed for that purpose.

I am however to add, that the consequences likely to result from the continual delay in this matter are of so serious a character that no further extension of time can be allowed, and that therefore, if Counsel is not present on the day fixed, the Council will proceed to consider its judgment on the case as it stands.

I need not remind you that Counsel will be restricted in his address to the record and to the written statement presented by your Lordship.

I have &c.

W. H. BEAUMONT,

Clerk to the Ex. Council.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, June 27, 1874.

Sir,—I have the honour to acknowledge the receipt of your letter of yesterday's date, and I beg you to convey my thanks to H.E. for having fixed Wednesday next for hearing Counsel in support of the Appeal on behalf of the prisoner Langalibalele.

I regret, of course, that any serious consequences should be likely to result from the continual delay in this matter. But I must respectfully repeat what I have already stated in my letter of June 12 to the S.N.A., that the delay in question has not been caused by myself.

I have, &c.,

J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex. Council.

Bishopstowe, June 29, 1874.

Sir,—Since writing to you my letter of June 25, I have seen the report in the *Times of Natal* of the proceedings at the Executive Council on Friday last, in which I find the following passage:—

'The Lt. Governor considered it strange that, after the Bishop had distinctly been informed of the day and the time, he was not prepared with his Counsel.'

As these words of H.E., if correctly reported, will be understood to censure me for an occurrence for which I am not in any way to blame, I think it right to say that I received from Major Erskine (acting for the S.N.A.) an official letter dated April 9, and written by direction of H.E., in which he informed me as follows:—

'It will rest with the Executive Council itself, when the case is submitted to it, to decide the question as to the admission of Counsel on behalf of the appeal. I need scarcely remind you that the Executive Council, according to the prescribed practice, meets with closed doors.'

I, therefore, in accordance with the desire of H.E., expressed in the same letter, on the day and hour fixed by H.E., forwarded to the Clerk of the Executive Council a 'written statement' by way of appeal on behalf of the prisoner. Of course, I did not attend in person, as the Council 'according to the prescribed practice' was to 'meet with closed doors': notwithstanding which, it appears, the Council doors were thrown open to the press and the public both on Wednesday and Friday. And I am at a loss to understand why H. E. should think it strange that 'after I had distinctly been informed of the day and the time, I was not prepared with my Counsel,' when I had no intimation beforehand that Counsel would be allowed to appear at all, and was only informed on Thursday that Friday at noon was fixed for hearing Counsel.

Further, the Report states that, at the close of the proceedings,—

'His Excellency again lamented the mischief that these postponements were doing to the Colony, and requested the reporters publicly to make known his remarks on this point.'

Here again, as H.E. seems to throw upon me the blame of the strange delays which have occurred in the case, in my own justification I must request permission to repeat what I said in my letter of June 12 to the Hon. the S.N.A., viz. that I am not responsible for these delays. On March 1 the Petition in the matter was presented, and more than five weeks passed before permission to appeal was granted (April 9); and my request to see the Prisoner, with a view to preparing the appeal, first made on April 16, was not granted till May 16; while the leave to inspect Mr. Perrin's register of guns licensed for natives, asked for on April 16, May 5, and June 8, only reached me on June 11, and I availed myself of it on June 12. Thus the delays in the case have arisen from circumstances not under my control. I was certainly surprised at encountering such delays and difficulties in prosecuting this Appeal, inasmuch as, in the letter above referred to, Major Erskine had informed me by direction of H.E. that 'the Lieut.-Governor has himself always been desirous that the decision of the Court of Enquiry on the case of Langalibalele should be brought before the Executive Council, provided this could be done without danger to the peace of the Colony'; and I had therefore every reason to suppose that, in these proceedings, I was acting all along in strict conformity with H.E.'s own wishes.

I have now further to state that on receiving on Friday last at 4 P.M. the notice that Wednesday next was fixed for hearing Counsel, I wrote at once to Mr. Goodricke, and telegraphed the next morning, requesting his attendance. To the telegram Mr. Goodricke replied that 'it was utterly impossible that he should be prepared at so short a notice,' which in point of fact amounted to only one day, as he could not get my letter till late on Saturday evening and would have to start for Maritzburg by daybreak on Tuesday, in order to appear before H.E. on Wednesday. Of course, it was impossible for me to make definite arrangements with him until I knew that Counsel would be allowed to appear; and no advocate could be expected to devote himself to the study of so

important a case upon the mere chance of being called to plead before H.E. By letter Mr. Goodricke has now informed me that he would be prepared by Wednesday, the 8th July. And I have therefore to request that H.E. will be pleased to extend the time allowed for Counsel to appear till Wednesday, July 8, at noon. And, as H.E., I am informed, has himself expressed to Mr. Goodricke his special desire that he should undertake the case, I venture to hope that the request will be complied with.

I have, &c.,
J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex-Council.

Executive Council Chamber, 30th June, 1874.

My Lord,—I have the honor to acknowledge your Lordship's letter of yesterday's date, and am directed by H. E. the Lieut.-Governor, in reply thereto, to inform your Lordship that H. E. grants the extension of time required by you for the preparing of Counsel, viz. till Wednesday, July 8th, at noon.

I have, &c.

W. H. BEAUMONT,
Clerk to the Ex. Council.

The Right Rev. the Lord Bishop of Natal.

Bishopstowe, July 4, 1874.

Sir,—As I am aware that H. E. has been pleased to promise to Mr. Goodricke any moderate sum as legal expenses for pleading before H. E. and the Ex. Council on behalf of the prisoner Langalibalele, who has no means of feeing Counsel for himself, his cattle and property having been already confiscated, I beg to enclose a telegram received from Mr. Goodricke, in which he states that his fee will be one hundred and twenty guineas and expenses, which I will beg you to lay before H. E. without delay.

I have, &c.

J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex. Council.

Executive Council Chamber, 4th July, 1874.

My Lord,—I have the honor to acknowledge the receipt of your Lordship's letter of the 4th inst. asking for a fee of 'one hundred and twenty guineas and expenses' to be paid to Mr. Goodricke for appearing on behalf of the prisoner Langalibalele; and I have to acquaint your Lordship that H.E. has been graciously pleased to accede to your request.

I have, &c.,

W. H. BEAUMONT,
Clerk to the Ex. Council.

The Right Rev. the Lord Bishop of Natal.

(viii) *Mr. Advocate Goodricke in support of the Appeal.*

On July 8 and 9 Mr. Goodricke argued before H. E. and the Executive Council, followed by Mr. Moodie upon points of Kafir Law. The following are the closing words of Mr. Goodricke's address:—

‘I say that there is no intention on the part of this Kafir, no criminal intention whatever, in all his proceedings; and, as far as the evidence in this trial goes, that indictment has utterly fallen to the ground and been utterly disproved. Taking the facts disclosed within the four corners of the record, there is not one tittle of evidence to support the serious charges brought against him.

Of course I am well aware there may be circumstances well known to your Excellency, as Supreme Chief, of which I am unaware, and to which I have not had access. Then, if so, it was a pity these circumstances were not published with the trial, that they did not form a portion of the trial; or it is a pity the proceedings of the trial were ever published, and a pity I was ever allowed to plead and be confined within the four corners of the evidence; because I have no hesitation in saying that if, upon this evidence, this case were put before a jury in the Supreme Court, and the jury might be packed with men most prejudiced against Langalibalele, I would undertake to get a verdict of acquittal. I have no hesitation in saying that the Judge would direct an acquittal, that the charges in the indictment have utterly failed, and that there is no proof of them whatever. I know it is the custom to think that a lawyer, in speaking for his client, is not speaking the truth; but whatever I have said I have given authority for, whatever I have adduced in favour of the prisoner I have strictly quoted from this record. And I am glad I have been confined to the record. I am sure no impartial person taking up this record, no one receiving the impressions I did, and getting, probably from fear, most highly incensed against the man—a fear natural to all colonists at the time—but would rise from its perusal as I did. When I rose from the perusal of this record of the trial, I was amazed that so little proof of the serious charges brought against the prisoner was on record, and I felt that we had been really guilty of a great wrong against this man. And it seemed to me that the only reason for it was this: there has been fear on both sides; the black man has been afraid of the white, owing to an exaggerated idea of his power; the white man has been

afraid of the black man, owing to his overwhelming numbers and the fear of rebellion, if it should spread. But, gentlemen, when we come to analyze this trial, we see how little there is on record to justify that fear. Let us look at the circumstances as calm-thinking men. If we have done a wrong, let us, as a superior, dominant race, as we say we are, acknowledge that wrong, do as much justice as we can, as much as lies in our power after having done that wrong. Let us be noble, let us say we are a superior race, we have done you a wrong, we have been alarmed or whatever else it may be, we have not treated you with justice, when we come to sift this matter and look into it properly, we find you have not been altogether guilty—upon serious consideration and calm reflection, after the hour of danger is passed, we do not see that we were justified in passing such a severe sentence upon you as we have done. I say we ought not to be above that. It may be that it is impolitic to do it—that we are not strong enough to do it; but I think we owe it to ourselves to come to a fair and impartial judgment upon this matter. Perhaps I have no right, on a matter of appeal, to appeal to your feelings, because an appeal is a dry legal argument; but I do feel this as a colonist—that I have been unduly alarmed, that there is a prejudice against the blacks that will lead to danger and difficulty hereafter. It may be that we may be wrong in rectifying the injury we have done; but, if we have the justice to do it, with the feelings of Christian men, then, with our trust in God, let us take the consequences of doing that act of justice, and I do not think we shall ever regret it. But there is more. Our own safety in this colony, our own position here, our very prestige, depend upon our dealing justice; we cannot rule these men by physical force; the whole British army would not keep this country; it is only respect for our great moral courage, for the manner in which we deal with these men, that enables us to live, 16,000 individuals among 350,000 blacks. And that they can appreciate this conduct is shown by this man. Actuated by fear he left all he possessed in the world, all that was dear to him (for I suppose the Kafir has feelings of endearment as well as we have—we have a right to assume that as a human being he has), his wives, old men, and children, to your mercy. He by that act showed that he could appreciate the valor and the moral courage and rectitude with which he had been governed during the twenty-five or twenty-six years he had been in this colony. It is for us to weigh that circumstance, to decide whether, if we have gone wrong,

we shall persist in that wrong, or whether we shall as honest men, acting up to the profession of our faith, say we will acknowledge the wrong and do the right. Whether we have this courage or not, I fear, if we do not do it, it will be done for us; and if it is done for us, instead of our doing it ourselves, will not the injury be the greater? Will it not rankle more in the mind of the man so treated? Is it not better to say, after the excitement is over, that on an examination of all the circumstances we see we have done wrong, we will do right? I know I am speaking to men who feel this; but there is behind this the policy of the question. It is a most unfortunate position; but nevertheless it is one that must be looked in the face, and as brave men I ask you to do so.'

(ix) *The Executive Council dismisses the Appeal.*

On July 13 the Judgment was delivered, in which important points raised in the arguments of Messrs. Goodricke and Moodie were entirely ignored, and the written Appeal was taken piece by piece, and set aside. The Court, in short, took advantage of the fact that no answer was vouchsafed to the request in my letter of May 5, for some small aid from the confiscated property of the Chief towards obtaining legal assistance in preparing the Appeal; and confining itself to this document, which was in consequence drawn up chiefly by myself, upon the narrow basis afforded by the record of the *ex parte* evidence at the first Trial, produced by the Crown, examined for the Crown, and not cross-examined for the prisoner, it excluded the able arguments of the two gentlemen hurriedly employed at the last, whose presence under the circumstances might, however, have been dispensed with, and whose advocacy was so much wasted breath. As this Judgment has not yet been published, its character can only be illustrated at present by two or three instances from memory.

(i) The argument against the fairness of the Trial, based upon the fact that the prisoner had been kept in solitary confinement from Dec. 31, when he was brought down to Maritzburg, till Feb. 27, when his sons were sentenced, and was not allowed to be visited by any counsel or friend, or even to converse with his own sons or any members of his tribe, and therefore was deprived of any possibility of finding witnesses who might have appeared on his behalf, was dismissed by saying that *the Gaoler would be required to report upon the matter*. Now the Gaol was not 10 minutes' walk from the Govt. House

and not 5 minutes' from Mr. Shepstone's residence; and, as the arguments of Counsel were concluded on Thursday, it did seem possible that by Monday such a report might have been obtained, before Judgment was pronounced. Moreover, the written Appeal, in which the fact is stated (p. 305), and to which the Judgment confined itself, was presented and read on June 24, nearly *three weeks* before the date of the Judgment. Immediately after the Judgment, however, Mr. Moodie went to the Gaol, and ascertained that on the day after Langalibalele's arrival twenty women saw him, and one day subsequently two women saw him; but these were the only occasions on which he was allowed to converse freely with his friends. Incredible as it may appear, it is literally true that in a civilized and Christian land, under English Government, in this nineteenth century, a prisoner was tried and judged on a capital charge without having had the slightest chance afforded him of finding witnesses for his defence.

A native, who was confined in the Gaol at the time of the Chief's arrival, states as follows:—

'During the whole time Langalibalele was not allowed to converse with any of his sons or his people. If at any time one of his three younger sons, Siyepu, Mazwi, or perhaps Ngungwana, was sent to his father's cell, to discharge some little offices for him, he was always accompanied by a policeman, and only saw Langalibalele, but did not speak with him: a strict watch was kept to prevent this. He slept in his cell alone, and even the holes in the door were stopped, so that no one should have a chance of speaking with him.'

(ii) The story of Matyana's treatment is the key to explain the supposed insult offered to the Government in the 'stripping' of Mahoiza, which set the whole colony on fire, and led the Government into the mistake of supposing that Langalibalele was a defiant and insolent rebel, just three days after the S. N. A. had sent a message to him to say that 'if he would only meet H. E., and explain his conduct, no harm whatever would happen,' p. 23. As the facts of this story, however, though twice referred to in Mahoiza's evidence, and again in the written appeal (p. 311), were not brought out at the Trial, Mr. Goodricke applied formally that additional evidence might be taken which would explain the ground of the fear that led to Mahoiza's being made to take off his coats. The Lieut.-Governor admitted that the Court had power to hear such additional evidence, and the room was cleared, to consider the application. On the doors being reopened, the Lieut.-Governor informed

the Advocate that the Court had decided unanimously to reject the application. It will scarcely be believed that in the final Judgment this matter is disposed of by saying that there is no evidence before the Court upon the point in question.

(iii) The fact that the Court of first instance showed a violent prejudice against the prisoner by pronouncing him guilty of crimes 'for some of which he would be liable to forfeit his life under the law of every civilised country in the world'—which statement was signed by the seven native Chiefs and Indunas, though ignorant of the laws of any civilized country, and by the S. C., the S.N.A., and the two magistrates, though five out of the six crimes, for which he was condemned, are undeniably *not* capital offences under any civilized law whatever (p. 307),—was met by saying that, besides the affair at the Pass, there were the conflicts in the Location, after the Chief and the bulk of the tribe had been 'driven over the Mountains out of the Colony,' as stated in the bulletin of Nov. 13, 1873, when the Government Force attacked the wretched fugitives in caves and bushes. But of this last offence the prisoner was not found guilty.

The above are specimens of the special pleading throughout. Suffice it to say, that the Appeal was wholly set aside, and the Judgment of the Court below approved, and it was notified that the Sentence would be carried out.

x. *The Judgment of the Lieutenant-Governor with the Advice of the Executive Council, with-Answers by the Bishop of Natal.*

IN THE MATTER OF APPEAL BY THE LORD BISHOP OF NATAL ON BEHALF OF THE LATE CHIEF LANGALIBALELE TO THE LIEUTENANT-GOVERNOR OF NATAL, ACTING WITH THE ADVICE OF THE EXECUTIVE COUNCIL OF THE COLONY, UNDER THE ORDINANCE NO. 3, 1849.

'This is an appeal made by the Bishop of Natal on behalf, and as agent of, the late chief Langalibalele, against a sentence pronounced upon him by the Lieut.-Governor, clothed with the functions and powers of, and acting as, Supreme Chief, assisted by certain assessors summoned by him.

'The prisoner pleaded guilty to all the most serious charges except one, but urged extenuating circumstances in excuse of his acts; these were taken into consideration by the Court, but they could not be accepted as affording any valid justification of his conduct.'

Ans. The fact was plainly brought before the Court that the prisoner pleaded guilty to *none* of the charges except one. He admitted that he had 'treated the Messengers with disrespect, in that he had caused them to strip and undress,' though even this, he said, was 'a matter of precaution caused by fear.' But as to the other charges, he denied that of making treasonable communications, and merely admitted certain acts, but denied that in respect of them he had done anything wicked, seditious, treasonable, or rebellious,—in other words, he pleaded not guilty.'

'The appeal is now made to the Lieut.-Governor, acting with the advice of the Executive Council. The Council having fully considered the petition or statement submitted, together with the arguments of counsel thereon, proceeded to examine *seriatim* the grounds of objection advanced, and the reasons given in support of these grounds. And this appears to be the more necessary because the petition itself, and the arguments by which it has been supported, show such serious misapprehension of the duties and responsibilities which the establishment of Native Law, customs, and usages, in this colony has imposed upon the Lieut.-Governor, in whom is vested the executive power of the Native Government.'

Ans. As desired by the Lieut.-Governor, the written statement was made as 'plain and *concise*' as possible, and was drawn up mainly from a lay point of view, as no reply had been given to the request (May 5) that some moderate sum might be allowed for legal expenses in preparing the Appeal, since the prisoner's cattle and other effects had been confiscated. The Council, by confining itself in this Judgment to the written petition, has altogether ignored some points of importance which were raised in the arguments of counsel thereon; and, though it may have 'fully considered' those arguments, the Judgment to all appearance might have been written before they were even heard.

'The introductory paragraph is as follows:—

'First:—Petitioner submits, &c. . . . to the Messenger'

'The Council remark upon this, that there would have been no impropriety, nor indeed could there have been any objection to the Bishop, or any other person on behalf of the prisoner, urging upon the consideration of the Lieut.-Governor any circumstances, or other trustworthy evidence in favour of the prisoner, which might have become known to any person so acting on his behalf, although not

produced at his trial, in the same manner as a reference from a sentence of death pronounced in a Criminal Court of England is made to the Secretary of State. But this professes to be, and is, an appeal from an inferior native tribunal to an authority invested by Law (Ord. 3, 1849) with appellate jurisdiction over that tribunal, and the appeal is made under that Law.

'It is one thing to make use of the right of petition to Her Majesty, or Her Representative, on whatever grounds or evidence that may appear to the Petitioner to favour the prayer of such petition, and another, but a very different thing, to appeal, under the provisions of a law, from one court to that of another, established by statute, having appellate jurisdiction. In the first case, every latitude is allowed of right; in the second, the administration of justice requires that certain rules, necessary to secure precision, shall be observed. It is impossible to combine the two as it has been attempted to do in this petition.'

Ans. It would have been impossible to petition the Lieut.-Governor in the manner proposed without admitting the legality, as well as the justice and impartiality, of the Court by which the prisoner was tried, convicted, and sentenced. But one strong evidence that all the Members of the Court were prejudiced against the prisoner appears in the fact referred to in this passage of the Appeal, but which the Judgment leaves unnoticed, viz. that the Court unanimously found the prisoner guilty on Feb. 9 of an offence of which no mention whatever was made till Feb. 10, and then in the prisoner's absence and before a different Court.

Seeing that the Lieut.-Governor, when asked to hear additional evidence about Matyana's affair, admitted that the Court of Appeal *had power to hear such evidence*, though in this case it refused to hear it, it did seem that a Paternal Government, when the offences charged were wholly against itself and the prisoner had been wholly undefended, might have allowed such additional evidence to be produced from the Official Record of the Trial of the Sons, in which there was much to assist the prisoner, and in which the Court itself had found fresh matter of condemnation, as above.

'Being restricted, however, &c. . . . from all cases tried under Native Law.'

'The Council remark, with regard to these two reasons, that the Lieut.-Governor, clothed with the functions and powers of, and acting as, a Supreme Chief, is not restricted to the exercise of appellate powers. He is by Native Law invested with original jurisdic-

tion, and can try and sentence under such Law, either by himself, or with such assessors as he may summon, or by deputation; and in such trials he is not bound by the opinions of his assessors, but may decide according to his own opinion, although those who sit with him may differ from it; while in the Court created by Ordinance No. 3, 1849, Sec. 3, he is bound to act 'with the advice of the Executive Council.' The argument, therefore, advanced in the second reason, that the Lieut.-Governor was debarred from sitting as judge in a Native Court, because the Ordinance makes him sole judge in the Court of Appeal from all cases tried under Native Law, cannot be sustained. In the one case he may, if he pleases, act as sole judge: in the other he cannot.

'Nor is it difficult to find in the more settled judicial system of England a similarity of circumstances with those complained of; and the course adopted in this case will certainly not suffer from the comparison. The Chancellor decides a case in the first instance; appeal lies from him as Chancellor to the House of Lords, and he almost invariably sits as Chairman of the House of Lords on such appeal.

'The Master of the Rolls decides a case; appeal lies from him to the Chancellor; the Chancellor sustains the appeal; appeal is again made to the House of Lords against the Chancellor's decision. Often only two Law Lords are present, the Chancellor being one, the ex-Chancellor the other; the Chancellor sustains his own judgment; the ex-Chancellor differs, and the Chancellor's decision prevails. Here we have a judgment pronounced in a case by one judge, two other judges dissenting.'

Ans. The argument in the appeal is, that the Lieut.-Governor is debarred by the Ordinance, No. 3, 1849, from sitting himself as Judge in the first instance, and can only sit in the Court of Appeal. And this argument is not disposed of by a mere assertion to the contrary, but awaits the decision of the authorities in England.

If this argument is valid, the reference to the judicial system in England does not apply.

'(iii) Because His Excellency the Lieut.-Governor, &c. . . . in Petitioner's case.'

'The averment in the third reason cannot deprive the Lieut.-Governor of the authority conferred upon him by Sect. 4, of Ord. 3, 1849, to "hold and enjoy over all chiefs and natives in this district, all the powers [? power] and authority which according to the laws,

customs, and usages of the natives, are held and enjoyed by any Supreme or Paramount Chief,' nor can it relieve him of the responsibility and duty imposed by that Ordinance of exercising the authority thus conferred to the best of his ability and the approval of his conscience.

'The position of Administrator of the Government imposes executive duties which, as in the present instance, the safety of the colony requires shall not be left unfulfilled, while the law above cited has imposed judicial duties equally binding and imperative. The question whether the law should, or should not, be as it is, can be entertained and decided only by the Legislature. The law of the colony, as it stands, must be the guide of this Council.'

Ans. The argument in the appeal is, that Sect. 4 of Ord. 3, 1849, does not authorise the Lieut.-Governor to sit as Judge of the first instance, but Sect. 3 authorises him to sit as Judge in the Court of Appeal, and Sect. 4 gives him 'all the power and authority,' which are enjoyed by a S.C., in order that he may be able to enforce the decisions of his Magistrates, or of himself on appeal, from their Judgment, to the extent even of 'removing' a Chief. So the Queen has 'all power and authority' in the realm of England; but She cannot sit as Judge in the Law-Courts; She only decides on Appeal, with the advice of her Privy Council.

'Prejudice in the mind of a judge does not render a judgment invalid, while on the other hand, pecuniary interest or benefit in the result of a case does. In this instance, however, such a ground of objection is removed by the Ordinance itself providing (Ordinance 3, 1849, Sec. 2) that all fines, forfeitures, and penalties, which would accrue to the Supreme Chief, shall be paid into the Treasury.'

Ans. The 'prejudice' in this case was one of the strongest that could possibly act upon the mind of a Judge, arising from the fact that his own character and reputation were seriously concerned, since he had already 'eaten up' and outlawed the prisoner and his tribe, killing many of them and imprisoning others, on the mere assumption of their being malignant rebels. He, therefore, could not possibly acquit the prisoner of heinous crime without at the same time condemning himself of a 'grave blunder,' a 'step apparently unwarranted,' a 'State blunder which could only have been committed in a time of panic,' like that,

which, according to the semi-official 'Introduction' to the Official Records, has been committed in the treatment of Putini's tribe.

'The Council do not wish to lay undue stress upon the technical objections which might be urged against the Petitioner's averment, that the Court, by which the Petitioner was tried, was wrongfully and illegally constituted; but it is necessary to say that the prisoner pleaded before that Court, and pleaded guilty to most of the charges.'

Ans. If any stress had been laid upon the argument, that 'the prisoner pleaded before the Court,' as a proof of his having admitted its legality, it would be very sharp practice, when he was not allowed any defender or adviser, and was utterly ignorant as to whether the Court was lawfully constituted or not.

The assertion, that he 'pleaded guilty to most of the charges,' is simply untrue, as stated above.

'The second objection is—

'2. That even if the Court, &c. . . . had been committed by a whiteman.'

'The Council remark that it is quite true that, as a rule, hitherto all serious criminal charges against natives have been tried under the ordinary Criminal Law of the Colony by the Supreme Court. But that fact does not abrogate the Ordinance No. 3, 1849, or the powers of Supreme Chief conferred thereby upon the Lieut.-Governor.'

Ans. As before, the Ordinance gives no power to the Lieut.-Governor to sit as Judge in Native cases, except in the Court of Appeal.

But the Ordinance does not speak of 'serious criminal charges against natives' generally, but only of 'cases between natives,' crimes committed *by natives on natives*—

'all cases whatsoever between natives,' 'all crimes heretofore committed, or which may be hereafter committed, by any of the said natives against the persons or property of any of them, as well as all transactions between themselves,' 'all crimes which may be deemed repugnant to the general principles of humanity recognised throughout the whole civilized world, which have heretofore been, or may hereafter be, committed, by any of the said natives against the persons or property of any of them.'

And the offences charged against the prisoner were offences against the whiteman, crimes against the Government, 'treason' and 'rebellion.'

'The offences charged against the prisoner were offences specially known to Native Law, and, when taken together, amounted to rebellion against the Native Government; and that Government was bound to vindicate its authority by its own inherent powers, or cease to exist.'

Ans. The Native Government can 'vindicate its authority' under the Ordinance by punishing by fines and forfeitures, even to the extent of 'removing' a Chief.

'Murder, rape, arson, &c., are crimes known to civilized law, and there can, therefore, be no difficulty in their being tried before the ordinary tribunals of the country, should the Attorney-General so decide. But it may be questioned whether the removal of the Petitioner, and that of the men and cattle of his tribe, from the jurisdiction under which he was living, without the permission required by Native Law, or his refusal to obey repeated summonses to appear at the seat of Government,—or whether even firing at and killing Her Majesty's subjects outside the Colonial border, supposing this to have taken place, as is averred by Petitioner, outside such border,—could have been taken cognizance of by a Court whose guide is Colonial Law established by Ordinance 12, 1845, which, as far as crimes committed by natives against Native Law are concerned, is repealed by the Ordinance 3, 1849, now under consideration, and whose jurisdiction is bounded by territorial limits. It might, therefore, have happened that the crime of rebellion, as charged, 'the greatest that can be committed, because it involves all other crimes,' would have remained unpunished, and thereby have been directly encouraged.

Ans. The charge of 'firing at and killing Her Majesty's subjects outside the Colonial border' might have been examined in the Colonial Court under the Imperial Law 26 & 27 Vict., cap. xxxv.

The so-called 'rebellion' in this case has been punished without any trial by 'removing' the Chief, killing hundreds of his people, capturing all the women and children, 'eating up' all his property within reach, and outlawing himself and his tribe.

But it is well to notice that the prisoner, by the admission of the Council, had committed no offence for which he could be tried 'before the ordinary tribunals of the Colony.'

'(ii) Because, with respect to the charge of "pointing," &c. . . . in a Kafir Court.'

'It may be true that the killing of the subjects of Her Majesty

the Queen took place beyond the boundaries of the colony; but the proclamation of Sir P. Maitland (Aug. 21st, 1845), quoted to prove this, does not describe the present boundary of Natal, which is the watershed on the *summit*, and not a line along the *base*, of the Drakensberg Mountains. See Proclamation, 5th June, 1858. But supposing the act to have taken place beyond the border, the jurisdiction of the tribunal by which the prisoner was tried was not affected thereby. The special difference between Colonial and Native Law is that the jurisdiction of the latter is personal, and follows a criminal without reference to boundaries, while the former, with a special exception, is restricted by the Act 26 and 27 Victoria, cap. xxxv, which applies the Colonial Law of the Cape and Natal Colonies to British subjects in all territories between the boundaries of those colonies, and the 25th degree of South latitude, '*not being within the jurisdiction of any civilized Government,*' and enacts that 'every crime or offence committed by any of Her Majesty's subjects within any such territory shall be cognizable in the Courts of the Colony of the Cape of Good Hope or of the Colony of Natal, or of any of Her Majesty's possessions in Africa to the southward of the 25th degree of South latitude,' &c. If the firing upon and killing Her Majesty's subjects did not take place in Natal, it could have happened only in British Basutoland, which is a British possession, and cannot, therefore, be affected by the act of Parliament cited.'

Ans. The definition of the boundary was corrected in a note to the Appeal, the original mistake having been confirmed by the fact that the Government itself, in the Proclamation of Nov. 15, 1856, defining the Electoral Districts, had assumed the *wate:shed* to be the boundary, when the *base* was legally so, since the Order in Council, authorising the change, did not take effect till more than two years afterwards (Jan. 1, 1859).

The rest of the above remark evades the point at issue, which is clearly this, that, if the alleged crime was committed out of Natal, but 'within the jurisdiction of any civilized Government,' it should either have been tried by that Government or in the Colonial Court of Natal. But the quasi-official '*Introduction*' states that the tract, in which the Pass affair occurred, 'intervenes between the boundaries of the Cape Colony and Natal,' and it is very doubtful if it belongs legally to British Basutoland; if it does not, the case falls at once under the Act 26 and 27 Vict., cap. xxxv.

'(iii) Because, contrary to all Kafir law, &c. . . . as well as prefer charges.'

'Upon this third reason the Council remark that the publication called 'Compendium of Kafir Laws and Usages,' and which is quoted as an authority by the Petitioner, is not, and never has been, recognised as such in this colony. Native Law knows of no such institution as that represented by a body of professional lawyers; every one present at a native trial is entitled to examine in favour of either side, and in the case of the Petitioner's trial this invitation was several times given and the right recognised. The question of allowing a member of the Colonial Bar to attend in his professional capacity was therefore not a right which the prisoner could have claimed.'

Ans. The 'Compendium' is not 'quoted as an authority,' further than to illustrate the customs which prevailed generally among the Kafir tribes of S. Africa, including those in Natal and Zululand, before the tyrannical innovations of Chaka, and especially with respect to the 'desertion' (*hlubuka*) of a tribe, that is, its leaving one Supreme Chief for another.

Though the S.C. had a Magistrate as Prosecutor, he refused to 'allow or ask anyone to say anything or act for the prisoner,' p. 21, thereby excluding all his friends, white or black, as well as 'professional lawyers,' from giving him any help in his Trial. No 'invitation' was ever given to any of those friends to ask questions on his behalf. Only the seven Native Chiefs and Indunas, who were chosen to form the Court, were told on the Fourth Day that it was 'competent for them to put any question to assist the prisoner if they felt so disposed,' p. 21, and again, on the same day, 'H.E. asked the Native Chiefs, members of the Court, if they wished to ask any questions or say anything, especially anything in favour of the accused,' p. 23. As these Native Chiefs had already on the First Day poured out their vials of indignation upon their fallen brother, before hearing a word of the evidence, he was not very likely to get much aid from them, with the warning of Putini's tribe before their eyes, if they showed the least spark of sympathy for the 'rebel' in the presence of the S.C. himself; and, in point of fact, it does not appear that anyone of them asked a single question throughout the Trial. The Official Record gives no other sign even of this 'invitation' having been 'several times given,' and none whatever of 'the right having been recognised' that 'everyone present at a native trial is entitled to examine in favour of either side.'

This last is merely a daring assertion, without a particle of support in the evidence or, as I believe, in the facts of the case.

‘(iv.) Because the Court, &c. . . . only aggravated the offence.’

‘When the prisoner was called upon to plead the first day he admitted all the acts charged against him, except that of having held treasonable communications with the Basuto Chiefs or any other person (*Record*, p. 3). He wished for certain witnesses to be called, to justify or extenuate what he had done; he justified his order to undress the messengers by pleading fear; the other indignities offered to the messengers were so offered, he said, outside the hut, he (the prisoner) being inside.

‘The witnesses he required were all beyond the colonial border, and the prisoner knew this; they were the leading men of the tribe, and among them was Mabudhle, the military head of the tribe, who commanded at the Bushman’s River Pass.

‘The prisoner threw all the blame on Mabudhle, and wanted him and the others named, who were under him, to be brought before the Court, for they would justify him in reference to the charges brought against him—his obvious meaning being that it was these men who had led him to adopt the course he had followed, and that the establishment of their guilt would excuse his.’

Ans. The prisoner admitted certain acts, but denied that they were acts of ‘treason’ and ‘rebellion’ on his part; and the evidence on the Second Trial, which was excluded, would have shown that Mabudhle directed the firing at the Pass in direct disobedience of the prisoner’s orders. As he was kept in solitary confinement till after his Sons’ Trial, not being allowed to speak with anyone, white or black, who might have helped to find witnesses for him, he can scarcely be blamed with any justice for not being able to produce such witnesses, more especially as none but men who were themselves present at the Pass Affair, like Mabudhle, &c., could have been of any use to him, and most of these had escaped from the hands of the Government. But on the Second Trial some important witnesses of this kind were examined, and gave evidence in the prisoner’s favour, which the Council ignores.

‘The Court accepted the plea as one of guilty to the charges particularised, and the native assessors proceeded to deliver addresses in the belief that the trial had ended. But at its next session the Court determined to hear evidence, ‘not because the plea

of yesterday was regarded as anything but one of guilty, but for the purpose of placing on record the extent of the prisoner's crime'; as a judge or magistrate, knowing nothing of the circumstances of a charge to which a plea of guilty had been made, might read the preparatory examination.' (*Record*, p. 7).

Ans. The Court, being unable to *prove* his guilt, was only too ready to 'accept the plea as one of guilty to the charges particularised,' as appears by its repeating the statement again and again. Yet when, after the prisoner had pleaded, 'the native assessors proceeded to deliver addresses in the belief that the Trial had ended,' Zatschuke said—

'The only satisfactory part of the prisoner's reply was his admission of the way in which he had treated the Messengers. . . . It would have been much better, and he would have been better satisfied, and more inclined to believe him, if prisoner had *admitted the truth of all the other charges*; for it appeared to him that a denial only aggravated the offence.' p. 5.

Thus one of the Native Judges, 'Head Induna to the Government,' did *not* 'accept his plea as one of guilty to the charges particularised,' but only to one of them.

'But whatever doubt there may be of the nature of the prisoner's plea on the First Day, it is entirely removed by that which he made on the Fourth Day, when he "called himself an Umtakati (evil doer), admitted that he had sinned, and had nothing to say; he confessed his guilt." Nor can the Council allow the explanations of an advocate to contradict the plea which appears upon the face of the record.'

Ans. This confession, which he made on the Fourth Day,—when worn out by his long Trial, and feeling his utter desolation, as he stood there day by day without friend or adviser,—was only a general admission that he was in fault. But he did not admit his guilt as the Court represented it; for only just before he had said—

'I have nothing to say; I am simply awaiting the decision which your Excellency may arrive at, and, when that is given, I should wish a note or pass that I may send about and collect my children (tribe).' —p. 23.

And again afterwards he said, p. 26—

'It is quite true that I acted under fear, and urged on by other people—Mabudhle and others,—the Official Witnesses—to do what I did.'

In point of fact, he followed Zatschuke's advice, that he should—

'tell the truth, admit what he had done, and what had made him do it, and throw himself on the mercy of the Supreme Chief—that was the course Zatschuke recommended, as the only course which was likely to do the prisoner any good,' p. 6—

advice which Zatschuke repeated to him privately, as the prisoner informed me.

'(v.) Because when one, &c. . . . taken up just after it.'

'The Council remark on this 5th reason that the prisoner himself admitted at his trial that he had caused the messengers to strip and undress, p. 3. Whether this order was dictated by fear, or by a desire to humiliate the messengers, it was equally an act of hostility and insult to the Supreme Chief, in whose name the messengers presented themselves. But the essence of the prisoner's offence was, that the summons to appear was distinctly delivered to him, and that obedience on his part was as distinctly refused, and the refusal persevered in. Anything disrespectful shown to the messengers over and above this was an aggravation of an offence already sufficiently serious; no weight can therefore be attached to this reason.'

Ans. No allusion is here made to the special reason for the prisoner's fear, which was quite enough to excuse it, viz. the treachery alleged to have been practised by an agent of the Government in former days against the Chief Matyana under very similar circumstances. And when the prisoner pleaded this excuse for his act in 'causing the messengers to strip and undress,' that is, take off their jackets, H.E. told him that 'he looked upon it as an aggravation of the insult and crime, that it should be supposed that this Government could be guilty of treachery,' p. 3. But, if this Government had been guilty of such treachery in the person of a white official in Matyana's case, the petty act of 'stripping' which really took place is very naturally explained, without the necessity of supposing that any act of hostility or insult was intended to the Supreme Chief in the 'humiliation' of his messenger. If the prisoner had really meant 'hostility' and 'insult,' why did he not order, or at least permit, some personal injury to be done to Mahoiza, instead of giving him a number of slaughter-oxen and plentiful supplies of food, or why, at any rate, did he not flatly refuse to see him or receive his message at all?

No doubt, he did refuse to come when summoned; for he was afraid of imprisonment or death if he did, the Indunas of the Magistrate at Estcourt having told his Indunas that imprisonment would

be his lot, *Off. Rec.* p. 50, and he himself well knowing that his own brother had been killed, when he obeyed such a summons from the S.C. of Zululand; and the S.N.A. stated in Court that only twice in twenty years had he sent for a Chief in this way, that is, in the very serious cases of Sidoi and Matyana.

‘(vi.) Because Petitioner was kept in solitary confinement, &c. . . . spirit of defiance.’

‘The sixth reason is founded upon no portion of the record. The Council have, therefore, requested the Lieut.-Governor to direct a report on the subject to be furnished by the Keeper of the Gaol.’

Ans. This is a very convenient way of disposing of this point, more especially as the fact in question, as I am aware, was well known to the S. N. A., down at least to the time of the Chief's Trial. As the statement in question was put before the Council on June 24, and even the arguments of Council were concluded on July 9, such a Report might surely have been obtained before July 13, when this Judgment was given, the Gaol being not ten minutes' walk from Government House.¹ But, incredible as it may seem, the fact as stated in the Appeal is strictly true in the sense in which it was plainly intended.

‘(vii) Because the sentence, &c. . . . had expended his power.’

‘Section 4, of Ordinance 3, 1849, enacts that ‘the Lieut.-Governor shall hold and enjoy, over all the chiefs and natives in this district, all the power and authority which, according to the laws, customs, and usages of the natives, are held and enjoyed by any Supreme or Paramount Native Chief, with full power to appoint and remove the subordinate chiefs or authorities among them.’ The Council cannot consider the last sentence of this section as restricting the preceding portion, which invests the Lieut.-Governor with much greater powers than those of the mere appointment and removal of subordinate chiefs, or authorities other than chiefs, among the natives.’

Ans. The Council, therefore, regards the clause in question as mere surplusage, though the Attorney-General of the Cape (Mr. Porter), when reporting on this Ordinance, treats it as important, speaking of ‘the elevation of the Lieut.-Governor, not by Native Law, but

¹ On July 25 I received on application a copy of this Report from the Governor of the Gaol, which is considered below. But it is dated June 27, and had, therefore, been already ‘furnished’ a fortnight previously!

by the 4th Section of this Ordinance, to be Supreme Chief, with power to remove all subordinate Chiefs, a power which he is not bound to exercise according to native custom.' *Natal Papers*, presented to Parliament, Aug. 14, 1850, p. 118. But what could be the meaning of inserting such words, if he was meant to exercise *all* the powers of a Supreme Chief, to the extent of putting to death? Nay, the S. C. of Zululand and, no doubt, others have power to order a man and his whole family and connexions, upon mere suspicion, to be knob-kerried or assegaied without a trial. And such power, it seems, is here claimed for the S. C. of Natal—a power which the Queen Herself does not possess, and which She could not therefore, by enactment or otherwise, delegate to Her representative!

'The powers of a Paramount Chief, according to the laws, customs, and usages of the natives, certainly include that of putting to death. Banishment or transportation is a less punishment than death; and the petitioner, who claims to be tried under a law in which the powers of the Paramount Chief are thus described, (*Compendium of Kafir Laws and Customs*, p. 75), 'The Paramount Chief of each tribe is above all law in his own tribe; he has the power of life and death, and is supposed to do no wrong,' cannot reasonably complain of the power which has been exercised in the petitioner's case, in the discharge of the functions and powers conferred by the law above quoted.'

Ans. For a civilised man it is true, of course, that 'banishment or transportation is a less punishment than death.' In the case of Langalibalele, subjected to an unknown kind of punishment, which has never yet been inflicted on anyone, white or black, in this colony,—severed from all his wives and children, without hope of ever seeing them again, except his son Malam-bule transported with him for five years,—with no employment for body or mind, no literary occupation, no distant prospect of better times, such as a white man would have, to beguile his weary hours,—and with a Kafir's estimate of the value of human life—it may be questioned if the doom of transportation for him is not much more terrible than death itself.

If the power of the Lieut.-Governor, as Supreme Chief, is limited in the 4th Section of the Ordinance to that of 'removal,' the reference made above to the 'Compendium' is beside the mark.

'The Council are of opinion that the effect of the Proclamation alluded to was simply to declare outlawry against the tribe and forfeiture and confiscation against the property, that is, the *civil* punishment attaching to the crime of rebellion. But there is, in addition, a *criminal* punishment to which the chief and the individuals of the tribe remained liable, when they should be apprehended and brought to trial personally. The civil process above described was carried out in 1846 against the Chief Fodo, in 1857 against the Chief Sidoi, and in 1858, against Matyana; and in the latter case a portion of Langalibalele's tribe was employed to enforce it. But the criminal process was not carried out in these cases, because the rebellious chiefs were not apprehended; and in the case of Sidoi he has, since the trial of Langalibalele, submitted himself to this process, and been pardoned on paying a fine.

'A person found guilty of the crime of High Treason in England is subject to the same liabilities, civil and criminal.'

Ans. Under 'Native Law,' fines and forfeitures are employed as punishment in almost all criminal cases, including cases of murder (*Compendium*, p. 35, 60). Accordingly Matyana, having killed a man and his two sons, was heavily fined under Native Law, and warned that, for another such offence, he would be tried under Colonial Law, and, if convicted, would be hung. Nay, the circumstance, which led to the Ordinance, No. 3, 1849, being passed, was this, that,—

'a most atrocious murder having been committed among the natives under the plea of witchcraft, the Diplomatic Agent (Mr. Shepstone) had decided upon it definitively by muleting the parties concerned in 80 or 100 cows,' *Natal Papers*, quoted above, p. 105—

against which proceeding the Recorder (Mr. Cloete) protested.

Under Native Law, when a 'rebellious'—that is, deserting—tribe has been 'eaten up,' there is an end of the matter.

'When a kraal or clan is rebellious, the custom of "eating up" is resorted to. . . . If they resist, they are fired upon or assailed without mercy. . . . "Eating up" is the only physical force which the Chief has at his command to keep his people in order.' *Kafir Laws and Customs*, p. 73.

'Kafir Law, strictly speaking, recognizes no other punishment than that of fine or compensation. "Eating up," and putting individuals to death for imaginary crimes such as sorcery, &c., are mere arbitrary acts of the Chief. "Eating up" is, however, absolutely necessary when a kraal

or clan resists the orders of the Chief, as he has no other means of upholding his authority and enforcing the law.' *Ib.* p. 58.

This is the Native Law which prevails 'substantially the same in all the amaXosa tribes,' p. 60. But, of course, it is impossible to argue with a Supreme Chief who adopts for his guidance the arbitrary and sanguinary system of Zululand, or makes 'Kafir Law' to suit his own convenience, introducing, as here, from the practice of civilized countries, the distinction of 'civil' and 'criminal' liabilities for High Treason.

In the cases of Fodo, Sidoi, and Matyana, it was not heard that 200 men (and women) were killed in caves and bushes, and 2,000 women and children captured, who are now allowed to be ransomed by their friends at 10s. each! Is this part of the 'civil' or 'criminal' punishment?

'(viii) Because banishment, &c. . . . transportation for five years.'

'Banishment cannot be said to be a punishment wholly unknown to Native Law; it was, in this case, the only alternative punishment to that of death. The latter is most frequently adopted by the Zulus; but the former is used among many tribes, and notably to the South of this Colony, where the chief, for some special reason, does not wish to put to death. But it is impossible to argue that the power, which can put to death, cannot, if it pleases, adopt the less severe alternative of banishment.'

Ans. 'Banishment'—that is, expulsion merely from the Supreme Chief's territory, with liberty to settle outside his border—if practised, as here asserted, 'among many tribes and notably to the South of this Colony,'—though, according to *Kafir Laws and Customs*, p. 36, this punishment is 'unknown to Kafir Jurisprudence,'—is a totally different thing from 'transportation for life' to a convict-station. The Chief and his tribe, in fact, were 'banished' when 'driven out of the Colony' and 'outlawed,' and were perfectly content to be so. This reply, therefore, to the argument in the Appeal is a mere evasion.

'(ix) Because the seven, &c. . . . out of the Colony under an armed escort.'

'The illegal and unprovoked firing upon and killing Her Majesty's subjects at the Bushman's River Pass—the resistance to the Government forces in the Location which killed other of Her Majesty's subjects—are certainly acts for which any prisoner convicted

of them would be 'liable to forfeit his life under the law of any civilized country in the world'; and the Petitioner was convicted of these acts, because, although not present at either, it was plain from his own admissions, and from the evidence, that they were done in pursuance of a common illegal design, of which he was the leader.'

Ans. The Council omits to notice the fact that the seven Native Chiefs and Indunas were allowed to sign a solemn statement that the prisoner—

'appeared before them convicted on clear evidence of several acts, for some of which he would be liable to forfeit his life under the law of every civilized country in the world'—

while totally ignorant of the law of any civilized country,—a clear proof that the Court was prejudiced against the prisoner. And it tries to get rid of the fact that the four European members of the Court have signed a similar statement, which is manifestly untrue in respect of five of the six points on which he has been found guilty, by adding to his alleged complicity in the Pass affair 'the resistance to the Government forces in the Location, which killed other of Her Majesty's subjects,' of which he was *not* found guilty, as indeed it would be monstrous that he should have been under the circumstances, when he had been 'driven over the Mountain out of the Colony,' while the Government Force was employed in 'eating up' the remaining property of the tribe and capturing and butchering wretched fugitives in caves and bushes. I repeat that the prisoner was not convicted of these acts; and therefore the fact remains that the white Judges in the Court below—the S.C., the S.N.A., and the two Magistrates—as well as the black Judges under their influence—were actuated by a strong prejudice against the prisoner; and moreover the Court of Appeal has shown that it shared that prejudice by this lame and disingenuous attempt to justify the language of the Court below.

'That the Petitioner was legally as well as morally responsible for these acts is clearly laid down by the Lord Chief Justice of Ireland, as a rule for the jury at the trial of O'Connell and others for conspiracy, in these words: 'It is not necessary that it should be proved, that the several parties charged with the common conspiracy met to concoct the scheme; nor is it necessary that they should have originated it. The very fact of the meeting, to concoct the common illegal agreement, it is not necessary should be actually

proved to you ; it is enough that, and you are to say whether, from the facts that have been proved, you are satisfied that these defendants were acting in concert in the matter. If you are satisfied that there was a concert between them, that is, an illegal concert, I am bound to say that, being convicted of the conspiracy, it is not necessary that you should find both the traversers doing each particular act ; as, after the fact of a conspiracy is once established in your minds, whatever is either said or done by either of the defendants in pursuance of the common design is, both in law and in common sense, to be considered as the act of both.' (See).

[N.B. The reference is left blank, as above, in the Judgment as published.]

'The Court was of opinion that the acts above described were done in pursuance of a common design, and that petitioner was a leading party therein, and most responsible therefor.'

Ans. The Council here discusses the question of the prisoner's responsibility for these acts, instead of in its proper place, where the arguments in the Appeal are left unnoticed. The reply therefore may be given here, as regards the act at the Bushman's River Pass, of which alone he was convicted, *viz.* that not *all* the consequences even of a thoroughly illegal act are to be charged on the offender, not such as are of a 'distinct and unconsequential nature' (BLACKSTONE, IV. 37)—that there was nothing unlawful in their having their arms, while driving their cattle beyond the colonial boundary—and that it was by no means an immediate consequence of their carrying arms, for use on their journey or when settled elsewhere, that they should attack the Government force, especially when the prisoner had strictly charged them not to do so.

'There remains only the sixth charge, &c. . . . not in a Kafir Court.'

'It has already been laid down in a former part of this judgment that the jurisdiction of a native Chief is over the persons of his subjects, and that it is not bounded by territorial limits. His right to pursue and seize his fugitive subjects is limited only by considerations of policy and prudence. When the petitioner was tried, he was within the territory over which the jurisdiction is undoubted ; and the question where he had been apprehended, and by whom, or under what law, he had been delivered up, could in no way influence his trial for the crimes with the commission of which he stood charged, most of which were committed within the territory and the jurisdiction which he attempted to abandon.'

Ans. Why then did this Government receive Langalibalele and his people when refugees from Zululand? And why does it still receive such refugees, only giving back their cattle? By these acts it has practically notified in the plainest manner to the Chiefs of this district that it adopts the well-known principle of Kafir Law—

‘Refugees are always received by the Chief to whom they fly And they are never demanded, for, if they should be, they would not be given up.’ *Kafir Laws and Customs*, p. 75.

It was to this principle Langalibalele appealed, when he fled to Molappo, as stated in the course of the Second Trial, p. 49—

‘the object or intention being to give up the guns, and then plead an international custom, that when one tribe had run away, and got in amongst another tribe, they would be saved.’

It is a very important question ‘where he had been apprehended, and by whom and under what law he had been delivered up;’ because upon this depends, as already observed, whether he should have been tried in a Colonial Court—at all events for the most grave offence charged against him, the affair at the Pass—in accordance with the Imperial Act, 26 and 27 Victoria, cap xxxv—unless, of course, the Supreme Chief’s powers, as assumed to be given in the Ordinance, are to override all law, Imperial or otherwise.

‘4. That under Native Law, &c. . . . and spoke with his clerk (p. 78).

‘These grounds represent a series of circumstances upon the occurrence of which it was thought necessary in the first instance to summon the petitioner to the seat of Government, with the view of preventing what has since taken place. For eight months he had full opportunity of appearing and explaining any part of his conduct capable of explanation, but he declined, excusing himself, as he himself admits, ‘by evasion and deliberate falsehood.’

Ans. It is unfair to say that ‘for eight months, &c.’ and not to add—what plainly appears from the evidence—that he declined through fear of imprisonment or death awaiting him if he did go to Maritzburg; as he and his tribe could never have believed that for some paltry dispute about not sending in guns for registration, in respect of which (as the evidence clearly shows when examined) he was not really in fault, or for some petty squabbles with the Indunas at Estcourt, he would have been summoned before the Supreme Chief at Maritzburg.

‘The petitioner was not specially found guilty of these minor offences; but the count in the indictment, which charges him with more serious crime, sets forth these preliminary misdemeanours.’

Ans. I do not understand the statement, ‘the petitioner was not specially found guilty of these minor offences,’ when I have copied them from the Sentence itself, where first we read—‘From the evidence before us the following facts are brought to light,’ and then the offences of which he is found guilty are numbered 1st, 2nd, &c., the 5th including the two separated by me as (v) ‘directing his cattle and other effects to be taken out of the Colony under an armed escort’ and (vi) the ‘affair at the Pass,’ and the 6th being the charge of having made ‘treasonable communications,’ which last was abandoned. And then it is added ‘Of all the other charges we find the prisoner guilty.’ What are ‘All the other charges?’ If the 1st, 2nd, and 3rd are omitted as ‘minor offences,’ of which the prisoner ‘was not specially found guilty,’ all the other charges’ are reduced to the 4th and 5th, as numbered in the Judgment, that is, to two, for ‘some of which he would be liable to forfeit his life under the law of every civilised country in the world.’

‘The Council cannot but attach considerable importance to the opinion of the native assessors, strongly expressed at the trial, as to the duty and obligation of the chief to compel his people to submit to the provisions, well known to all the natives, of the Law No. 5, 1859; which, while they prohibit the possession of fire-arms by natives, yet sanction such possession upon compliance with certain very simple conditions.’

Ans. As to ‘the opinion of the native assessors strongly expressed at the Trial’ in the presence of the Supreme Chief and the S.N.A., it would have been more satisfactory if the scanty returns in Mr. Perrin’s Register of guns licensed for natives throughout the Colony, as quoted in the Appeal (p. 310)—upon which, however, the Judgment is silent—had exhibited more signs of zeal on the part of these Chiefs in registering the guns in their own tribes, as well as in denouncing the prisoner’s conduct.

‘(iv.) With respect to his having refused, &c. . . . to go to the S. C.’

‘The statement herein advanced as a reason in support of the fourth objection is wholly unsustainable. No attempt to take Matyana’s life, as is averred, is proved to have been made on the occasion referred to. It may be agreed [? argued] that Petitioner’s tribe supposed it had, and therefore the same effect was produced upon their

minds. But it would be impossible to admit that alleged belief in a mere rumour is a valid excuse for deliberately disobeying a lawful summons.'

Ans. It is difficult to express one's feeling in reading this portion of the Judgment without overstepping the courtesy due to the Lieut.-Governor, the S.N.A., and the other members of the Executive Council. Let the reader judge for himself, when he is made aware of the facts, which I must now state more fully than I thought it necessary to do in the 'concise' written statement.

The prisoner in his plea had said that his 'causing the messengers' before going into his hut 'to strip and undress,' that is, take off their coats, was 'a matter of precaution caused by fear.' But he did not explain this further, and the S.C. silenced him at once by saying that 'he looked upon it as an aggravation of the insult and crime that it should be supposed that this Government could be guilty of *treachery*.' H.E. therefore perceived that the prisoner's words implied that he feared some act of 'treachery'; but as yet the special cause of his fear remained undefined.

This cause, however, appears plainly enough in Mahoiza's evidence, who thrice refers to the 'pistol' which 'Mr. John Shepstone' had 'concealed' about him 'when he arrested Matyana.'

'They were afraid he (Mahoiza) might have the same pistol which Mr. John Shepstone had *when he arrested Matyana*,' p. 12.

'He was afraid we might have a gun or pistol about us, as Mr. John Shepstone had *when he arrested Matyana*,' p. 13.

'They thought I had a gun hidden away in my possession, as Mr. John Shepstone had *at the arrest of Matyana*,' p. 26.

Now Mr. John Shepstone never did 'arrest Matyana,' as all the members of the Court well knew, except perhaps H.E., who was not in the Colony at the time. It seems strange, therefore, that not one of them asked a question as to the real meaning of Mahoiza's words; from which fact, however, it may be inferred that they knew sufficiently to what affair they pointed, and did not wish to be further informed. Of course, if anyone had been allowed to act for the prisoner, the facts in question would have been brought to light. But under the circumstances the statements were allowed to pass unquestioned, and, as they appear in the Official Record, will only mislead the uninformed reader here or in England.

The Sentence merely said that the messengers 'were partially undressed by the prisoner's orders, under the *pretext* that weapons were concealed in their clothes,' p. 35. And the quasi-official

'Introduction,' though it devotes nearly a whole folio page to extracts from Mahoiza's account of the 'stripping,' p. xii, omits carefully to quote any of the three passages above cited.

In the written Appeal it was stated that the Prisoner feared 'that Mahoiza might attempt his life with a concealed fire-arm, as was formerly done in the case of Matyana, within the knowledge of his tribe.' It was stated thus 'concisely,' as desired, without entering more fully into details, as I was prepared to do if the Council had desired any further elucidation of the matter referred to. But the Council did not desire any.

One more opportunity was given when Mr. Advocate Goodricke formally asked the Council to hear further evidence as to the real ground of prisoner's fear; and he was ready with a number of witnesses, including eye-witnesses of the act in question, described by them in all its details as an act of consummate treachery. But the Council, admitting that it had power to receive such additional evidence, after half-an-hour's deliberation with closed doors, refused to receive it.

And now, after all this, the Council says in its Judgment—

'The statement herein advanced is wholly *unsustained*. No attempt to take Matyana's life, as is averred, is *proved* to have been made on the occasion referred to!'

I leave it to all fair-judging men in England or elsewhere to characterise for themselves such conduct as this.

But, when it is further said—

'It may be agreed [*? argued*] that Petitioner's tribe supposed that it had, and that therefore the same effect was produced on their minds. But it would be impossible to admit that alleged belief in a *mere rumour* is a valid excuse for deliberately disobeying a lawful summons'—

it must be added that the eye-witnesses would not have all belonged to 'Petitioner's tribe'—that the belief in question does not depend on 'mere rumour'—and that, even if it did, a 'Paternal Government' would surely rejoice to find that the disobedience in question proceeded from 'fear' and not from defiance.

(v) 'With respect to his having directed, &c. . . . to do so.'

'There is no doubt that petitioner did direct his cattle and other effects to be taken out of the colony with an armed escort, and, the consequence of this was the firing by the men of his escort upon Her Majesty's subjects, killing five and wounding others,

while the officer in command supposed that his advice to submit themselves to their duty and return to their allegiance was being favorably entertained. The Court was, therefore, bound to take the facts as presented to them, and the intention which these facts disclosed.'

Ans. The Council would have had 'the facts presented to them' as exhibited in the Official Record of the Sons' Trial, had that not been excluded in the preparation of the Appeal, from which it clearly appears that the affair at the Pass took place in direct disobedience of the Chief's express orders. And it would be just as unfair to make him responsible for this, as to hold the S. C. responsible for the conduct of his lieutenants in respect of unarmed men and women shot, stabbed, or suffocated in caves and bushes, or the outrages committed in that 'step apparently unwarranted,' the eating-up of Putini's tribe.

'To urge that Petitioner was at liberty under Kafir or Native Law to remove his cattle if he could, is to say that any subject is at liberty to break the law of the State to which he belongs, provided he is strong enough to resist or cunning enough to evade. There are regulations which have long been in force in this colony, to regulate the removal of individuals or tribes from one part of the colony to another, or from the colony altogether, which the petitioner is fully acquainted with; these regulations are constantly acted upon, and are entirely at variance with those quoted in the petition.'

Ans. What reason is there to believe that the prisoner was 'fully acquainted' even with the fact that—

'any tribe in this Colony is at liberty to remove itself and its cattle out of our jurisdiction, if it does so peaceably, and with the cognizance and previous consent of the authorities,' *Sentence*, p. 36?

Was this ever notified in any way to him and the natives generally? I never heard of such a publication, and I very much doubt if it was ever made: whereas it was notified continually in the plainest manner that any tribe might leave, if they could, against the will of the S. C., by the acts of the Government, in the simple fact of our receiving at once such refugees from Zululand, only turning them and their children into apprentices to 'farmers and others' for three years. In Langalibalele's case to talk of such 'consent' being needed is a mere mockery. No 'previous consent' would have been given, unless the Chief went to

Maritzburg, and he dreaded, or his tribe dreaded for him, imprisonment or death if he did. What was he therefore to do but to appeal to the 'international custom,' which everywhere else prevails among the Kafir tribes, and which we ourselves act upon in the case of refugees from Zululand, and 'leave peaceably' without such consent—as he did?

'(vi) With regard to the affair at the Bushman's River Pass, &c.'

'These concluding considerations are urged in extenuation of what took place at the Bushman's River Pass, and are for the most part more suited to a memorial praying for remission of sentence, than to an appeal from the judgment of one Court to that of another; they cannot therefore be entertained by this Council.

'Two grounds are however advanced which it is necessary to notice. It is assumed that the leaving of the colony by the Petitioner and tribe, with their cattle and arms without permission, was a legal act, and specially that the taking of their arms with them was justified by the knowledge on the part of the tribe that they were about to make their way amidst unknown dangers, through a trackless wilderness. It has already been shown that leaving the jurisdiction without permission was an illegal act. It must therefore follow that to arm for the purpose of more effectually performing such illegal act was an aggravation. Among the possible dangers, to defend themselves against which the guns were taken, was that of encountering the Government forces; and the affair at the Bushman's River Pass was the immediate consequence of their concerted plan and common design.'

Ans. Under Native Law as recognised elsewhere, and in this Colony with reference to refugees from Zululand, they might leave the Colony when they liked, and with their cattle, if they could—though the cattle might be returned by the Chief to whom they fled, as we return all cattle of refugees to the S. C. of Zululand. But supposing that the act of leaving the Colony was, as the Judgment says, an 'illegal act,' there is no proof that they took their arms 'for the purpose of more effectually performing' this act; they took them for use when they had left the Colony, in the wilderness or elsewhere. They never expected to meet the Government Force by the way they went; but, if they did meet it, the orders were not to use their arms, but to leave the cattle and flee.

'The other ground is the allegation that the Government force

made the first attack upon Petitioner's people by killing a cow, and taking some guns from certain of his young men whom the force found asleep, and that therefore they had a right to defend themselves, and even to retaliate.

'To estimate this at its proper value, it is necessary to consider the position of the two parties on the occasion alluded to. On the one side was the military strength of the Petitioner's tribe, under its military head Mabudhle, armed and equipped for war, protecting the cattle of the tribe in their exit from the Colony—that is, supporting by an armed force the performance of an unlawful act in which the Petitioner and his tribe were acting in concert. While so engaged, a small party of the Government force, about 30 men, encountered them, announced their mission to them, reasoned with them, and urged upon them to return to their allegiance; and these friendly appeals were to all appearance accepted in a like spirit by Mabudhle and others. But before this a cow had been killed by order of the commander of the Government party to feed his starving men, and the process of skinning it was being proceeded with during the long interview that took place between the leaders on both sides.

'It became necessary for the Government party to change its position, and while so doing it was suddenly fired upon and several of its members killed and wounded.

'To justify such an act by such a plea is to trifle with the principles of right and wrong. The plea shows almost as conclusively as the act itself that the tribal force on the mountain were in arms prepared to resist the Government, that they had made up their minds to rebel against its authority, and felt that they had cut themselves off from all right of appeal to the tribunals of the country in which they had been living in peace and security, and to which they had hitherto been in the habit of applying with the fullest confidence for redress on all needful occasions. Such a plea needs only to be stated to be condemned as an unbecoming and wholly inadequate excuse.'

Ans. 'The military strength of the Petitioner's tribe.'

But this is a gross exaggeration; for one of the Basutos, Makatise, says, p. 18—'they were not a large army, but a strong force'—the *Witness* and *Times* Reports both say 'about 250'—Col. Durnford says 'probably 200,' *Parl. Blue Book*, p. 12; and the 'military strength' of the tribe is reckoned as 'say 1,875 adult males, nearly all of whom were fighting men,'

Introduction to Official Records, p. vii. Moreover, of these 250 or 200 how many came back because actually summoned by the six Basutos, who were sent 'to Langalibalele's people who had gone up the Pass, to instruct them to return with their cattle,' and, accordingly, in obedience to this summons, 'a detachment of Langalibalele's people appeared to be coming down the Pass, and Major Durnford went to meet and talk with them.'

'A small party of the Government Force, about 30 men.'

But there were 35 white men, armed each with breech-loader and 40 rounds of ammunition, and 20 Basutos—55 altogether.

'It became necessary for the Government party to change its position'—that is, Col. Durnford reports (*Parl. Blue Book*, p. 12), 'I was informed by the senior officer of Volunteers present that the Carbineers, many of whom were very young men, could not be depended upon. . . As I was about to retire by alternate divisions, the first shot was fired by the natives, followed by two or three, when, seized with panic, the Carbineers fled, followed by the Basutos.' But this movement, however necessary, was what tempted and drew on the fire, in direct disobedience of the Chief's orders.

The above facts alone—together with a mass of evidence in the Official Record of the Second and Third Trials—at once disprove the assertion that '*the tribal force* on the Mountain were in arms prepared to resist the Government'; though, being beyond the boundary of the Colony, they had under Native Law the right to do so, if attacked.

'The Council have now considered all the objections advanced, and the reasons upon which they are urged, and are of opinion that none of them can be sustained: they desire, however, to acknowledge the ability and moderation with which they were argued before them.'

'They have not thought fit to advise the rejection of this appeal upon any technical grounds, although it appears to them that the introductory and concluding paragraphs of the petition clearly admit the validity of the Court and its proceedings; they have preferred to examine and weigh carefully and separately each ground of objection presented in the petition, in which they have been much assisted by the arguments of counsel, and to base their opinion upon the result of such examination.'

'The Council, therefore, respectfully advise the Lieut.-Governor to affirm the judgment of the Court below, and to dismiss this appeal.'

(xi) *Report of the Governor of the Gaol at Maritzburg
and the Bishop's reply.*

Gaol, P.M. Burg, Natal, June 27th, 1874

Sir,—With reference to your letter of yesterday's date, forwarding extract from written Appeal presented to the Executive Council on behalf of Langalibalele, I have the honor to report thereon as follows.

The statement that Langalibalele was kept in solitary confinement is incorrect. Although allotted a separate cell for sleeping, he was not restricted to the two hours' open-air exercise, as prescribed by the schedule to Gaol Law, No. 6, 1870, being allowed to spend the greater portion of the day in the Gaol Yard, but expressed a great disinclination to leave his cell for some time after admission; he was not to associate with the members of his tribe until after trial, but saw them daily, and knew all who were there. One of his sons was allowed to wait upon him, and perform any service required, such as bringing his food, airing his blankets, &c.; and I never refused permission to him, or to his sons, to converse whenever they expressed a desire so to do.

With regard to the statement that he was not allowed to converse with any members of his tribe, I beg to state that previous to trial he was kept as much apart, as the crowded state of the prison would allow, from those who were in confinement upon the same charge as himself. It has always been customary for parties implicated to be kept separate; and I carried out a rule which I had no authority for violating in the case of Langalibalele. Respecting his not being allowed to converse with any friend or adviser, it is untrue. I have never refused admission to any visitor to Langalibalele complying with the Gaol Regulations, no restriction being placed on Ministers of Religion, several of whom, amongst them the Bishop of Natal, visited Langalibalele previous to trial. And I may state that although holding almost daily conversation with the prisoner, he never expressed a wish for a visit from any friend or adviser, white or black.

After Langalibalele's trial he was allowed free access to his sons and people, and before that it was impossible, from the number of prisoners in the Gaol, to carry out the Regulations so strictly as to prevent intercourse occasionally with all before trial.

On the day subsequent to his admission he was placed on European diet of the First Class, instead of the ordinary diet for Native prisoners. His relatives were often granted permits to visit him, and during his confinement in this Gaol every consideration possible to be shown to a prisoner was shown to him; he enjoyed good health, and no complaint was made by him to the Visiting Committee, the Resident Magistrate, or myself.

Trusting that this Report may be deemed satisfactory, I have, &c,

WILLIAM COOK,
Keeper of the Gaol.

The Hon. T. Shepstone, C.M.G., S.N.A., &c., Natal.

Bishopstowe, July 27, 1874.

Sir,—I have the honour to acknowledge the receipt by direction of H.E. [in reply to my application] of a copy of the Report (dated June 27) of the Keeper of the Gaol at Maritzburg on the subject of Langalibalele's solitary confinement. And I beg respectfully to submit that it agrees in all essential points with the statement made in the Appeal.

1. Mr. Cook says that the prisoner 'was not to associate with the members of his tribe until after trial'—that is, as I was informed by Langalibalele himself and others, till after his Sons' trial as well as his own—'but saw them daily, and knew all who were there.'

I was aware that Langalibalele, while sitting apart by himself in the Yard, must have seen some—perhaps most or even all—of his fellow-prisoners. But I said in the Appeal [p. 305] that he was not allowed 'to converse with them, or with any friend or adviser, white or black,' so as to be able to ascertain what amount of truth there was in Mahoiza's story, or to find witnesses, *e.g.* among the twenty members of Mahoiza's party, to disprove any portions of it.

2. Mr. Cook also says that 'one of his sons was allowed to wait upon him and perform any services required, such as bringing his food, airing his blankets, &c.'

I was aware also of this, *viz.* that one or other of his three younger sons was employed in discharging such offices for him. But I am informed that a policeman always accompanied him, and the father and son did not converse with each other. It is, of course, possible, that a few words may have passed between them on such occasions; but this would not affect the substantial correctness of my assertion.

Mr. Cook says he never 'refused permission to him, or to his sons, to converse, whenever they expressed a desire to do so.' But he does not say that he ever had occasion to *grant* such permission; and Langalibalele himself understood that he was not to converse with any of them. I was, moreover, informed by the S.N.A. that this rigid seclusion was enforced, in order to prevent their concocting a story together; though it is obvious that, if one or more of his sons had been placed with him, a story made up between them would have been overthrown at once by the testimony of the others, and the prisoner would not have been doomed, for two months together, before and after his trial, during the greater part of the day and night, to one of the direst of all punishments—especially for one who had no mental resources or relief of any kind for his weary hours—that of being shut up in his cell alone.

3. Mr. Cook says that 'it is untrue' that 'he was not allowed to converse with any friend or adviser,' and that 'he never refused admission to any visitor to Langalibalele complying with the Gaol Regulations, no restriction being placed on Ministers of Religion, several of whom, amongst them the Bishop of Natal, visited Langalibalele previous to trial.'

As I could hardly have forgotten my own 'visit' to the prisoner, when I was admitted into his cell for a few minutes, and made some

common-place remarks to him in the presence of Mr. A. Shepstone, and, I think, Mr. Cook himself, it is plain that in speaking of 'any friend or adviser, white or black,' I did not refer to mere formal visits such as this, or to like short visits made by ladies and gentlemen out of mere curiosity, or to those of 'Ministers of Religion,' if any such really visited the prisoner with a view to impart spiritual instruction. I referred plainly to his not being allowed to converse privately with 'any friend or adviser, white or black,' or even with the members of his own family, with a view to his Defence. And, although the prisoner did not express such a wish to Mr. Cook, it is well-known that he did manage to convey to Mr. Advocate J. B. Moodie, an old acquaintance and one thoroughly familiar with the Zulu language, his wish to see him for the purpose of preparing his Defence, and that Mr. Moodie applied formally for leave to see him, and was refused permission.

4. I presume that Mr. Cook in saying that 'his relatives were often granted permits to visit him,' means that this took place *after* his (or his Sons') trial, not before; as Mr. Moodie informed me that he had enquired at the Gaol and found that, on the day after the prisoner was brought down to Maritzburg, a number of his women were allowed to see him, and afterwards two more, but only on one occasion before his Trial.

I will only add that I am perfectly sure that Mr. Cook himself has treated the prisoner with all possible kindness and consideration consistent with his instructions.

I beg you to lay this letter before H.E., and I have, &c.

J. W. NATAL.

W. H. Beaumont, Esq., Clerk to the Ex. Council.

(xii) *Application to the Supreme Court of Natal.*

On Tuesday, July 14, application was made to the Supreme Court for an interdict to prevent the Lieut.-Governor transporting the prisoner to Robben Island—

(1) Because the Lieut.-Governor had no power under the Ordinance to sit in such a Court as had tried Langalibalele—

(2) Because treason and rebellion are offences against H.M. the Queen, and not 'between natives,' of which alone under the Ordinance a Kafir Court can take cognizance—

(3) Because the 4th clause of that Ordinance limits the power of the S. C. in the way of punishment to 'removing' a Chief—

(4) Because no place has been duly appointed under powers conferred by the Queen in Council (6. Geo. IV., cap. lxix. sec. 4), to which persons can be transported from this Colony.

The Chief Justice having recently died, and one of the two

Puisne Judges being in England, the matter came before the Acting Chief Justice and one Acting Puisne Judge, who decided against the application.

Langalibalele and his son, therefore, will most probably be sent to Robben Island, after a Trial in which all principles of justice, as recognised elsewhere by Englishmen, have been trodden under foot. At this moment, it would seem, 350,000 of the Queen's subjects in this Colony have no protection from any rash or headstrong measures of their Supreme Chief by appealing to the law of the land, though the first of the three 'absolutely indispensable' conditions, on which Natal was first occupied as British Territory, was this—

'That there shall not be in the eye of the law any distinction or disqualification whatever, founded on mere distinction of colour, origin, language, or creed, but that *the protection of the law, in letter and in substance, shall be extended impartially to all alike.*' (*Moodie's Ordinances*, II. p. 9.)

The Acting Chief-Justice (Connor) held that the Lieut.-Governor, as Supreme Chief under the Ordinance Nov. 3, 1849, has plenary despotic power, to do among the natives whatever he thinks right, without check or hindrance from the Law Courts—that the apparent limitation of his power as Supreme Chief in the 4th clause, 'with full power to appoint and remove the subordinate chiefs or other authorities among them,' is mere surplusage—and that the Imperial Law, 6 Geo. IV., cap. lxxix., sec. 4, is good for whites only, not for blacks. The natives in Natal, therefore, may at the present time be 'eaten up,' beaten, killed, transported, with or without trial, at the mere will of the Supreme Chief. They have no remedy here, no protection from any wrong or injustice, if done by the S.C., as Europeans have in the Law Courts. Their only hope is in the Will of Her Majesty the Queen, expressed through the Secretary of State for the Colonies.

N.B. This Act has been superseded by 32 Vict. cap. x, which seems hitherto to have wholly escaped the notice of the Authorities here, Civil and Judicial, if not also those at the Cape, as no reference whatever has been made to it in the course of these proceedings. By this it is enacted among other things as follows.

'4. Any two Colonies may, with the sanction of an order of Her Majesty in Council, agree for the removal of any prisoners under sentence or order of transportation, imprisonment, or penal servitude, from one of such colonies to the other for the purpose of their undergoing in such

other colony the whole or any part of their punishment, and for the return of such prisoners to the former Colony at the expiration of their punishment or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies.

‘The sanction of the order of Her Majesty in Council may be obtained in the case of a colony having a Legislative Body, on an address of such body to Her Majesty, and in the case of a colony not having a Legislative Body, on an address of the Governor of such colony; and such sanction shall be in force as soon as such Order in Council has been published in the colony to which it relates.

‘The agreement of any colony with another shall for the purpose of this Act be testified by a writing under the hand of the Governor of such colony.’

No such Order in Council has been obtained or published, nor has even been applied for by either of the two Legislatures concerned. But the above Imperial Law has been set aside by H. E., under the extraordinary powers assumed to belong to him as Supreme Chief, and Langalibalele and his Son have been transported to Robben Island on Aug. 5.

[Since the above was written, the *Parliamentary Blue Book* has come into my hands, from which (p. 79) it appears that the attention of Sir B. Pine was expressly drawn to this very Act by the Secretary of State in his Despatch of April 13, 1874, in the following words:—

‘I must direct your attention to a serious question connected with the Sentence which has been passed upon the prisoner of banishment or transportation for life, as I am at a loss to understand how effect can be properly given to it.

As you are probably aware, a sentence of transportation cannot be carried out under a Colonial Law beyond the limits of the Colony, unless an arrangement has been made with some other Colony under the Colonial Prisoners’ Removal Act (32 & 33 Victoria, cap. 10). It is for this reason that it became necessary to validate by the last section of that Act all former removals of prisoners under sentences of transportation passed by Colonial Courts, and that the power to Colonial Courts to pass such sentences of transportation has been abolished in almost all, if not all, the Colonies.

Nor am I aware how, without consent of the prisoner, the sentence of banishment can be carried into effect, nor, assuming that the Chief is prepared to leave the Colony, how sufficient security can be obtained that he will proceed, when once beyond the limits of the Colony, to the place assigned to him and reside there. It would not be prudent to allow a convicted prisoner under such circumstances as those of Langalibalele to reside near the frontier, even though outside it, where there would be

facilities and temptations to the stirring up of discontent and disaffection among the natives.

Under these circumstances, it becomes a grave question whether the sentence must not be commuted to one of imprisonment.'

As the above Despatch must have reached the Colony about the beginning of June, the Act in question must have been known to Sir B. Pine, and (I presume) to his legal advisers (to whom such a Despatch would, of course, have been communicated), at the time of the Appeal. Yet neither did the Attorney-General when Mr. Goodricke appealed to him, as the legal adviser of the Executive Council, whether the old law which he quoted applied to Natal, nor the Acting Chief-Justice, when Mr. Moodie urged the same antiquated enactment, give the least hint of the existence of the law of 32 & 33 Victoria, which applies directly to the case in question. And so the prisoner was transported on Aug. 5 in defiance of the Imperial Statute and in disregard of the advice of the Secretary of State.]

VI. PROCEEDINGS AT CAPE TOWN.

WHEN passing through Capetown on my way to England, I applied for permission to see the prisoners at Robben Island. As they were cut off from all communication with their tribe, and I was the only friend, white or black, who was likely to visit them for years to come, I never for a moment doubted that so innocent a request would have been immediately granted. I knew that not one of the Chief's wives had been sent with him, and that his condition, therefore, was far more desolate than that of the rebel Chiefs, Macomo, &c., who had not been transported at all, but had merely been *imprisoned* some years ago by the Cape Government at Robben Island, instead of in a Gaol on the mainland, and were then within reach of friends, and were from time to time visited by them. A story indeed was spread, before I left Natal, to the effect that a number of Langalibalele's wives had been asked to go with him, but they had all declined. I have no means of knowing what amount of truth there may be in this story. But it should be observed that, under the system of polygamy, a Kafir woman is more closely attached to her son than she is to her husband, and in her latter years usually lives in the kraal of the former. It would not be likely, therefore, that women, who had sons living at Natal,

or younger wives who had no children at all, would desire to face the unknown and for them terrible dangers of the sea, in order to accompany their husbands. But I do know that the one woman, who ought to have been sent, and who would most gladly have gone—the mother of the boy Malambule, transported with his father for five years—was not asked to go. She came to me in great distress, entreating me to interfere on her behalf, and procure permission for her at least to see them before they were sent away, and, if possible, to be allowed to go with them. My relations at the time with the Lieut.-Governor and with the acting S. N. A. (Mr. John Shepstone), were not such as to encourage the hope that my intervention would have been of any use to her. But I advised her to go to Mr. John Shepstone and state her own case, and, if she obtained the desired permission, I would write to a friend at Durban on her behalf. Whether she went to Mr. John Shepstone, as advised, or not, I cannot say. But, finding that she never reached Durban and hearing nothing more of her for three weeks, I sent a messenger to enquire for her shortly before I left the Colony for England, and found that she had been prevented from going to Durban, when she made the attempt to do so, by the petty Chief under whose *surveillance* she was placed.¹

¹ This day (Oct. 13) I have received from a trustworthy source in Natal the following narrative, which will help to illustrate the above statement.

‘Sept. 4, 1874. Last Monday morning, before I was up, Malumbule’s mother arrived in a great hurry, as she was supposed to have gone to Edendale, and *that* against orders, and must at any rate get back on to the road thither before she was caught by the police. She told me that, when she started to go down to Durban, the police went after her and stopped her and asked her, ‘Where are you going, then?’ Said she, ‘I don’t deny it; I am going to *them*.’ ‘It’s that Bishop has sent you!’ ‘No, it’s not, I am going on my own account.’ ‘Do you mean to say that you have not just come from Bishopstowe?’ ‘I have certainly been there, but he never sent for me; I first went, and he refused to send me to Durban. I’m going on my own account; and you just leave the Bishop alone, he has nothing to do with it. If you want to worry or put in prison anyone, you can take me.’ So they drove her back to Jantye’s [a Kafir Chief, under whom she was put under *surveillance*], and from that time a strict watch was kept over her that she should go nowhere, so that when (about a fortnight ago) our man went to enquire for her, she could hardly say a word to him, ‘because there was just a swarm of policemen about her, and she was ill too then, and hurt in her heart to think that it would seem to us that she was taking things easily,

I wished, therefore, to see the Langelibalele his son, and to say a few kind words to them in this woman's name, and in the name of others of their tribe, as also to tell them that I was on my way to England to see the Chief Induna of the Queen, and to lay their case as clearly as I could before him, and they must be patient and quiet until I returned. In short, I wished to pay them a visit as their Bishop and spiritual adviser, and comfort them, if possible, under their sorrows. Whatever might be alleged in Natal against allowing such a visit, lest it should 'disturb the native mind,' there could have been no ground for such a pretence at Capetown, where the prisoner was unknown and uncared for, and his visitor was but a passing stranger.

Further, I was informed in Capetown on good authority that they were not allowed the freedom of the Island as Macomo, &c., were, and as it was always understood these prisoners would be, but were kept still in close confinement, and that this state of things would be continued for a time. I wished to ascertain the exact truth of this report, and to what extent they were deprived of the liberty within the Island, accorded to the former prisoners, whose fate, it was, was stated to be the example for their own.

Lastly, I intended to procure their assent to a formal Petition to Her Majesty, setting forth the illegality of their Transportation, and praying for relief.

From the following correspondence, however, it will be seen that my request was refused on the ground that I had not obtained Sir B. Pine's leave to see the prisoner! I have explained below my reasons for not thinking it necessary to obtain such leave; and I will only add that in my application I stated the fact that I had not obtained it at the express request of the Colonial Secretary, and that, as the Cape is under 'Responsible Government,' I considered that the Ministers were responsible to the *People*, not to the Secretary of State, for their action in this matter, and therefore had no scruple in allowing the correspondence to be printed in the *Cape Argus*.

since we heard and saw nothing of her, while we were working on her behalf. About this time there came to her policemen, and said, 'Get up at once and come along! You are to go and be killed with Langelibalele beyond the sea.' Said she, 'Let me go and tell the Bishop before I go; I can't do anything without telling him.' On this they said, 'Oh! then you refuse to go, do you?' and would not let her go anywhere. 'But I should so like to have gone with *them*,' said she wistfully; but, when I said perhaps you would see them in a fortnight's time, she brightened, saying, 'I thought perhaps they were already *killed*.'

Capetown, September 2, 1874.

Sir,—I have the honor to request an order permitting me to have a private interview to-morrow (Thursday) with Langalibalele and his son Malambule detained as prisoners at Robben Island, for the purpose of preparing a petition to Her Majesty the Queen on their behalf. As access to the said prisoners was granted to me at Natal for the purpose of preparing the Chief's Appeal to the Executive Council, I presume that there can be no objection to my being allowed to see them on the present occasion. But I may as well say that I have not asked the permission of the Natal Government in the present instance, not having thought it necessary to do so, as I presumed that if I found them still in confinement, which I did not expect to be the case, they would be in the hands of the Cape authorities.

I have, &c.,
J. W. NATAL.

The Hon. J. C. Molteno, Esq., Col. Sec.

Colonial Secretary's Office, Cape Town, 2nd September, 1874.

My Lord,—In reply to your letter of this day's date I have the honor to express my regret that your Lordship did not deem it necessary to obtain the permission of the Government of Natal to your visiting the convicts Langalibalele and Malambule, as in the absence of such permission this Government is not in a position to entertain your application for a private interview with the prisoners.

I have, &c.,
J. C. MOLTENNO.

The Right Reverend the Bishop of Natal, &c., &c.

Capetown, 2nd September, 1874.

Sir,—In acknowledging the receipt of your letter in reply to mine of this day's date, refusing me permission to visit the prisoners Langalibalele and Malambule at Robben Island for the purpose of preparing a petition to Her Majesty the Queen on their behalf, I can only express my astonishment, as an Englishman, that any British Government should have thought it right to put any impediment in the way of a prisoner approaching the Crown with an Appeal for justice and mercy at the hands of his Sovereign, which, as he believes, has been denied to him by Her representatives in South Africa. I have now the honor to request that His Excellency the Governor of the Cape Colony will be pleased to forward a copy of the correspondence on the subject to the Right Hon. the Secretary of State for the Colonies.

I have, &c.,
J. W. NATAL.

The Rt. Hon. J. C. Molteno, Esq., Colonial Secretary.

P.S.—I may observe that I thought it the less necessary to apply to the Natal Government for permission to visit the prisoners, inasmuch as they are confined under an Act of the Cape Parliament which expressly

provides that 'now and after the arrival in this Colony of the said Langalibalele and the said Malambule respectively, in pursuance of their said sentences, they shall and may respectively be imprisoned, detained, and treated in every respect, and shall be deemed and taken to be within this Colony, in precisely the same plight and condition, as if the said terms for which they have been respectively sentenced as aforesaid were terms of imprisonment which they had respectively been sentenced to undergo by the Supreme Court of this Colony, in respect of some crime or offence committed within the jurisdiction of the said Court.'

Colonial Secretary's Office, Cape Town, Cape of Good Hope,
4th September, 1874.

My Lord,—I have the honor to acknowledge the receipt of your Lordship's letter dated 2nd inst., expressing surprise at the refusal of the Government to permit your Lordship to visit the prisoners Langalibalele and Malambule now undergoing sentence of imprisonment on Robben Island, and requesting that a copy of the correspondence, which has passed between your Lordship and myself, may be forwarded to the Right Honourable the Secretary of State for the Colonies.

Without entering upon a discussion of the other matters alluded to in your communication under acknowledgment, I have the honor to inform your Lordship that I do not feel called upon to advise His Excellency the Governor to transmit the correspondence to the Secretary of State, more especially as I notice that it has already been published in one of the local newspapers.

I have, &c.
J. C. MOLTENO.

The Right Reverend the Bishop of Natal.

I took a legal opinion at the Cape as to the possibility of obtaining the release of the prisoners, on application to the Supreme Court at Capetown, stating that they were illegally detained at Robben Island. The gentlemen consulted advised that in their opinion the Act recently passed by the Cape Parliament at the request of Sir B. Pine, and under which they were imprisoned, was illegal, being in derogation of the Imperial Law (32 & 33 Victoria, cap. x.); but that, as the Act in question had not been reserved for the signification of Her Majesty's pleasure, and had received the assent of the Governor of the Cape Colony, it stood for the present as law, and, not being in direct terms at variance with the Imperial Act, it would probably be the duty of the Judges to maintain it until further action was taken in the matter.

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