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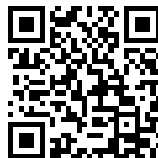


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A REMONSTRANCE

ON BEHALF OF

THE ZULU CHIEFS.
1889.

PIETERMARITZBURG :

CITY PRINTING WORKS, BANK STREET.

(Re-printed 1908.)

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INTRODUCTION

The booklet *A remonstrance on behalf of the Zulu chiefs. 1889.*, was compiled by Frank Campbell Dumat and Harry Escombe, counsel for the defence of the Zulu chiefs during the trials at Eshowe during 1888-1889. It was first published in London in 1889 (with pagination: 2, 1, 119) and reprinted in Pietermaritzburg in 1908.

After the Anglo-Zulu War of 1879 the British Government and its operatives in Natal & Zululand had done everything in their power to divide the Zulu nation. By the mid-1880's Cetshwayo had died and the "Zulu nation in its old form had practically ceased to exist. Seven years of internecine strife and European encroachment had uprooted clans, reawakened old jealousies and deprived the Zulu people of much of the land that once had been theirs. ...In 1888 Dinuzulu and some of his followers opposed some actions of the Government and were alleged to be in revolt" (Brookes & Webb, p. 155). They were subsequently arrested.

Dumat and Escombe claimed the trial to be rigged and that Dinuzulu and the other accused had no chance of acquittal. Brookes & Webb (p. 155) support this claim: "Dinuzulu was found guilty by a doubtfully impartial Court and sentenced to ten years imprisonment ...". In *A remonstrance on behalf of the Zulu chiefs. 1889* Dumat & Escombe give full details of the trials, as well as the Usuthu (Zulu) account of the disturbances leading up to the trials. This document is a powerful indictment of British colonial rule in Natal & Zululand at that time.

Interestingly, the 1908 edition of this booklet was issued with the aim of supporting Dinuzulu after his arrest during the "Bambata Rebellion". Both editions are very scarce and we have used the 1908 reprint for this facsimile edition.

HARRY ESCOMBE, who has been called "the father of Durban harbour" (Bond, p. 101), was born in 1838 and died in 1899. He served Natal as its second Prime Minister from February to October 1897. His defence of Dinuzulu led R.C.A. Samuelson, a legal colleague, to describe him as "a gentleman to the backbone, possessed of the highest honour, rectitude and sense of justice." (op. cit., p. 98).

FRANK CAMPBELL DUMAT was of French descent (the town of Delmas in the Transvaal was laid out on Dumat's farm Witklip, and named after his grandfather's farm in France [Raper, p. 116]). He was born in Calcutta in 1858 and died in 1931 (?). He was educated on Mauritius and at London University. He was co-counsel at the trials of 1888-1889 with Escombe, and left Natal to practise in the Transvaal shortly after the trial.

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NOTE.

THIS remonstrance, drawn up by Mr. Harry Escombe and myself, both counsel for the defence of the Zulu Chiefs during the State trials which took place in Etshowe, Zululand, during the latter end of 1888 and the beginning of 1889, is based and argued upon documentary Blue Book evidence, upon official correspondence withheld from publication in such Blue Books, and upon evidence given by the witnesses for the prosecution during the trials, and to all and each of such, references are given in the text.

Penned with special reference to these trials before a Court of Special Commissioners appointed by the Governor of Zululand, these lines do not pretend anything like a complete statement of events in Zululand since the war of 1879 against Cetshwayo.

It is contended however that the period dealt with affords an example of our mismanagement of the country and of its inhabitants, and shows that loss of life and disturbances are traceable to our misgovernment and not to disloyalty on the part of the Chiefs and their people.

F. C. D

THE

TRIALS OF THE ZULU CHIEFS.

I.

THE trial of Dinuzulu, son of Cetshwayo, for high treason was begun at Etshowe, in Zululand, on the 14th day of March, 1889, before a Special Court appointed by Sir Arthur Elibank Havelock, Governor of Zululand. On the 27th April, the Special Court found the prisoner guilty of the crime with which he was charged, and sentenced him to ten years' imprisonment. The material part of the judgment was delivered in the following words:—

"Dinuzulu, we find you guilty of High Treason. After a patient hearing of your case we are justified in saying to you that we are convinced that at the time of your determined resistance to her Majesty's officers in Zululand, and of the attacks upon her Majesty's forces which you led in person, that you were endeavouring to regain that power to which the annexation by her Majesty had put an end, and that your intention was to overthrow the existing form of Government in Zululand."

Stripped of all useless words the judgment found Dinuzulu guilty of High Treason on the grounds—That he resisted her Majesty's officers in Zululand; and in person led attacks upon her Majesty's forces; and with the intent to overthrow the Queen's rule in Zululand.

Dinuzulu, through his counsel, has the promise of the Queen's Government that the sentence passed in terms of this judgment shall not be carried into effect until it has been considered by the Secretary of State. The letter and spirit of that promise of the Queen's Government were broken as soon as the sentence was passed. Even before the Special Court had found Dinuzulu guilty, his hands and

those of his people had been already taken from them and divided between other chiefs. There was no danger in this premature partition; the Governor of Zululand could safely rely on the Court of his own creation to pass the judgment which was necessary to justify this confiscation.

The Court was constituted by a Proclamation by Sir Arthur Havelock, No. IV. of 1888, ZULULAND. The prisoners to be tried before that Court were condemned in advance by the language used in the proclamation. The ordinary law of Zululand (Proclamation II. of 1887) required that the judicial oath should be taken within the territory. No such judicial oath was taken in Zululand.

Sir Arthur Havelock was Governor of Zululand, and in that capacity appointed the judges and the prosecutor. His Excellency was summoned as a witness for the defence, and did not appear.

As the acquittal of the chiefs would have led naturally to the recall of Sir Arthur Havelock, objection was taken from the first against any trial before a Court selected by the Governor.

On the 9th October, 1888, Sir Arthur Havelock was putting pressure on the Government of the South African Republic to "intern" Dinuzulu at Lydenburg under Boer rule. The so-called "traitor" Dinuzulu refused to transfer his allegiance from the Queen to the Boer Government. He came to Natal to answer any charges which might be brought against him, and to demand an enquiry into his own grievances. Dinuzulu, by surrendering in Natal, sought to secure for himself a trial before one of Her Majesty's ordinary Courts, full publicity, and a jury of colonists. It appeared to Sir Arthur Havelock that Natal was no place in which to try Dinuzulu. On 17th November, 1888, His Excellency signed a remarkable warrant: it stated that Dinuzulu had committed murder and public violence in Zululand (it did not confine itself to a statement that Dinuzulu was charged with murder); it directed the Natal Mounted Police to take Dinuzulu to Zululand, where the Special Court was ready to try him. The Natal Police handed their prisoner over to the Zululand police in the middle of the river which divides Natal from Zululand. The commandant of the Zululand Police took over the prisoner without any warrant, and lodged him in the Zululand gaol. The prisoner was placed in the dock to stand his trial for high treason; the charge of murder was abandoned.

The Proclamation under which the Special Court was constituted, expressly stated that prisoners were not entitled to a trial by jury.

Although the *Mercury* newspaper, with its usual enterprise, was

represented by a reporter during Dinuzulu's trial, no report of the proceedings has yet been published.

The Proclamation IV., of 1888, compelled all witnesses to answer all questions, even though the answers might criminate, or tend to criminate themselves. This provision was copied word by word from the Imperial Statute which appointed the Parnell Commission. The Proclamation, differing in that respect from the Imperial Statute, did not protect the witness from future prosecution. When it was explained to Dinuzulu that many witnesses if called on his behalf would be liable to criminate themselves, the young chief instructed his counsel not to imperil the life or liberty of any of his people. As the conduct of the President of the Court will be presently commented on with the complete freedom which the circumstances appear to require, it is fair here to say that Mr. Justice Wragg recognized the possible hardship to witnesses resulting from this compulsion clause. His Honour offered to do what he could to prevent future prosecution of such witnesses. The Crown Prosecutor could not or would not give any indemnity to witnesses, and Dinuzulu's counsel acted on the instructions of their client. It was not only prosecution but official persecution of witnesses which was feared; whether this apprehension was well grounded may be decided from facts hereafter mentioned.

The Special Court consisted of three members; a judge of the Supreme Court of Natal who holds office during good behaviour; and two magistrates who hold their offices as ordinary Civil Servants of the Crown in the Colony of Natal. Messrs. Rudolph and Fannin had both been mixed up in past years with the differences between the Usutusi and Usibebu. They were both challenged on behalf of the prisoners and they elected to sit and try the case. Mr. Fannin was wanted as a witness for the defence to prove that the land to which Usibebu was restored was of greater extent than the area marked off for him by Mr. Fannin as a Government Surveyor in 1883. The two magistrates, overriding the President, excluded evidence which was tendered for the defence. The evidences so excluded consisted of judgments of a court of record in Zululand. All the Commissioners concurred in excluding the despatches of Sir Arthur Havelock and the reports of Mr. Osborn, Mr. Richard Addison and Mr. Galloway as published or referred to in the Blue-books. These despatches and reports were wanted for the purpose of the defence in order to show that broken promises, bad faith, oppression, cruelty and wrongs, could not shake the loyalty of the Zulus, or their firm belief that justice would be eventually done to them.

The Commissioners in the early days of their sittings refused to grant to Mr. W. Y. Campbell, Ndabuko's counsel, the time which he applied for on affidavit for the preparation of the defence. This refusal was made on the 30th November, 1888. On the 5th December, 1888, and after Ndabuko's counsel had retired from the defence, Mr. Justice Wragg postponed the Court until the 23rd January, 1889, and gave as a reason for the postponement that he being a judge of the Supreme Court of Natal could not be absent from the Colony for a longer time. This reason was not consistent with the refusal five days previously of the postponement asked for by Ndabuko's counsel.

It is difficult to reconcile the reason for the postponement given by Mr. Justice Wragg with the statement made in the House of Commons by Baron Henry de Worms on the 6th December that the postponement was in accordance with the request of the Secretary of State. The Court reassembled on the 23rd January, 1889, and thereafter Mr. Justice Wragg was absent from Natal for more than three months, except that every four weeks he crossed the boundary for a few hours. This expedient was resorted to under the following circumstances:—

By the Natal Law 24 of 1883, the Governor of Natal is bound to fill a vacancy on the bench if a judge is absent from the colony for more than one month. This law was passed in the face of Government opposition, in order to keep a full bench in the Supreme Court. The Governor of Natal, who is also Governor of Zululand, broke the spirit of this law, and was assisted in doing so by Mr. Justice Wragg. Mr. Justice Wragg's presence in Zululand caused a vacancy in the Natal bench, and Sir Arthur Havelock did not fill the vacancy.

It is claimed on behalf of the Zulu chiefs that they were at least entitled to the protection of a jury in a state trial, presided over by a judge who showed so great readiness to oblige the Governor of Zululand.

Whilst Mr. Campbell was deliberating what course he should pursue as to the defence of Ndabuko, the chief Somhlolo was put in the dock on a charge of high treason. This was done with the expressed object of filling up the time of the Court. Somhlolo was not defended. The way in which he was treated by the Special Court requires no comment, the bare facts will suffice. The man was sworn as a witness under a proclamation made by Sir Arthur Havelock, just forty days before the trial. The prisoner was not told that he was liable to be cross-examined; on the contrary, the words addressed to him would rather lead him to think that he might make a statement on his own behalf. His cross-examination by the Prosecutor and the President of the Court occupied hours.

Somhlolo was found guilty of high treason in a judgment which assumed that Dinuzulu and Ndabuko and Tshingana were also guilty of that crime. Somhlolo was sentenced to five years' imprisonment with hard labour. This judgment prevented the Special Court from acquitting Dinuzulu, Ndabuko, and Tshingana (who were brought to trial after Somhlolo), unless indeed the Commissioners were prepared to admit that they had made a mistake in Somhlolo's case.

The Special Court admitted wholesale hearsay evidence.

Every witness was allowed to say what was said to him by any person who was said to be a messenger from Dinuzulu, or Ndabuko.

In the preliminary examination in Dinuzulu's case, a native named Mafukwini gave evidence which was far from favourable to the theory of the prosecution. Mafukwini was summoned to Etshowe on behalf of the Crown; he was arrested from amongst the witnesses for the defence without any warrant, and was lodged in gaol on a charge of inciting to murder. He was not called by the prosecution, but witnesses were called to give evidence against Dinuzulu of words said to be used by Mafukwini. These last mentioned witnesses belonged to a party of three. Two of them were accepted as Queen's evidence in a murder case; all three were examined when the prisoner was not present, and to prevent any possible variance in their evidence one was required to swear that the deposition of the other was correct. If there had been any proof of a conspiracy to which Dinuzulu and Mafukwini were parties, no objection could be taken to evidence of what was said by one of the conspirators. In fact there was no such evidence. Mafukwini was kept in gaol for months. The prosecution would not put him in the box, and the officials kept him under lock and key. The Special Court concluded its sittings without trying Mafukwini.

The Special Court was unanimous in admitting as evidence any witness's version of what was told him by a "messenger" from any of the Usutu chiefs. The President was understood to give as his reason for the decision, that these "messengers" must be looked upon as letters or telegrams because of the customs of the country. The defence claimed that even in that case the quasi letters or telegrams should be produced as the best evidence. To Mr. Commissioner Fannin it appeared more necessary to know what message was delivered than what message was sent. The President based one decision as to the admissibility of certain evidence on the necessity of suiting the law of evidence to the circumstances of Zululand.

The Court was protected during its sittings by a guard of the Zululand Police—the hated "Nongqai," armed with rifles and fixed

bayonets. The usual guard was from time to time strengthened, so that at times there were sixty or seventy fixed bayonets in or close to the Court. Counsel for Dinuzulu made an express appeal to Sir Arthur Havelock that the police inside the Court might unfix their bayonets. This request was complied with. When the judgments of the Court were delivered the Court was guarded by about 300 men—200 regulars and 100 Zululand Police. The official theory that led to these precautions was that an attempt might be made to rescue the chiefs. During a period of three or four hours for which Dinuzulu's counsel addressed the Court, seventy or eighty of the Nongqai, with bayonets fixed, were within thirty or forty yards of the bench. The judges were received day by day with the "present arms" of the Nongqai, and the proceedings generally were carried on as if one was to expect at any hour a fight between the Nongqai and the Usutus. The Court was so arranged that the Usutus were kept partitioned off from the portion of the building assigned to Usibebu and his followers.

The officials were in a dilemma; they had to pretend that there was ground for fearing an Usutu rising and they had to reconcile this apprehension with their statements, which found their way into a Queen's Speech, that there was no sympathy with the Usutu leaders.

The constitution of the Court and the circumstances attending its proceedings are only referred to in order to shake any antecedent probability that the Special Court must have arrived at a right decision. The trial lasted forty-four days; the material part of the judgment was confined to a few lines. There was no analysis of evidence; there was no difference of opinion amongst the three Commissioners. They concurred in finding the prisoner guilty; they concurred in saying his mind was traitorous; they concurred in inferring that he was a traitor from the same overt acts.

Those overt acts are said to be:—

"Determined resistance to the Officers of Zululand."

"Attacks against Her Majesty's forces led in person by
"Dinuzulu."

The answer by the Usutu chief is simply as follows:—

"No officer of Zululand was at any time resisted in the discharge of his duty or at all."

"No attack was made against Her Majesty's forces."

If the judgment of the Special Court is to stand, it will stand upon evidence on which the finger can be placed. The Special Court have

taken pains not to point out the evidence on which their findings are based. The Special Court have taken still greater pains to shut out or to ignore facts which disprove treason and bring home to Sir Arthur Havelock, Melmoth Osborn, and Richard Addison and other officials the sole responsibility for the disturbances.

The Usutu chiefs claim as a tardy act of justice an enquiry by an independent tribunal into the wrongs done to them by those officers.

Each of the facts as hereafter stated upon which the claim is founded is capable of verification by reference to the evidence led in the recent trials, to the despatches and reports in the Blue-books, and to the official records of Zululand.

The Usutu story is as follows :—

On the 8th January, 1886, Her Majesty's Government, through Sir Charles Mitchell, recognised Zululand as the "territory of Dinuzulu and his people, who are friendly to Great Britain" (C. 4913, page 19). On the 22nd October, 1886, Sir Arthur Havelock, representing Her Majesty's Government, gave half of Zululand to the Dutch farmers (C. 4913, page 60). This partition was in the face of a prior protest by Dinuzulu (C. 4913, page 44). Sir Arthur Havelock replied to this protest on 6th September, 1886, by describing the boundary line "as a starting point upon which to talk," and by asking the Zulus to reflect whether a "line satisfactory to both parties" was not necessary to prevent recurrence of trouble between Boers and Usutus (C. 4980, page 28). In the face of the above protest and reply the partition was effected by a high-handed act of state.

In November, 1886, a further protest was made by Tshingana, representing the principal chiefs of Zululand, who had

"remained in expectation (since May, 1886,) of being called and
"confronted with the Boers to discuss in Your Excellency's
"presence, matters relating to Zululand" (C. 4980, 123).

On the 10th November, 1886, Sir Arthur Havelock informed Tshingana

*"Usibebu has been expelled from the portion of country assigned to
"him," and "there is a large extent of country unoccupied, Usibebu's
"territory" (C. 4980, 128)*

into which Zulus forced against their will under Dutch rule might remove. The implied promise contained in these words was broken within one year and five days.

On the 18th October, Sir Arthur Havelock agreed with the Boers

that the consent of the Zulus was a condition precedent to the withdrawal by the Boers of all claims of protectorate over the Zulus (C. 4980, 89). On the 22nd October, this agreement was altered in a way to throw on to the Zulus the burden of objecting to such abandonment (C. 4980, 61).

In February, 1887, a British Protectorate was established in so much of Zululand as had not been given to the Boers.

On the 7th July, 1887, British rule was substituted for Zulu rule, and the eastern part of Zululand was annexed to the Queen's possessions.

Before the change of *régime* the cattle of Umfokazana (twenty-two head) had been taken by Dinuzulu's Government. As soon as the English flag was hoisted, Mr. Osborn, the Chief Magistrate, laid claim to these cattle; he had no right to them, and if he had a right, the proper way to enforce it was through one of the Courts of Law which were established at the date of annexation. In the same way the cattle of Luzipo and others, although forfeited to the Native Government prior to the hoisting of the flag in Zululand, were wrongly claimed by Mr. Osborn.

On the 3rd September, 1887, Mr. Osborn inflicted a fine of 30 head of cattle on Dinuzulu, Mnyamana, and Ndabuko, for not giving up the cattle above-mentioned. He did this by his own mere motion in the absence of Dinuzulu without a trial and in defiance of Proclamation No. II. of 1887, which provides that all causes and offences shall be dealt with by the Courts of Law thereunto established.—(Mr. Osborn's report of 3rd Sept., 1887, not in Blue-book). Within one week of the fine Mr. Osborn sent an armed body of 60 men, without writ or warrant, to the Usutu kraal to levy the disputed cattle and the fine, in total number 172 head. This armed force, engaged on an illegal errand (Dr Lecky's evidence), first threatened the Usutu kraal and then raided the whole country far and wide during two days and levied by force of arms 300 head of cattle.—(Addison's evidence in Ndabuko's case).

Mr. Osborn concealed the true nature of this raid, and telegraphed on the 12th September, 1887,

"That as the cattle had not been restored as ordered, he had seized an equal number in their place. All is quiet" (C. 5381, p. 35).

Up to this date no account has been rendered as to these cattle. (It is part of the grievances of the Usutus that their cattle have been distributed amongst officials).

Mr. Osborn's telegram of the 12th September, 1887, leads the Secretary of State to notice with great satisfaction the success already attained in maintaining the authority of Her Majesty's Government in Zululand (C. 5331, p. 36).

When the flag was hoisted at Nkonjeni on the 7th July, 1887, Mr. Osborn, as instructed, said "that those Zulus who do not like remaining in the Republic (i.e., under Dutch rule) could, if they choose to do so, remove into Zululand where there is ample room for all" (this of course was prior to Usibebu's restoration). Notwithstanding this statement it appears from all the Reports that the policy of Mr. Osborn, soon to be adopted by Sir Arthur Havelock, was to free the country from Dinuzulu and Ndabuko, who were again and again told that they were at liberty to leave their country and to accept Dutch rule. This policy of evicting from Zululand the leaders of the national party was continued until October, 1888. On the 9th of that month Sir Arthur Havelock was putting pressure on the Boers to "intern" Dinuzulu at Lydenburg.

The Usutu leaders doing no more than their duty to the national party in protesting against the arbitrary boundary of the 22nd October, 1886, were looked upon as troublesome persons who were to be got rid of at all hazards. The door was opened wide so that they might pass through into the Republic; when they went to the Boers to know what their position was as regards Boer Protectorate, they were charged with treason; Mr. Osborn saw treason in all they did.

Sir Arthur Havelock's dispatch of 17th August, 1887 (C. 5331, 29), refers to a gathering at the Usutu kraal of chiefs and headmen from both sides of the boundary line which cut Zululand in two. Mnyamana was present; it was a meeting to consider the changed condition of the country on either side of the line; it was a meeting which was necessary because of the hoisting of the flag, and because of the statement made that the Natives who did not like Dutch rule could cross the line and come under English rule. Mr. Osborn anticipated trouble between the Usutus and Mnyamana, although the latter was present; he caused Dinuzulu to be told that he could leave Zululand, and he expressed his opinion that Dinuzulu's departure would not be a matter of regret. Sir Arthur Havelock reported:—

"It seems to me that his departure would relieve us of one of the chief sources of embarrassment in our efforts to establish quiet and contentment."

Dinuzulu and Ndabuko as a fact preferred English rule to Dutch rule, and not a stone was left unturned to eject them from their

country. British rule was proclaimed on the 7th of July, 1887, and within six weeks it is found that the eviction of Dinuzulu is necessary "to establish quiet and contentment."

The following events recorded in their order of date will show the manner in which step by step the national party under Dinuzulu and Ndaduko were dispossessed of their territory and driven into an appearance of rebellion :—

1886, *January*.—Zululand belongs to Dinuzulu and his people who are friends to England.

1886, *October*.—Zululand is cut in two, and half is given to the Boers.

1887, *February*.—The remaining half of Zululand is brought under British protection.

1887, *July 7th*.—British flag is hoisted in the remaining half of Zululand.

1887, *August 7th*.—Dinuzulu is called on to give up cattle of Umfokazana and Luzipo, and others, and to pay a fine of 30 head for contumacy,

1887, *September 9th and 10th*.—300 cattle are raided by the officials.

1887, *November 15th*.—Dinuzulu and Ndaduko are fined by the Governor fifty head of cattle. Dinuzulu and Ndaduko are told that Usibebu and Sokwetshata whom they drove out of the country in 1884, are to be restored to the districts from which they had been expelled.

1887, *November 25th*.—Sokwetshata and Usibebu march out of the reserve (where they had found an asylum) as a victorious army, without food, without women, with war shields, assegais, and guns. Sokwetshata's force is detached from Usibebu, and is at once used by one of the Magistrates, Mr. Shepstone, to attack Somopo and Bejana, two coast chiefs, who had, in 1884, helped to drive Sokwetshata out of the country. Usibebu went on alone with fully 700 men; he was joined by another 400 men, who came in from Swaziland. The combined force of 1,100 men was allowed to occupy a fully-peopled district.

The 1,100 men appeared at the Magistracy on the 2nd January, 1888, as a war party, within five miles of Ndaduko's kraal and within ten miles of Dinuzulu's kraal.

Meantime Dinuzulu and Ndaduko were being constantly dunned for the cattle of Umfokazana and Luzipo and others, although cattle enough had been taken in September to cover the identical cattle required. There are equally constant dunnings for the fines inflicted

by Mr. Osborn and Sir Arthur Havelock in disregard of the Law 2 of 1887.

Usibebu's army of 1,100 men takes possession not only of the country to which they were to be restored, but also of a large extent of country to which they had no claim under the terms of restoration. Fully 3,000 people were evicted (the names of the headmen, with the number of kraals and huts, are given). Usibebu's people stole corn, harried the district, and threatened the inhabitants. The evictions were conducted by the Zululand police under the Magistrate, Mr. Addison, who, according to the sworn evidence, flogged and shot people who went back to get their own corn.

In March 1888, two of Usibebu's men were killed by Usutus, the only reprisal in six months for all the suffering of these evictions. (For this reprisal Mkwana, the headman of an evicted tribe, was tried by three Magistrates, Mr. Osborn and Mr. Shepstone being two of them; he was condemned to death and hanged.) The hanging of Mkwana on the sentence of this Official Court is a fair illustration of the justice which has been administered in the Queen's name in Zululand.

On the 3rd March Dinuzulu and the Usutu leaders sent a messenger to the Governor to represent their grievances.

They said, with all loyalty and humility, it is not now a question of Usibebu's restoration, but a question what land is he to have.

On the 20th March, they were promised by the Governor an inquiry into their grievances and redress, and Dinuzulu was invited to see the Governor in Natal.

On the 6th April 1888, Dinuzulu crossed the boundary line to go to see his people on the Dutch side.

On the 12th April, Mr. Osborn arrived at Ndwandwe with instructions to redress grievances.

On hearing of the Chief Magistrate's arrival the Usutus at once expressed their fears that he had come to "spoil" the Governor's message. Those fears proved to be well founded. The Usutu kraal to which the Usutus who had been flogged and shot at, and tortured, resorted, was besieged day by day by messengers demanding cattle not claimable, and illegal fines.

On the 25th April 1888, Mr. Osborn, instead of redressing grievances and allaying well-grounded discontent, reported of Dinuzulu and Ndabuko that "nothing short of severe measures will put a stop to their constant intrigues and attempts to create open disturbance in the country." (C. 5522, p. 29.) On that same day began the severe measures which ended in the so-called rebellion.

Mr. Osborn made a distinct charge as follows :—

“Ndamuko prevents all his and Dinuzulu's people from bringing any complaints to the Magistrate, and harbours any ‘Usutu who may be summoned by the Magistrate and who ‘runs to him.’”

He continued :

“Steps are now being taken to enforce if necessary the ‘Magistrate's authority according to law.’”

On the 26th April 1888, as a fact no single person had refused to answer a formal summons from the Magistrate issued in terms of the Law 2 of 1887. Several natives had through fear neglected to comply with verbal messages which required them to defend civil suits by Usibebu and others. This neglect was held to be “contempt of the orders of the Magistrate, in refusing to obey his lawful summons.”

On the evening of the 24th April 1888, Mr. Osborn caused an armed party of sixty or eighty men to leave the Magistracy at night so as to arrive by surprise early on the following morning at the scene of intended operations. The armed party had no judgment of Court to support it: no writ and no warrant for the levy about to be made. On the 25th April, beginning its work early in the morning, it raided about eighty head of cattle. The men of this armed party knocked the people about; it arrested an influential chief Makedama, because Makedama's son could not be found, and generally made the whole district readily inflammable for the acts of the next day, presently to be referred to.

The cattle raided were to cover twenty-five head, the balance of a fine inflicted by the Governor on Ndamuko contrary to Law 2 of 1887, and thirty head, the balance of a fine inflicted by Mr. Osborn on Dinuzulu, and twenty-two head of Umfokazana, to which the authorities had no shadow of right. The total number was seventy-two head, and if it be admitted that the seventy-two head were rightly claimable, the claim was fully covered by cattle taken in the official raid of September 1887.

Mr. Osborn's report of the official raid of the 25th April 1888, is a further illustration of the wrong impression created by his reports. He concealed the fact that enough cattle were raided in September 1887 to cover Umfokazana's cattle and Mr. Osborn's fine inflicted on Dinuzulu; he implies that the seizure which he calls “levy” was made under ordinary circumstances, and he treats the whole incident

as a matter of police when in fact it was to the Usutus an act of tyranny and oppression if not of war.

Mr. Osborn justified the seizure on the ground (*inter alia*) that Yamela his induna was told "neither Ndabuko nor Dinuzulu had any cattle and therefore they could not pay." It was Yamela's men who killed the Usutu messenger on the 2nd June; it was Yamela who took part in Usibebu's raids and seizures of women after the disturbance was over; it was Yamela who in Ndabuko's undefended case was the principal witness for the Crown; Yamela was one of the crown witnesses whom the prosecution would not expose to cross-examination. It is part of the case of the defence that men like Yamela and Vusindhlu, thinking to please their superiors and in order to enhance their own importance, made mischief at every turn. Men of this stamp have been the curse of the country under British rule.

Mr. Osborn did not disclose, in his report of 25th April, the important fact that the cattle of Luzipo and others (120 head) had been given up, although the right to claim them was disputed, and the still more important fact that Dinuzulu had paid every head of the Governor's illegal fine.

Besides the official raids of September 1887 and 25th April 1888, there was a further similar official raid of forty head of cattle taken from Mtumbu's people, which will be again mentioned under the case of that chief.

The raid of 25th April was authorised by the officer of the Crown, Mr. Osborn, to whom was referred for redress the grievances of the Usutus set out in pages 11, 12, 13, 15, 16, 17 and 18 of Blue-book C. 5522. Instead of redressing the grievances he whipped the injured people with scorpions; he inflamed the whole country; and on the 26th April he applied what would have been the torch of war but for Ndabuko's loyalty.

It is not safe as regards the incidents of the Usutu kraal in September 1887, and on 26th April 1888, to rely on the evidence in Dinuzulu's case only, in that case there was a defence and the witnesses were on their guard, in Ndabuko's case there was no defence and the witnesses gave evidence as if they were proud of their achievements.

The evidence in both cases has to be taken together.

It is necessary here to say that in all the undefended cases of high treason the Magistrates told their own tales in exculpation of the acts for which they and their superiors were responsible. In the early days of Dinuzulu's trial, Mr. Morcom, the prosecuting counsel, stated

that he would put Mr. Addison in the box. Later on he declined to do so because of a letter written by Dinuzulu's counsel to the Governor of Zululand, dated 8th March, containing these words :—

"A lad was brought to me at Etshowe with two charges of shot marked on his body, some of the shot being still there. This lad, in reply to my question, 'Who shot you?' answered 'Dick.' This is the name of the magistrate who gave evidence in Ndabuko's case, Mr. Addison. The boy's tale, as I understood it, is that he passed across a line drawn by the Magistrate and was treated as if a Zulu subject of the Queen is no better than a partridge."

It is not easy to see in this plain notice of a serious charge any reason for not putting Mr. Addison into the witness box, unless indeed he had no answer to the charge.

In the only two cases for high treason in which counsel appeared for the prisoners the magistrates were kept out of the witness box.

In this way the minds of the judges were impressed with the statements of the magistrates, untested by cross-examination.

The President of the Court, it is true, claimed in the case of Tshingana that his mind was a *tabula rasa* as regards the previous cases. The counsel for Tshingana and Dinuzulu claim that the mind of the Court was saturated with evidence of treason given in previous cases by magistrates who were not cross-examined, and that the Court in Somhlolo's case convicted the prisoner on an assumption of treason on the part of Dinuzulu, Ndabuko, and Tshingana. The judgment in Somhlolo's case compelled the Court to stultify itself in the subsequent cases of Dinuzulu, Ndabuko, and Tshingana, or to find each and all of those men guilty. The evidence in the cases of Ndabuko and Dinuzulu shows that trivial trumped-up charges of contempt of Court were used as an excuse for an armed demonstration against the Usutu kraal.

On the 25th April, 1888, an armed party of 100 men left the magistracy overnight, and travelled by a circuitous route so as to reach the kraal by surprise at dawn, which is the favourite hour for attack. They were told that they had no right to surprise a kraal in that way, and that ordinary police ought to have been sent. It was admitted by the Crown evidence of Ndabuko's case that Ndabuko saved the armed party of 100 men from destruction.

The Special Court completely ignore this fact; they find that there was treason in Ndabuko's heart at the very time that he saved the Zululand police from the natural indignation of an excited people.

Ndabuko had under him from 1,000 to 1,500 men; the force which came against the kraal was 100. Ndabuko gave the order which checked the impulse of the Usutus to attack the 100 Zululand police. These police had been employed to evict, to flog, to torture, to shoot the people who sought asylum at the Usutu kraal. The oppressed Usutus had the oppressors at their mercy. A few calm words from the "traitor" Ndabuko saved the oppressors' lives. Ndabuko's conduct on the 26th April is conclusive proof that there was no hostile intention even against the hated police who had caused so much suffering. Hostile intention against the Queen has never had place in Zululand. Ndabuko retired from the Usutu kraal on the 27th April.

The retiring police were followed up on the 26th April by the young men who jeered and chaffed them. The police in turn threatened to come back in strength, and Ndabuko foresaw that he was liable to another surprise. Ndabuko's object in retiring from the Usutu kraal was correctly stated by one of the witnesses of the Crown, "Umhlahlo," it was fear of another surprise. Ndabuko left the Usutu kraal on the 27th April 1888 with all the people; they came back and left again, returned once more, and finally retired on the 13th May, which was the date of the first alleged act of treason. The retirings were through fear and distrust of Mr. Osborn, and of "impis" or war parties which were expected from the Zululand police, and from Usibebu, and from Mnyamana, and from her Majesty's troops. The returnings to the Usutu kraal were because of specious messages sent by Mr. Osborn.

The nature of these messages will appear from Mr. Osborn's telegraphic report of 15th May, 1888.

"Pending arrival of military support I (Mr. Osborn) took no active measures for execution of warrant (for contempt of court), but remained in communication with Usutus on subject of "crops."

In other words, Mr. Osborn was cajoling Ndabuko to return and remain at the Usutu kraal by pretending to discuss compensation for corn taken by Usibebu, at the very time when he, Mr. Osborn, was bringing up the troops to attack the Usutu kraal.

The compensation for corn was used as the bait of a trap. Everybody in the kraal knew that Usibebu was arming (see 5522, 39), that Mnyamana had been separated from the Usutus by a bribe in the form of a salary, and that the troops were advancing. What was Ndabuko to do? Dinuzulu was away. Was he to remain at the Usutu kraal that his people might be fired on, as presently they were fired on at Ceza,

or was he to retire towards the Dutch boundary? He determined, rightly or wrongly, to put his people where they could not be surprised, and left the Usutu kraal for the last time with ten companies, say 500 men.

As Ndabuko retired he was joined by Dinuzulu, from the Dutch side of the line, with ten companies, say 500 men. Dinuzulu had gone to his own people, on the Dutch side, on the 6th April: he recrossed the line on the 11th May. In his absence he had received the Governor's message of the 20th March 1888 (C. 5522, 18, 19), in reply to his own dutiful and respectful message of the 3rd March 1888 (C. 5522, 11, 12, 13).

The Governor's message was in every sense satisfactory. It contained an admission that Usibebu was only entitled to his old tribal lands. (This was the point contended for by Dinuzulu). It promised an inquiry into Dinuzulu's complaints. It promised that Umsutshwana should not be removed. (Another point contended for by Dinuzulu). It excused the taking of crops and corn by Usibebu's people on the ground that they were tempted by hunger. It promised compensation. It contained an invitation to Dinuzulu to visit the Governor in Pietermaritzburg. In a few words, it was an admission of grievous wrong done with promise of amends, accompanied by an act of courtesy which a native chief was sure to appreciate.

The Special Court finds as a fact that at this date (we are talking of the 13th May and prior thereto) there was treason in Dinuzulu's mind. Let it be remembered that he left the Usutu kraal on the 6th April, after his message of the 3rd March and before the receipt of the Governor's reply of the 20th March. What had happened to create this treasonable mind? Is there any sign of treason in the message of the 3rd March? Was there anything in the Governor's reply of the 20th March to hurt the feelings and to beget resentment on the part of the young chief? On the contrary, it was the only message ever sent by the Governor of Zululand or by the Chief Magistrate to Dinuzulu which was not irritating and provoking in its terms.

It was a message calculated to allay treasonable intent, if any such there were. It was a message necessarily soothing in its terms, because the long catalogue of the Usutu grievances could not be passed over without amends and without redress.

If Mr. Osborn had acted in the spirit of this message no disturbance would or could have arisen. Unhappily, and as was feared, he "spoilt" the message, and began the systematic provocations which culminated in the armed demonstration against the Usutu kraal on the 26th April.

It is to be noticed that Sir Arthur Havelock disapproved the attempts made on the 26th April to arrest the four men for the contempt of Court (Despatch May 4, 1888), yet His Excellency committed the fatal error of giving to Mr. Osborn the support of Her Majesty's forces for enforcing this miserable writ. It is to be noticed further, from Captain Mansell's evidence in Dinuzulu's case, that the force sent to Ceza on the 2nd June was to arrest, not only Dinuzulu and Ndabuko, but also the four men sought to be arrested on the 26th April for the "contempt of Court."

Dinuzulu, on returning to the eastern side of the line on the 11th May, was accompanied by, say 500 men. The explanation is that Usibebu was on the war-path; Usibebu had lately appeared at the Magistracy with 1,100 warriors, of whom 400 had joined him from Swaziland. Usibebu's character was quite well known to the Usutus; it was all very well for the Governor to say that Usibebu would not be allowed to attack the Usutus: the Usutus had a painful experience of Usibebu's character, and could not have much confidence in Mr. Addison's power to control him. The distrust on this latter point was fully justified by Usibebu's attack on Umsutshwana on the 12th June.

Dinuzulu, as a fact, thought he was likely to be intercepted by Usibebu's force, which was being got together prior to the 7th May, and he did bring with him from across the line a force sufficient to ensure his safety.

It must be remembered that not only was Usibebu getting his force together prior to the 7th May; he had a force of fifteen companies assembled at Ndwandwe on the 1st June. Mr. Osborn, reporting on the 3rd June of this assembling of Usibebu's force, uses words which make it to appear that Usibebu was called up as a consequence of the affair of Ceza on the 2nd June. This is not the case, as is proved by the dates.

When Ndabuko and Dinuzulu conjoined their forces they moved to Ceza, which is on the boundary line. It was a place where they could not be surprised, and where they were able, in case of need, to avoid collision with the authorities by retiring into the Dutch territory.

There were raids by the Usutus in the districts of Mnyamana and Ziwedu after the retirement from the Usutu kraal and before the affair of Ceza on the 2nd June. The raids of this period were of no great importance; they were not accompanied by violence; they were not authorized by the leaders, but were disallowed by them; the people who complained that their cattle had been taken by the raids

were heard by Dinuzulu: his judgment was "I will replace." These raids may be regarded as a necessary consequence of the movement of a large body of men from one part of the country to another.

The raiders tried to excuse themselves as best they could. When taking cattle from Mnyamana's people they did so on the plea that the wily old chief, as was quite true, had deserted Dinuzulu. In Ziwedu's district they said, as was quite true, that the cattle they had come for were the cattle won from Usibebu at the battle of Etshaneni in 1884, and afterwards distributed by the head indunas among the people, "to be held even with their calves for Dinuzulu." These raids are not justified: they are referred to simply to show that raiding in Zululand is not treason.

The seizures of cattle by the police in September 1887, in April 1888, and in Mtumbu's districts, were no less raids than the seizures of the cattle of Mnyamana and Ziwedu, but this is not to say that Mr. Osborn and Mr. Addison were traitors.

These raids prior to the affair of Cezu were made the excuse for the issuing writs of arrest against Dinuzulu and Ndabuko for cattle-stealing. This charge of cattle-stealing was of course abandoned. Sir Arthur Havelock and Mr. Osborn had already determined to use the Queen's troops for arresting the four men charged with contempt of Court.

II.

THE AFFAIR OF CEZA.

The following facts connected with the affair of Ceza, are not even mentioned in the judgment of the Special Court, yet each of them affords evidence against the theory of treason.

Dinuzulu and Ndabuko did all they could to prevent any collision with her Majesty's troops. The order was given by Ndabuko for all the Usutus, probably 1,200 or 1,300 to mount the hill and to cross the boundary into Dutch territory. And the Usutus did mount the hill and cross the boundary except three companies, say 150, mostly young men. Dinuzulu used force to drive the Usutus up the hill. Before the Usutus retired up the hill, two messengers were sent by the Usutu leaders to ask the reason of the advancing force. Of these two messengers one was killed, the other was stabbed through the belly, by Yamela's men. Yamela is Mr. Osborn's head induna. The messengers, travelling by a short cut, reached the advancing force from its rear. They reported themselves to Yamela, who rode forward to where Mr. Addison the magistrate was. The messengers were stabbed after the retreat began. They reported themselves to Yamela before fire was opened on the Usutus. Mr. Addison spoke to the wounded messenger "Ndungunya," whom he knew as a frequent messenger from the Usutu chiefs. All the official reports conceal the killing and wounding of the two messengers. The prosecutor contended that these messengers left Ceza some days before the day of Ceza (2nd June). This was not so; they left on that morning (Zietsman's evidence).

The officials knew that the stabbing of these men was a disgraceful act; they at first suppressed the fact, and now try to explain it away. In Ndabuko's case, Yamela gave evidence that Mr. Addison saw the wounded messenger Ndungunya, and asked Yamela "Where has this man turned up from?" Yamela replied, "I don't know, I met him down yonder," pointing to where he had met, "saying he was coming

to see you, having been sent by Dinuzulu." In Ndabuko's case Mr. Addison gave evidence that he saw Ndungunya after the retreat bagan. In Dinuzulu's case neither Yamela nor Mr. Addison was called as a witness. The President, during the address of prisoner's counsel, referred to the fact that Ndungunya had not been called. Prisoner's counsel stated that Ndungunya was one of the witnesses not called because their evidence on behalf of Dinuzulu would compel them, under Proclamation IV. of 1888, to give self-condemnatory evidence. The 150 young men who did not mount the hill had no time to get out of the way before the police were upon them. The Crown witness, Piet Louw, made this quite clear by his evidence particularly in Ndabuko's case. Captain Mansel was seemingly surprised to find that all the Usutus had not gone up the hill. When he was within 300 yards of them he saw them; "did not know what to do," and himself firing the first shot, gave the order to his men to fire. Mansel's police did not lose a man. Mansel opened fire without a word or parley. Nokaxa, a witness for the Crown, one of Mnyamana's people, and a man whose cattle had been taken by the Usutus, describes the advance of the troops on to Ceza, and showed how the 150 young men, who were fired on by Mansel, were joined by Usutus from the top of Ceza. The evidence was given on the 21st March.

"The Impi (police and troops) was crossing the Ivungu when I began to see it, but those on horseback were at Nyoniyadenga's (Piet Louws). They stayed there, all the force. I could not see what they were doing: they stayed there some time, a longish time, and we sat down."

(The witness was with the Usutus in order to recover his cattle.)

"The troops moved and crossed the Ingezansila (little stream). Then our impi (Usutus) moved. Dinuzulu with his horsemen went up (the hill) on the right side facing the Nongqai (police), then all the foot impi rose (Usutu foot) and went in a westerly direction to the left, and we went on to the top (of Ceza) and when the Abaqulusi and Bagazini (part of the Usutu force) got to the top, they being in front, Dinuzulu came to us who were behind where I was. He ordered us to move on quickly, he did not take the same road as the others. When he came up with us when we were half way up the hill he cut us off and made us go into the bush on all parts. We did not go out by the same road where the main force was going up. On our getting on top of the hill, he then rode along to the mounted men which

"were at the pass when he first went up, where he came to us from. The 'impi,' said 'the vaka' (coward) is moving us along making us run away.' That remark referred to Ndabuko, who made us run away from the Usutu kraal. His impi that was going into the bush that was just in front of us said that.

"On our getting to the top (of Ceza) out of the bush we heard firing below in the bush. On hearing this firing a person shouted out 'the Mbogotwebomvu' (young regiment) is fighting down here below. When this shout came we were still going on. We then turned and ran down each on his own account anywhere. On our appearing we could see that the Mbogotwebomvu and the Government forces were mixed up at the huts. We descended in confusion, no regular form, when we got down below the firing was too hot.' On seeing this we simply sat down and each one reproved himself for coming down as the main body was going off to the Dutch."

The evidence of this hostile witness shows that whilst the Usutu leaders were doing all they could to avoid collision with the troops their men got out of hand, and went down the hill without leaders or orders to help the young men whom Mansel's police had fired on. Ndabuko never left the top of the hill. Dinuzulu went down the hill and got together, as soon as he could, the Usutus who were out of control. It is argued that he headed the pursuit: that he did not do so is shown by all the facts: he came down the hill late, got together all the people almost as soon as the Ivunga was crossed, except a few that went on to the Umvolozi, and retired them.

Captain Mansel did not see him—Mr. Addison did not see him.

The true nature of the pursuit is shown in Mr. Addison's report (page 59, C. 5522):—

"After firing for half an hour, which caused a lull in the fire of the Usutu, the troops and police were withdrawn on to the spur by which they had approached Ceza, the Usutu being then in large numbers on the top of that hill. Finding our ammunition was running short, and seeing the impossibility of dislodging the Usutu from the bush, it was deemed advisable to retire on to Mnyamana's kraal, Eusukazi, which was accordingly done by marching. Mnyamana's people and the infantry portion of the Zululand police in front, and covering their retreat by the cavalry, the Usutus following and sending skirmishers and flankers, who kept up a continual fire on us, but retired on being faced by our rear guard, their main body being kept, as a

"rule, about a mile and a half in the rear. This was continued "until we arrived at the Black Umvolosi River, the Usutus however "gradually thinning."

Two soldiers were killed and two were wounded at the early stage of the retreat before Dinuzulu had descended the hill, and before it was possible for Dinuzulu or anyone else to bring under control the Usutus who had rushed down the hill to help their comrades; with the exception of these four cases there was no casualty during the pursuit.

It is this affair of Ceza which is spoken of in the judgment of the Special Court, as an attack upon Her Majesty's Forces, led in person by Dinuzulu. There is not a shred of evidence to support this statement. Captain Pennefather's instructions were (see Blue Book 5522 page 60)

"To proceed in support of the police with a view of extricating "them in the event of their being involved in difficulties."

Captain Mansel, by office a policeman, but in dash a hot-headed soldier, became "involved in difficulties," by firing on the Usutus as if his business was not to arrest offenders but to kill. Captain Pennefather called him back, and he replied to the orderly,

"Give my compliments to Captain Pennefather and tell him "we are more than holding our own here, and to come on."

Captain Mansel was clearly a difficult man to extricate, but Captain Pennefather carried out his orders and the four casualties occurred whilst this was being done.

The responsibility for the deaths of the two soldiers, and for the the wounding of the other two cannot rest with Dinuzulu and Ndabuko, who did all that was possible to prevent bloodshed,—first by sending messengers, who were stabbed, and next by endeavouring to retire every Usutu beyond the boundary.

Although Captain Mansel fired the first shot at Ceza,—blood had already been shed by MacAlister, who was afterwards appointed usher of the Special Court. This happened when Qetuka was arrested.

There was bloodshed early on the morning of Ceza by some of Mnyamana's men acting on the authority of Yamela. Evidence as to these two incidents will be adduced on the independent inquiry which has been asked for.

The affair of Ceza was war, by the Zululand officials on the Usutus, carried on under cover of warrants of arrest. It differed in no regard from the attack on the Usutu kraal of the 26th April, except that on

that occasion the troops were not called up, and the police retired without firing.

Sir Arthur Havelock's despatch (C. 5522, page 40), shows that Mr. Osborn, by calling up the troops to retrieve the blunder of the 26th April, drove Ndabuko from the Usutu kraal to Ceza on the 18th May. Sir Arthur Havelock looked upon the evacuation of the kraal as natural. He instructed Mr. Osborn :—

“ Do all in your power to encourage and facilitate any desire that may be shown to submit to authority.”

On the 23rd May Mr. Osborn reported (C. 5522, page 45) :—

“ Usutus are still assembled under Ndabuko at Ceza from where, last night, raiders came. I cannot communicate with them as messengers are afraid to go. It appears the only way of dealing with them now is for police to go, supported by troops and Mnyamana's men, to disperse the Usutus at Ceza and arrest ringleaders.”

Vusindhlu, Mr. Addison's Induna, gave evidence in Ndabuko's case as follows :—

“ The magistrate says that you, Ndabuko, are to give me the people Mtumbu, Gagahla, Uhlamba, and Umhlazana. The magistrate says bring them out and put them in my hands. He says he will not come again to you for them, this is the last time. I said the magistrate says this is the last time, put those men into my hands and let me go home with them to-day. The magistrate says, Don't say when he, the magistrate, comes that he brings war because he is coming, he is going to take these men for himself.”

This proclamation of the official war was made on the 11th May 1888; the troops were already moving. Mr. Osborn had carried his point against the Governor, or rather had forced the Government to support its officials. The troops were kept moving, and at last, on the 2nd June, Mr. Addison called upon them “ to extricate the police from their difficult position.”

III.

MTUMBU'S CASE.

The case of Mtumbu is a fair illustration of the official persecution to which individual Usutus have been subjected. He is chief of the Hlabisa tribe, or perhaps it is more correct to say, guardian of the minor chief. The lands of the Hlabisa tribe at no time belonged to Usibebu or his father Mapita. Mtumbu was sent in November 1887 by Dinuzulu and Ndaluko to prepare the people for the restoration of Usibebu, and to make it known that that chief was returning at the instance of the Government. The Hlabisa people were evicted in favour of Usibebu, although their lands were not included in the lands which Usibebu was to occupy, under the terms of his restoration as defined by Sir Arthur Havelock. Mtumbu was given a pass by Mr. Addison to the Magistrate of the coast district. This pass meant the removal of the people from the "high lands" to the "coast lands," a change in character and circumstances as great as say from the highlands to the lowlands of Scotland. Mtumbu put the pass into an ant heap about two miles from the magistracy; the magistrate and his indunas, and all the police, were amazed at such an act. When Mtumbu's conduct was mentioned, it was spoken of as if a frightful crime had been committed. Witness after witness told us that "he tore up a piece of paper." No magistrate could be expected to submit to such an affront. Messenger after messenger was sent to the traitorous Mtumbu to require his presence before Mr. Addison. Floggings and shootings were having their deterrent effects, and Mtumbu thought he was safer anywhere than in Her Majesty's court at Ndawandwe. He was afraid to go, but Dinuzulu, in order to prevent trouble sent four head of cattle as a peace offering on Mtumbu's behalf. This was not enough, and Mtumbu's district must be raided: even his people must be made to know that the tearing up of a piece of paper cannot pass with impunity.

Then the usual proceedings. An armed party of police harry the country, threaten the kraals, frighten the women, and return to the

magistracy with their booty—forty head of cattle. The women of the district follow the cattle to the magistrate, and are detained there for ten or twelve days. The cattle are then detained as security that the people will leave their kraals and gardens to make room for Usibebu. Eventually thirty head of the cattle were restored to the people, and ten were kept by the magistrate as fine or punishment for Mtumbu's crime of putting the paper in the ant-bear hole.

The peace offering of four head of cattle and the raiding of the Hlabisa district for the forty head of cattle could not however expiate the offence. Mtumbu must be arrested. Therefore on the 25th April 1888 the armed party of 100 men arrive at dawn at the Usutu kraal—to surprise the 1,000 Usutus who are there, and to arrest Mtumbu and others. The police failed in their errand, and their lives were only saved by Ndabuko's respect for authority. Mr. Osborn was responsible for this attempted arrest, and when it failed he asked for the Queen's troops to arrest Mtumbu for putting a piece of paper into an ant-bear hole.

Sir Arthur Havelock said it was wrong to arrest men on such charges, but gave his permission for the use of the troops for the purpose of arresting Mtumbu. Then troops were set in motion, and bye and bye, namely on the 2nd June, they fired on the Usutus in aid of the police, who had gone to Ceza to arrest Dinuzulu, Ndabuko, and others. These others, as Captain Mansel tells us, were the four men who had been guilty of contempt of Court; of these four men Mtumbu was the chief malefactor. Captain Mansel complained that he was not supported as he should have been by the troops at Ceza and Hlopekulu. An explanation may perhaps be found in a disinclination on the part of men like Captain Pennefather and the late Colonel Stabb to shoot down British subjects in order to arrest Mtumbu for tearing up pieces of paper.

It would be thought elsewhere than in Zululand that enough notice had been taken of Mtumbu's offence—Mr. Addison, the magistrate, was not of that opinion. From the records of his Court it seems that on the 1st November 1888 a criminal cause was tried between Her Majesty the Queen as prosecutor and Mtumbu, headman of the Hlabisa tribe, as defendant. The charge was expressed as follows:—

“Charged with contempt of orders of the Resident Magistrate
“in destroying a Pass furnished to him to proceed to the Resi-
“dent Magistrate, Lower Umfolozi District, and when summoned
“repeatedly to explain his conduct failing to do so.”

As a fact no summons was ever issued. The columns in the *Criminal Record Book*, which are required to show the date and return-day of the summons, and the "facts of the case," are absolutely blank.

Mr. Addison, who was complainant and judge, found Mtumbu guilty, and passed sentence as follows:—

"To be imprisoned for three months with hard labour, and the "eight head" (should have been ten head) "of cattle now in possession of the Resident Magistrate forfeited to the Crown."

The magistrate's note-book contains the further following information:—

"Plea, guilty, and states he was afraid of being imprisoned."

Mr. Addison made the further note:—

"The prisoner is one of the men for whom a warrant was "issued on the 25th April, and when (*sic*) the Zululand police "proceeded to the Usutu kraal they were resisted and could not "carry out the warrant."

The next we hear of Mtumbu is that he, the headman of a tribe, is made to do hard labour by carting manure, &c., in the garden of Mr. Addison, the Magistrate.

IV.

GAGAHLA'S CASE.

Gagahla is one of the four men for the arrest of whom the writ was issued on the 25th April 1888. The writ was granted on an affidavit of Vusindhlu, of which a copy is as follows:—

"I am native constable attached to this office. I was sent yesterday to summon Uhlamba ka Sibaya and Umhlazana ka Malungwana to appear before the resident magistrate, Ndwandwe district, to answer a civil claim at the instance of Sukumana, a private in the Zululand police, against the former, and at the instance of Gebiza, under the chief John Dunn, Etshowe. I spoke to Uhlamba himself.

"He said he would not attend the office, as Sukumana had no claim against him. Umhlazana was not at the Usutu, but the indunas said the plaintiff Gebiza should not have complained to the magistrate, but should have spoken to Umhlazana first. Gebiza has asked for his cattle from Umhlazana, but he has put him off on every occasion. Both Uhlamba and Umhlazana have been summoned on several occasions, but have failed to obey the summons.

"I also have summoned Mtumbu ka Umbopa to attend this office to answer a charge of contempt of Court in refusing to obey the magistrate's orders, and for destroying a pass given to him by the magistrate to move into the Lower Umfolozi district, out of Usibebu's location, but he failed to obey the summons.

"I also charge Gagahla ka Mfinyeli with contempt, in refusing to obey the lawful summons of the magistrate to answer a civil claim preferred by the chief Usibebu against him."

"Signed, VUSINDHLU.

"His x mark.

"Witness to mark,

"Signed, W. S. WINDHAM.

"A true copy.

"Signed, R. H. AMBISON, R.M.,

"Ndwandwe District.

"ETSHOWE, April 20th, 1889."

The writ of arrest directed the arrest of Uhlamba, Umhlazana, Mtumbu, and Gagahla for "contempt of orders" of "resident magistrate Ndwandwe district in refusing to obey his lawful summons." This alleged offence corresponds with an offence with which Gagahla was charged on the 26th December, 1887, as appears of record in Mr. Addison's court. Copy of the record annexed shows that the Queen was the "Plaintiff," and that Mr. Addison inflicted a fine of two head of cattle on the following alleged "facts of the case":—

"Charged with contempt of court in refusing to attend the summons of the Resident Magistrate Ndwandwe district in the matter of a claim of ten head of cattle claimed by the chief Usibebu from the prisoner."

Gagahla paid the fine on the 31st December, 1887.

Proc. 2 of 1887 provides that all offences shall be tried upon a summons issued and served: in this case no such summons was issued. Vusindhlu states in his deposition that he was sent to the Usutu kraal on the 24th April 1888, to summon Uhlamba and Umhlazana. He was not sent to summon Mtumbu and Gagahla. Uhlamba said he would not attend because Sukumana, the plaintiff, had no claim against him. Umhlazana was not at the Usutu kraal.

Mr. Osborn, as appears by his letter of the 26th April 1888 (C. 5522, 27), had already determined to adopt "severe measures" against Dinuzulu and Ndabuko. All that happened on the 25th April shows that these "severe measures" were, in case of need, to be excused by the writ of arrest for contempt of court. Vusindhlu's affidavit disclosed no grounds whatever for arresting Uhlamba, who gave a good reason for not appearing, and Umhlazana who was not seen. Vusindhlu, therefore, makes the case as strong as he can by the averment that these two men had been previously summoned. This averment did not make the case strong enough for what was to be done, so Mtumbu was brought in. No reference is made in Mtumbu's case to the fact that Dinuzulu had paid four head of cattle to prevent trouble. In the same way the charge against Gagahla does not disclose the fact that Gagahla had been tried for the alleged offence and had paid a fine of two head of cattle.

The writ of arrest was handed to the police on the evening of 25th April.

The strength of the police was as follows :—

<i>Nongqai</i> (Zulus)	...	...	80
<i>Magistrate's Police</i> (Zulus)	...	...	14
<i>Officers</i>	...	...	2
<i>Mr. Foxon</i>	...	...	1
<i>Mr. Windham</i>	...	...	1
			—
			98

The official pretence is that this strong force was got together on the 25th April because of the Affidavit of Vusindhlu. The contrary allegation is (and on this point an independent inquiry is claimed) that Mr. Osborn, having already decided to use "severe measures" against the Usutu chiefs resorted to the writ of arrest for contempt of court in order to carry out his object.

In a second letter of the 26th April Mr. Osborn justifies the writ of arrest by the following statement :—

"As it was certain that these four men were still at the Usutu kraal the resident magistrate placed yesterday a warrant for their apprehension in the hands of the Zululand police."

Vusindhlu's affidavit of the 25th April only refers to one man as being present at the Usutu kraal, and this man gave as a reason for not attending at the Court that he owed nothing to the man whose claim he was asked to meet.

It is a noticeable fact that although Mr. Osborn was bent on "severe measures" he could not find a better excuse for the employment of force than what was offered by the affidavit of Vusindhlu. Sir Arthur Havelock was bound to admit, as he did by his letter of the 4th May 1888 (5522—82),

"That no serious crime having in this case been committed the arrest of the offenders was not an urgent matter, and might have been allowed to wait a favourable opportunity."

His Excellency in offering this suggestion did not take into consideration Mr. Osborn's statement of the 26th of April :—

"Nothing short of severe measures will put a stop to their constant intrigues and attempts to create open disturbance in the country."

The Usutu kraal was threatened on the 26th of April, not to arrest the four men, but to put a stop to so-called constant intrigues. It was on these supposititious intrigues that Mr. Osborn framed an

excuse for the lamentable results of the restoration of Usibebu. It was easier to charge Dinuzulu and Ndaduko with treason, than to admit the sad amount of suffering caused by the official policy. Gagahla was not arrested at the Usutu kraal on the 26th of April nor at Ceza on the 2nd of June, although he was according to Captain Mansel one of the men whom the Queen's troops were called upon to arrest at the latter place. Gagahla was soon to learn, however, that if Zululand justice grinds slowly, it grinds very small. Mr. Addison's "Return of Criminal Cases" for the month of October, 1888 shows that on the 1st November the Queen was the prosecutor and Gagahla was the defendant. The charge is probably unique in all Her Majesty's varied possessions.

"Contempt of orders of the resident magistrate, Ndwandwe district, in failing to obey his lawful summons to appear in a civil action preferred by the chief Sibebu, for five head balance due to the said (*sic*) for the woman, Sikidjini Ka Dengizi, formerly the wife of Sibebu, who on the defeat of that chief at the Etyeneni by the Boers and Usutus, was taken as wife by the prisoner."

The Record tells us that the judgment of the court (Mr. Addison) was "guilty," and that the sentence was:—

"To be imprisoned for three months with hard labour."

The two magistrates who were members of the Special Court, refused to admit as evidence for the defence the records of Mr. Addison's court of the cases between the Queen, and Gagahla, and Mtumbu. By this decision they placed the president of the court in a minority.

When Gagahla was brought before Mr. Addison on the 26th December 1887, for "contempt" for not appearing to answer a claim by Usibebu for ten head of cattle, he is allowed to escape with a fine of two head of cattle. When, however, on the 1st November 1888, Gagahla is again brought up for "contempt" for not appearing to answer a claim by Usibebu for five head, the balance of the ten head mentioned in the record of December 1887, it is thought necessary to strike terror into the heart of this traitor. Therefore he is sentenced to three months with hard labour. It is to be supposed that Gagahla added to his original offence in December 1887, by paying off five head of the cattle before he is again brought up for "contempt."

The Queen's name is used in the record of 1st November 1888, in connection with a cause in which Usibebu is assisted by the magistrate to recover

"the balance due . . . for the woman Sikidjini, formerly the wife of Sibebu, but afterwards taken to wife by the prisoner."

Usibebu was defeated in June 1884, at the battle of Etyaneni. Before that date he had discarded Sikidjini, who became the wife of Gagahla. No sooner had Usibebu been restored by Sir Arthur Havelock and Mr. Osborn than he began to settle old accounts and amongst them he claimed ten head of cattle from Gagahla. No summons was ever issued as required by law, all that happened was that Mr. Addison sent a messenger to Gagahla to appear and answer Usibebu's claims. No plaint was entered in the Civil Record Book, although this is required by law. Gagahla did not appear, and for his "contempt" he was fined two head. Then he seems to have paid five head to Usibebu, and finally because he did not appear in reply to some other message from Mr. Addison to pay the other five head, he is sentenced to three months' imprisonment with hard labour. Gagahla and his people were evicted from their huts and gardens to make room for some of Usibebu's people. This was the case with the other three men whose names appeared with his in the writ of arrest for "contempt of court." In a despatch to Lord Knutsford from Sir Arthur Havelock (C 5522,27), it is said :—

"Your Lordship will observe in the closing paragraph of Mr Osborn's despatch of the 26th of April, that he states that law breakers are harboured in the Usutu kraal by Ndabuko.
"Instructions have been given to the senior military officer in Zululand to advance a squadron of dragoons, and a company of mounted infantry to a spot at Ivuna where Mr. Osborn now is, to serve as a support to the magistrate and the police."

In other words the troops were ordered to help the police to arrest "law-breakers" harboured at the Usutu kraal. The "law-breakers" were Mtumbu and Gagahla, and two others equally innocent, who had been driven out of their homes. Not one of them had broken a law, and it is not in the power of Sir Arthur Havelock or Mr. Osborn, or Mr. Addison to say what law was broken by any of the four men.

V.

LANGA'S STORY.

Langa is a lad about 17 or 18 years of age. The following is his story in his own words as told to the Court, with notes to make the meaning clear.

Langa. I am son of Logotwayo, under Fogoti. At the return of Usibebu to his district, I was living the other side of Mhlopenkulu, a hill near Ntshobana River, which runs into (at) the Ukusana, in the Dutch territory. The Mhlopenkulu is in Zululand, Fogoti was the chief there at the time of Usibebu's return. I heard that Usibebu had returned. After he had been there a short time, the magistrate Dick came: he came to count the gardens.¹ When Dick reached the kraal, my brother Njonjo and Madongwana went out and saluted the magistrate. The magistrate asked them whether they were removing, removing their things, I heard them.

Njonjo replied "Yes, we are moving our things."²

Dick then went into our cattle kraal and found a corn pit open: the stone was just placed over the mouth, but they had not covered it up as is the custom: they had been getting out the corn.

The magistrate called Njonjo to come into the kraal, and told him to open the pit, remove the stone. On his removing the stone the magistrate said "What is this?" Njonjo replied "This is the corn that we are carrying away." Upon which the magistrate caught hold of him.

They had only taken one lot of corn out of the pit, it was nearly full.

A person my height standing in the pit, comes up to here (shoulder, chest) it was a year of plenty, there was lots of corn

¹ To measure the growing crops in the gardens from which these people were evicted.

² These removals were by order of the magistrate to make room for Usibebu's people.

that year. When my brother replied "This is the corn we are removing" the magistrate caught hold of him then and there; as soon as the magistrate caught hold of him the Nongqai¹ rushed in and caught hold of him, laid him down on the ground and flogged him with a whip until my mother came up crying, and threw herself on to him. They let him go then when my mother threw herself on to him.

Dick's party said, "This woman's heart is a bad one, they want us to kill her as well, throwing herself on her child this way. He (Dick) called Njonjo and the girls, and went down to count the corn, and growing crops in the garden. I did not go down with them.

I do not know what happened there; I did not see. Dick and the Nongqai left eventually; we stayed; we did not move; not then; but we were removing our corn from the kraal to across the boundary, the corn from the pits; we moved the corn to this side of the road, where Dick laid down a boundary. We took it to Jozo's kraal, across the Myikwana.

The Mkusana is the boundary. The next that happened was, we saw some Nongqai appear; they did not come to our kraal, they went to Maduna's kraal; we were at our own kraal drinking beer.

Jozo's kraal is in Zululand, but over the line laid down by Dick. On the Nongqai reaching the kraal, we saw them stand outside, and one went inside; a policeman went in, and after him some Nongqai went in; when we saw those Nongqai go in, we saw some others walking down below Manduna's kraal; those came back to the kraal, and those who had been in the kraal came out, and they left. From there they went to Ozamva's kraal. On reaching these they stood outside, and the policeman whom we could see was Mangezu, went inside the kraal. While these others were standing outside, we could see this man go to each hut, stooping down, and looking into the huts: after looking into all the huts² he went out to the Nongqai; they then moved off and went to Mabuna's. On reaching the kraal the Nongqai stood outside, Mangezu went inside the kraal: on going inside he found some women standing near the fence with their children. I could see all this. On his reaching them where they were standing, we

¹ Zululand police.

² To see that all the people had left.

saw the children crying and running away by the gate, and the women crying at the top side of the kraal.

On the children crying we shouted out to Mangezu. "We can see what you are doing; that you strike our mothers when you see we are moving." After striking them¹ he went out of the kraal to the Nongqai.

They left the kraal, went up above and turned as if coming to our kraal, but did not do so. As they went away we left the kraal to cut them off for the purpose of asking them why they had been striking the women. We got on to the road as they were coming up; there is a junction of roads there; they took the one leading in the direction of Gomozana's and we followed them.

While we were following them we suddenly saw three Nongqai jump up who had been evidently hiding alongside the road, and tried to arrest Nwana, one of our company, and attempted to bayonet him, made a thrust with the bayonet, but he caught hold of the bayonet. He did not actually catch hold of the bayonet, he attempted to, but missed; the main body of Nongqai then came back. When they came up to us they had got their rifles out and loaded them, and as they approached us we went backwards. We were backing; they came on to us; we saw they were loading and inclined to fire at us. We were carrying assegais and guns—five of us had guns. When they came close to us with their guns ready and loaded, we also produced our guns, and we made attempts at each other, flourishing our guns and assegais at each other, and they eventually left us. We heard them say, "So, so, so. We can see all of you, and recognise all of you." We said, "We can see you, what you are doing, that when you come here and find us moving you strike our mothers." They then moved off. There was no white man in charge of those Nongqai.

They went back to Dick's on moving off. We went away to this side of the wagon road, to the cattle where I (we) put my (our) cattle. We stayed there some days, then said, "We can see Mangezu is anxious to get these cattle: they had better cross over into the Dutch territory";² and we did so, and took the cattle there, across the Mkusana, and I (we) stayed with the

¹ Because they had not left.

² Cattle are removed through fear of seizure by police from British rule to Dutch territory.

cattle there. We went back after staying there some time to fetch our mothers there to where we were staying in the Dutch territory, from our kraal.¹ We stayed there with them, and used to carry the corn from our kraal to the Dutch territory.²

We crossed the Mkusana and Myikwana, and reached the kraal after that.

The Myikwana falls into the Mkusana. After we had got our mothers there, one day we started with girls and three young men to get some corn, telling the girls to follow us, as we wanted to pick some tobacco when we got there. The young men were in front. We picked the tobacco and went to our kraal. My two companions on reaching the kraal went inside and I stood outside. I then called to them to come out, as I saw some Nongqai; I first thought there were only two, but from the way they were travelling it turned out there were three. We said, "As the girls are coming, we had better go back to them, so that they may not be surprised at seeing the horsemen appearing."

When we approached, on our return journey, we saw the girls running away. When at the spot where we approached from we heard firing—a shot—to our left. On looking round we saw three horsemen had appeared; they stood a little, and then the third man left the second and went out of sight. This man disappeared for a short time. We then saw him appear with three others; they then made a party of six.

They then came to us. They came along through the bushes as quick as they could, and when they got in the open they simply raced as hard as they could go. We disappeared near Vus's kraal. We were running as hard as we could, because we saw they would overtake us, and when we reached the Myikwana River one of my companions remained there. When I and my other companions got across the river we could only see three horsemen. We could not see the other three.

They came towards us, and on our reaching a ridge we saw the girls on the opposite ridge. We beckoned to the girls, and pointed to where the horsemen were, when two of the three mounted men approached. When they approached they saw that I was in open ground, and they made for me at full speed. I went to a dip. Just as I crossed the dip they overtook me. I heard a

¹ Women not safe under English rule are removed to Dutch territory.

² The evicted people carry their corn to Dutch territory.

shot fired just behind me ; just as I heard the shot I heard a man say "Boy ! stop ! stop ! damn it, damn it, lie down ! I won't shoot you !" After saying those words, telling me to lie down, " I won't shoot you," I heard another shot, and heard the bullet whizzing past above me, and it dropped at the temporary cattle kraal where my mothers were : I did not know that at the time, but I knew it had passed me.

I fell at this second shot. I was running. I fell on my stomach. The ground was sloping ; I stumbled and fell as I was running away ; the man was close behind me. Just as I was placing my hand on the ground to raise myself to get up, this person came up to me and shot me with shot. I looked round when I was shot, and saw he was dismounted and holding his gun this way (ready). It was then I recognised who this person was, it was Dick the Magistrate. I got up and looked at him and turned to go off, when he shot me a second time. When he shot me the second time he stood.

I went away, but I was walking then. I was tired.¹

When I fell he struck me with shot. The charge hit ; it actually struck me ; I received all the charge in my back. That was just as I was in the act of getting up, with my hand on the ground raising myself to get up. I had my back then to the person who was shooting me. A second shot was fired at me, but the second I heard the noise in the grass " 'tshau." ²

I was shot because I was sideways to him then. I was shot in the arm ; all this side on the arm (left) and the left side, on my head and on the leg. I was turning my left side to the person who shot me.

Witness comes down from the box close to the Bench. ³

Witness. I produce the shot.

Mr. Dumat. You will find thirty on his back.

Witness. I do not know whether I have any left in my back ; nobody has felt me. I can feel one here.

Examination of body continued.

¹ The lad, chased for a long distance, and with two charges of shot in him, says " He was tired."

² The lad describes the sound made by the shot in the grass.

³ To be examined by the Registrar.

Registrar says, "Twenty-seven marks, and three shot still in." *Judge* looks and feels.

Witness. The shot in my head is still there; it is sore. Here is the shot taken from my body (produced).

Mr. Morcom. Is your Lordship recording the size of the shot?

Mr. Fannin says "It is 6 or 7 shot."

Mr. Dumat says "It is bird shot No. 6."

Mr. Morcom says "Galloway says it is shot No. 6."

President says he will put "probably No. 6."

Mangembi took the shot from my body. I crossed Mkusana and reached the Itanga, temporary kraal, where we were staying. Dick stopped there where I had left him, but he fired a bullet after I had crossed. I heard the bullet as it was travelling, and it struck in front of me. I was out of sight then.

After I had reached the temporary kraal, having crossed the river, he (Dick) appeared on the opposite rise and called out, saying, "Where is Tshokobezi¹ disappeared to?" I was then with my mothers at the temporary kraal; I could see him (when he shouted). My kraal, and Manduna and the Ozamuva kraal are close to each other. Five kraals including our kraal, they are close together² (moved for Usibebu). They were Manduna, Mpinda, Ozamuva, Mabuna, and my father Logotwayo's. I believe I could remember the number of huts; in Manduna's eight, including a small spare house; in Mpinda's four; in Ozamuva's five; in Mabuna's four; in Logotwayo's five, the kraal I lived in.

President said he understood four was the average number of inhabitants to a hut.

Mr. Dumat said the average would satisfy him.

President subsequently said he had better take three as an average³

Witness. In Logotwayo's I think there were eleven people.

Mr. Dumat said it was utterly impossible to place in the box all the men evicted, but he had, by examination of the headmen, arrived at the conclusion that there were 1,260 huts, or 3,780 people evicted.

¹ The cowtail worn by an Usutu.

² This witness speaks to the removal of 5 kraals - 25 huts to make room for Usibebu's people.

³ In the calculation of the number of people evicted a hut is taken to represent three souls.

Witness. In my own kraal there were two young men of the Falaza Regiment, my brother, and myself (my brother, half-brother, the same age as myself; I and my brother are too young to be in a regiment); there is a small boy, three big girls, and one small girl, another girl younger than the one, and a small child; that makes eleven of us; there are five women. My father was killed by Usibebu at the Msebe fight. There were no married men in the kraal; there were never any beside my father.¹

President. Is your father still alive?

Witness. The women are the five wives of my father (?). When we were turned out the crops were just before flowering; the magistrate ordered us to go out to make room for Usibebu.² In Manduna's kraal (seven huts) at the time there were five men and a young man about my age, two children (one a small child and one able to herd calves), three big girls and one small girl, eight women; there were eight huts and eight women.

The day I was shot I was armed with a gun and an assegai. Before Usibebu came there had been no order that they (we) had not to carry guns.

The Court adjourned.

By Mr. Morcom. I do not know what day it was I was shot; it was before the fight at Ceza. I saw him before this date; the day he killed (injured) my brother.

I know Mr. Addison; I persist in saying it was he who shot me; it is he.

Mr. Morcom says "Addison was not there."

By President. "It was this gentleman who shot me."

Mr. Escombe says "It is a question of fact."

Mr. Morcom, the prosecutor, opposed his personal word that Mr. Addison was not there, to the statement on oath by the witness that Mr. Addison shot him. The attention of Sir Arthur Havelock was called to Langa's case in July 1888, without any result. Mr. Escombe's letter of the 8th March 1889, to Sir Arthur Havelock, gave notice of the charge against Mr. Addison. The prosecution elected not to put

¹ This is a common story which tells how the manhood of Zululand was killed off, firstly by the Zulu War of 1879, and then by inter-tribal fighting.

² The orders came from Sir Arthur Havelock.

that gentleman in the box. It will be noted that Langa was not cross-examined, except as to the identity of Mr. Addison. The evictions and the floggings and beatings of women and the shootings are passed over, and the prosecution was only concerned to show that the particular person who shot Langa was not "*Dick*."

The prosecutor found himself, as was foretold, forced step by step from his position as counsel for the Queen into that of apologist for her Majesty's servants in Zululand. Langa gives unshaken evidence of the manner in which the occupants of 25 huts were driven away from their holdings. The scheduled huts in the area of eviction are 1,260, representing between 3,500 and 4,000 souls. Langa's story only describes what happened in 25 out of 1,260 huts.

VI.

SIZIBA'S CASE.

Siziba is the headman who spoke at the interview between Mr. Escombe and the Usutu headmen at Etshowe. The notes of the interview have been sent forward to the Secretary of State. The story is told by Vusindhlu. A report reached Mr. Addison that a murder had been committed at Siziba's kraal. He took police with him; asked questions about the crime; he did not get the information he wanted; he therefore had Siziba and his men flogged in his presence to make them confess. The flogging was inflicted with a sjambok of sea-cow-hide. One man was handcuffed when flogged. The men who were flogged—warriors—and presently to be called traitors—took their floggings standing—so great was the inherent respect for the Queen's authority that there was no necessity to hold the men, still less to bind them, under their punishment. Why the one man was put in handcuffs does not appear. The reason was perhaps there were not handcuffs for all. When the floggings did not elicit evidence of the murder, another practice not novel in Zululand was resorted to. Several men were separated each from the others, but within earshot of a gun, which was fired by Mr. Addison. Mr. Addison, although in Court all through Dinuzulu's trial, engaged in marshalling evidence for the Crown, was not called as a witness. His spokesman, Vusindhlu, said he did not know why the gun was fired; everybody else in court knew that the gun was fired to make each of the separate men think that another of them had been killed because he would not tell.

The experiment did not succeed; the floggings were useless, the shot was wasted, and within a day or two the missing man appeared.

The Crown Prosecutor in addressing the court as to this incident used the following words:—

“Energetic proceedings would have received commendation if
“there had been a murder.”

This comment on the renewal of torture in Zululand is referred to as confirmation of a statement made by Dinuzulu's counsel early in the trial, namely, that the prosecutor would be driven step by step, and day by day, out of his position as counsel for the Queen into that of advocate for the officials. It was Siziba's people who were flogged when the Special Court was sitting, upon the orders of Mr. Tyrrell, an acting magistrate. The flogging of twenty-five lashes, each illegally inflicted, was after infliction disallowed by Mr. Osborn. On this occasion Siziba himself was fined five head of cattle. It made no difference that he was not present at the trial by Mr. Tyrrell, but was at Etshowe, eighty miles away from Mr. Tyrrell's magistracy.

VII.

THE TWENTY-TWO MEN.

On the 31st December, 1887, Mr. Addison had accepted an invitation from the *traitor*, Dinuzulu, to be present at a hunt at the Usutu kraal. Dinuzulu sent out his invitations to his people on either side of the boundary line. On the 2nd January 1888 Usibebu with 1,000 warriors, with war shields, assegais, and guns, appeared at Mr. Addison's magistracy and excited the alarm of the whole community. Sir Arthur Havelock admitted (as was in no case necessary) that this alarm was natural. It was prudent to postpone the hunt, so Mr. Addison went to the Usutu kraal to disperse the people. Dinuzulu had already countermanded the hunt. The people assembled under the *traitor* chief dispersed quietly.

Twenty-two of them belonging to the Dutch side of the line had arrived at the boundary on their way home, when they were intercepted by Mr. Addison's police. They were taken back to the magistrate, with the exception of one man, who was so beaten and maltreated on the road that he had to be left. Mr. Addison held the usual *al fresco* court, put a few questions which were truthfully replied to, and then gave orders to bring out the "cat." Two headmen were selected and flogged, a third was passed over as too thin, a fourth was passed as fit for punishment, and received it. The arms of all the men were taken away and when the floggings were becoming tedious the order was given by the magistrate:—

"Tshayani abatagati—Strike the evildoers."

At the signal (one which was made historical when Peter Retief's party was massacred by Dingaan) the whole were driven away by stones, and knobkerries, thrown at them by the police. These men had been compelled to transfer their allegiance from the Queen to the Dutch Republic! The flogging of these men was not only a wanton act of cruelty, but it was a direct violation of Proc. No. II. of 1887, which makes floggings illegal until after the sentence following a trial has been confirmed by the chief magistrate.

VIII.

USIBEBU AND SOKWETSHATA.

These chiefs were driven out of Zululand into the Reserve in the middle of 1884. Their expulsion gave peace to the country. On the 3rd August 1887 Sir Arthur Havelock wrote to the Secretary of State (C. 5331, 23)

"I would earnestly beg you to intrust me with authority to "arrange for the re-patriation of Usibebu at such time and in "such manner as circumstances may render convenient."

At the date of this request the following grave reasons against the restoration were existent:—

On the 10th November 1886, a warning had been sent "by Dinuzulu, Undabuko, Mnyamuna and the Zulu people" in words as follows:—

"We hear also that Usibebu is asking to return to his country. "We hope that he will not be permitted to do so, because he "attacked our king (Cetewayo) and caused him to be wounded, "therefore we could not have him amongst us again" (C. 4980, 125).

Sir Arthur Havelock, in his reply to the message of which this warning was part, referred to the expulsion of Usibebu from the country which had been assigned to him, and pointed out "there is a large extent of country unoccupied in Usibebu's territory" into which the Zulus, who could not live peaceably with the Boers, might easily move (4980, 128, 129). The restoration of Usibebu was a violation of the promise contained in or implied by these words. Sir Arthur Havelock compelled the Zulus to give half their country to the Boers in consideration of services rendered by the Boers in helping to expel Usibebu. He met their protest against this loss of territory by pointing out that the remaining territory was free from Usibebu, and, in thirteen months, he puts Usibebu back in that remaining territory. Sir Arthur Havelock had another warning in Mr. Osborn's letter of the 15th of November, 1886 (C. 4980, 126).

"The one fact remains that but for the restraining hand of the Government Usibebu would, without loss of time, return to his country and resort to fearful retaliation on the Usutus for their conduct in bringing the Boers against him."

Sir Arthur Havelock had another warning in his conversation with the President of the New Republic, Lucas Meyer, on the 18th and 19th October, 1886 (C. 4980, pages 86, 91, 93). Mr. Meyer stated that Usibebu was out of the country, and the Zulus were at rest. He referred to an occasion when the Usutu party had been driven away and killed by the Usibebu party; and he assumed that Her Majesty's Government would not allow Usibebu to return to the country under any circumstances, "because if he is allowed to return a state of anarchy would take place immediately." Sir Arthur Havelock had still another warning in the reasons for the restoration given by Mr. H. C. Shepstone, Mr. Osborn, and Sir Theophilus Shepstone, his Excellency's advisers in the matter. Mr. H. C. Shepstone puts these reasons in the plainest words (C. 5331, page 25):—

"The Zulus in Central Zululand appear to be far from satisfied with the recent settlement of their country, and will, in all probability, cause some trouble yet in the final settlement of affairs there. It is mainly for these reasons that as a matter of policy I would suggest the return of Usibebu and his people to their old country. We know their loyalty, and can depend upon them in case of any disturbance there, and by sending them back we would have a strong loyal body at the extreme end of the country, and the Zulus would thus be between it and us, and would feel the difficulty and danger of their position should they contemplate any rising, which their so-called friends seem to suggest."

In shorter words, the Zulus had dared to protest against the alienation of half their country to the Boers, and Usibebu was to be put back to keep them in order. Mr. H. C. Shepstone gave as one of his reasons for the restoration, that Usibebu's former country had not, since his defeat, been much occupied by Zulus. He was given reliable information to the contrary at the end of 1885. This information is published at page 72 of C. 4645. Mr. Moore, his informant, wrote to him:—

"I have been among the Usutu, and all over Usibebu's territory The Zulus are very quiet and respectful to Englishmen, and this year are planting very extensively Undabuko

"resides in Usibebu's territory, close on the border, and all Mandhlagazi (the name given to Usibebu's territory) is being steadily occupied by the Usutu party . . . Dinuzulu has a large kraal, called Impiyipela, in Usibebu's country. This kraal is occupied entirely by Amambukas, or people left behind by Usibebu, and under the control of an Usutu Induna (headman). The kraal is well supplied with milking cows, and the people seem entirely satisfied. Natives from up-country are removing down, driven away by the Boers, and in the space of another year Mandhlagazi will be thickly populated again."

"I notice the *Mercury* advocates the reinstating of Usibebu. I do not coincide with that without England would like finally to get rid of him, for as sure as Usibebu returns he will be killed; even if he is reinstated and a body of troops left with him, he will have to be guarded night and day, and the country be again in a ferment."

No steps were taken to find out the condition of the country to which Usibebu was to be restored. Mr. Osborn reported on the 22nd July, 1887, that the district (5331, p. 26):—

"is at present or rather was to within a few weeks ago almost comparatively speaking entirely unpopulated,"

and that the people were ready to welcome Usibebu. Mr. Osborn could not have made this statement from personal knowledge: it was not in any way warranted by the facts. The true facts will appear from the letters of Mr. Galloway of the 1st, 3rd, and 5th December, 1887, to Mr. Addison. Mr. Galloway was appointed to accompany Usibebu from the Reserve to the district which was "almost comparatively speaking entirely unpopulated," and where Usibebu was said to be sure of a friendly welcome. These letters did not appear in the Blue Books; they are referred to, but in a way to conceal their true import. These letters will show that the Zululand officials have not made faithful reports of events in the country, and have by concealment and suppression, obtained the approval of Her Majesty's Government of a policy which would have been at once condemned if the facts had been fairly stated. On the 1st of December Mr. Galloway wrote from the Highlands, near Mbopa's kraal which is in the Hlabisa district; this district never belonged to Usibebu or his tribe, or his father Mapita: it is a district to which he was not restored by Sir Arthur Havelock. Mr. Galloway writes:—

"I have just arrived here with Usibebu and his people. So far all has gone well, but here the people living near are all in arms

"and declare that they will fight, and that Usibebu shall not re-occupy the district . . . the people with us are nearly starving, and there is great difficulty in keeping them from the kraals (*i.e.* of the people about to be evicted). Usibebu wishes me particularly to ask if you can help him soon for the grounds he requires for gardens are at present in the hands of his enemies."

It is necessary here to state, as was proved by the Crown witnesses in Dinuzulu's case, the way in which Usibebu and his people travelled from their asylum in the Reserve back to the country from which Dinuzulu and Ndaduko with Boer help had expelled them by force of arms in June 1884. Their number was 700, they carried no food: they left their women and children behind them, they carried their war shields, assegais, and guns; the carrying of guns without the consent of the authorities was rendered illegal by the Law 2 of 1887: they were expected to live on the buck they might hunt on their journey. Mr. Galloway's words "There is great difficulty in keeping them from the kraals" may convey some idea of what happened when 700 men had to starve or steal. On the third December, 1887, Mr. Galloway writes from Ensebe as follows:

"On the first I had the honour to inform you that I had arrived in Usibebu's district."

This extract shows that Mr. Galloway did not know that Mhopa's kraal was *not* in the district to which Usibebu was restored. The letter continues:—

"Usibebu has not been met by a single friend, whereas he expected to meet hundreds . . . so here is Usibebu returned by the Governor, denied by the people in consequence of Dinuzulu's report and order; with about 700 men in the midst of thousands of enemies, and no food, and yet tied by the orders received from Government not to help himself."

The evidence in Dinuzulu's case was that Mtumbu was sent by Dinuzulu and Ndaduko to tell the people to be quiet as Usibebu was sent back by the Government. Seven hundred starving men amidst thousands of enemies!! and told not to help themselves!! It is needless to say that Mr. Galloway's letters of the 1st and 3rd December did not see the light of day. They effectually disposed of the alleged welcome which awaited Usibebu, and the alleged sufficiency of land.

Mr. Osborn commented on these letters as follows:—

"On the 5th instant I received from Mr. Addison two letters dated I think the 2nd instant" (Note— It is not even necessary to refer to the letters in quoting their contents), "addressed to him by Mr. Galloway in which he was informed that *Usutu natives squatting* in and about the Mandhlagazi were very unfriendly and *almost* hostile in their attitude towards Usibebu and his people, whose position for this and other reasons he represented as very unsatisfactory." (C. 5331, 77.)

This carefully filtered version of Mr. Galloway's letters allows Sir Arthur Havelock to pass over the affair as of no moment in the following words (C. 5331, 75), 27 December, 1887:—

"Considerable uneasiness has been aroused in the minds of Dinuzulu and his followers among the Usutus by the return of Usibebu to his tribal lands," (the Hlabisa district was not in the tribal lands). "When the past history of Zululand and the former antagonism between the Usutus and Usibebu are remembered, it is not surprising that this should be the case. On Usibebu's arrival in the country he was not as well received as Mr. Osborn was led to believe he would be," &c., &c.

So far we have dealt only with the letters of Mr. Galloway of the 1st and 3rd December: there was another of the 5th December which was not referred to in Mr. Osborn's report of the 18th December, nor in Sir Arthur Havelock's despatch of the 27th December. That letter contained these words:—

"Usibebu wishes me to say that the people about whom he sent a message to you yesterday, Untini's people, have already sent to Dinuzulu begging permission to kill Usibebu: he is therefore surrounded by enemies, he wishes to clear them off, at all events drive them away, and so have all his enemies on one side."

The letter of Mr. Galloway of the 5th December, containing the above extract, was in possession of Sir Arthur Havelock when he wrote his despatch of the 27th December. This is made clear by the self-excusatory disclosure on the 8th April, 1888, by Sir Arthur Havelock of his letter to Mr. Osborn on the 16th December, 1887 (C. 5522, pp. 20, 21, 22).

It is claimed on behalf of the Zulu chiefs whom Sir Arthur Havelock has had condemned for high treason, that if His Excellency had made known to Her Majesty's Government the facts made known to him by

Mr. Galloway, the chiefs would have been thanked in the name of the Queen for maintaining order amongst their people, in the face of wanton and wicked persecution.

Sir Arthur Havelock became acquainted with Mr. Galloway's letter of the 5th December within eleven days of that date. He refers to the letter on the 16th December in the following words :—

"These tidings are conveyed in a letter from Mr. Galloway, and are of a somewhat alarming character" (C. 5522, 21).

Mr. Galloway's letters were required for the defence. It was held by the Court that no letter from Mr. Galloway was admissible. The letter of the 5th December was read to the Court, so that its importance might be seen. The document tendered to the Court was a copy of the letter certified as a true copy by Mr. W. Windham, Secretary to Mr. Osborn. The Natal Law 6 of 1884, which under Proclamation II. of 1887 is law of Zululand, makes a copy so certified admissible. All this counted for nothing in this case, as was the case with 100 other documents, many of which are referred to in this statement, and which the Court refused to receive as evidence. There was one exception. Mr. Addison had made a report with respect to his flogging of the three men invited to Dinuzulu's hunt. This particular report met with exceptional treatment from the Court—it only differed in one respect from Mr. Addison's other reports which were shut out *en bloc* and one by one. It was Mr. Addison's own version of an illegal and disgraceful act, and it made the flogging appear less horrible than when that punishment was described on oath by the head-men who endured the suffering and the shame. Mr. Galloway mentions the request of Untini's people for leave from Dinuzulu to kill Usibebu. Dinuzulu referred them to Mr. Addison, (C. 5522, 16). The word had gone from Dinuzulu and Ndabuko at Etshowe in November, 1887, to warn all the chiefs :—

"If they saw Usibebu coming they must do nothing, but let him do as he pleased, for it was the Governor who was bringing him" (C. 5522, 16).

Why should Untini's people wish to kill Usibebu? The answer is : They were asked to transfer their allegiance from Dinuzulu to Usibebu, they refused. They feared the consequences of their answer and fled. Usibebu took all their corn, that of many kraals (5522, 16) :—

Mr. Galloway gives 700 as the number of Usibebu's men brought from the Reserve. On the 18th December, 1887, Mr. Osborn reported as follows (C. 5931, 77) :—

"Yesterday however, I heard by heliograph from the magistrate that Usibebu had been joined by his principal Induna, Sikizana, with eight companies of men also of the Mandhlakazi tribe."

These few words, seemingly unimportant, conceal the pregnant fact that the 700 men from the Reserve were strengthened by 400 men who were allowed to enter Zululand from Swaziland (outside Her Majesty's possessions) in order to strengthen the Usibebu faction against the National party under Dinuzulu and Ndabuko. The 400 men marched from the northward, with war shields, assegais and guns, and met the 700 men from the southward who were similarly armed. Usibebu was now the leader of 1,100 warriors unencumbered with women or commissariat and billeted on the people who had defeated him in 1884. The crops of these people were two feet high, the pits were full of corn, there had been peace and content in the land for three-and-a-half years. There was, as Mr. Osborn wrote on the 15th November, 1886, (C. 4980, 126), nothing but the restraining hand of Government to prevent *fearful retaliation* on the Usutusi by Usibebu. The "restraining hand" of the Government was the hand that held the cat-o'-nine-tails, or the rifle, or the fowling-piece. These several weapons were used by Mr. Addison and his police in aid of Usibebu.

Usibebu had his revenge for the defeat he sustained at Etyaneni. He appeared with 1100 warriors at Mr. Addison's magistracy on 2nd January, 1888. He became the official pet. Sir Arthur Havelock set the example at Etshowe on the 15th November, 1887. Dinuzulu and Ndabuko were illegally fined and disgraced by a Governor who lost his temper. Usibebu was told on the same occasion that the Governor trusted him, and looked upon him as a friend. (C. 5331, 72). Mr. Osborn followed his chief's lead, and having Usibebu at hand in case of need, he began his persecution of the Usutu chiefs who had baffled his policy in 1884 by driving his favourite into the Reserve. Mr. Addison simply carried out the policy of the Governor and the chief magistrate. By sending on Mr. Galloway's letters he made known what was going on, and what might be expected. He gave to Usibebu a tract of country, far exceeding the area of the "tribal sites" to which alone the terms of the restoration entitled him. He knew the true meaning of the restoration; its intention had been declared by Mr. H. C. Shepstone, the Usutusi were to be brought into subjection, and Usibebu was to be used for the purpose. How loyally Mr. Addison carried out the views of his superiors is shown by his retention in office to this hour, notwithstanding the evidence in Dinuzulu's case.

Mr. Addison and other magistrates in Zululand are unfit as regards education and training for the responsible offices they fill. The magistrates have contracted the idea which is common throughout Zululand that the officials are not governed by the Law of 1887, but are chiefs whose will is law. Sir Arthur Havelock defied the law in imposing arbitrary fines. Mr. Osborn had already done so, and Mr. Addison was sent on an illegal errand to raid the 300 head of cattle in September, 1887. There has been no law in Zululand except the *ipse dixit* of the magistrate. Mr. Addison was carried away by the possession of uncontrolled power. There was no one to give him a friendly hint, no one to call him to account. He was placed in a most difficult position between the rival factions, and there is no doubt he was unconsciously used by Usibebu.

He wrote on the 27th December, 1887 (C.5331, 82),

"Unless the Government take immediate steps for the removal of the Usutu it will be impossible for Usibebu and his people to live through the year owing to the scarcity of food."

Mr. Osborn adopted the proposal in the following words:—

"As to the removal of Usutu squatters" (they were not squatters but held the land by right of conquest) "from Sibebu's location" (only a portion was Sibebu's location), "I think this could be best brought about and with the least loss of time by Mr. Addison personally visiting the locality to make all necessary arrangements on the spot" . . . "it would show the Usutu squatters that the whole question is being dealt with in earnest."

How earnestly it was dealt with will appear from the table of evictions. 126 kraals were removed:—The 126 kraals contained 1270 huts. The President of the Special Court took a hut as representing three souls. The people who were evicted are so shown to be 3810; the actual number evicted is certainly greater, as the table of evictions does not deal with all the districts.

The Table of Evictions was prepared by Robert Charles Samuelson, who was associated with us in the defence. Mr. Samuelson has an intimate knowledge of the language and life of the Zulus, amongst whom he has lived since his earliest youth. He examined over 300 natives who were at Etshowe during the trials, and prepared the table with the help of the head men of the several districts. The inhabitants of more than 400 huts, say 1200 souls, were driven out of Her Majesty's possessions into the New Republic, in face of the promise

that the Zulus who did not like Dutch rule might come to the district from which the 400 huts were removed. The inhabitants of more than 970 huts, say 1110 souls, were driven into the woods. This means that the people ejected from their huts had to find shelter where they could amongst the rocks or woods without a place assigned to them. The inhabitants of 500 huts, say 1,500 souls, were forced from their homes, and found homes in different districts, but usually near to the Usutu kraal or to the Kubazeni under Dinuzulu. Some moved before Mr. Addison laid down the boundary of Usibebu's location, but most afterwards.

Mr. Osborn had no reason to complain of want of earnestness on Mr. Addison's part.

In his evidence in Ndabuko's case Mr. Addison stated :—

“ I said that the people who would not acknowledge Usibebu as their chief were to move out of the district. None of them need have moved if they had recognized Usibebu as chief, but they would never have done so.”

Usibebu reached the area of evictions at the end of November 1887. Between that date and the 3rd of June, 1888, there was no retaliation by the evicted people, save in one case. Dinuzulu and Ndabuko had sent the “ word ” by Mtumbu, head of the Hlabisa tribe, that Usibebu was to be allowed to do as he pleased, for it was the Government who was bringing him. Wholesale evictions carried out with barbarity led to no reprisals—save one—in the course of six months.

The exceptional case is that of two men of Usibebu killed by Mkwane on the 18th March, 1888. Mkwane was the chief of an evicted tribe, and he was hanged on the verdict of Mr. Osborn and two of his subordinate magistrates. On the 3rd of January 1888, Sir Arthur Havelock reported to the Secretary of State that :—

“ The removal of Usutu squatters from Usibebu's location . . . needs only the exercise of patience and discretion.”

The people were not squatters but conquerors—the removals were not *alone* from Usibebu's location, but *also* from districts to which Usibebu had no right under the terms of his restoration. When Sir Arthur Havelock talked about the “ exercise of patience and discretion ” he had in his knowledge the facts stated in Mr. Galloway's letters : he had knowledge of Mr. Osborn's orders to Mr. Addison that the whole question was to be dealt with *in earnest* (C. 5331, 76). He had knowledge that Usibebu had asked that all his enemies might be collected on one side of him.

On the 4th February, 1888, the Secretary of State, by telegram (5331, 83), assumed that Sir Arthur Havelock had given every consideration to legitimate interests which had arisen in the interval of time between Usibebu's defeat in 1884, and his restoration in November, 1889. The Secretary of State by this telegram touched the point with the needle—neither Sir Arthur Havelock, nor Mr. Osborn, nor any one else, recognized any such legitimate interests. Each of them ignored the interests which had arisen in the interval; and in the case of each officer there was not the least excuse for this neglect. In Sir Henry Bulwer's Minute, 6th January 1886 (C. 4913, 1), the principles to be observed in cases of restoration such as this are correctly laid down. A new order of things had arisen during the three years that had passed since the defeat of Usibebu by the Usutus and Boers—a new order of things which had brought about peace in Zululand, and had peopled the district from which Usibebu was driven, with Usutus who recognized Dinuzulu and Ndabuko as the chiefs of the country. These Usutus had built their kraals, were possessed of stores of grain, and had planted crops which were well above the ground. The "legitimate interests" which had arisen during the absence of Usibebu, Sir Arthur Havelock thought fit to disregard. Sir Henry Bulwer spoke of such interests as these in the following words:—

"Other interests have been established, interests which we could not disregard, which we could not sacrifice, which English honour could not sacrifice."

"It was my duty therefore to point out that — was not the only person to be considered, and that in trying to do justice to him, we must take care not to do injustice to others."

By inserting in the blank the name of Usibebu, Sir Arthur Havelock had a rule laid down for his guidance which if followed would have saved the sufferings attendant on Usibebu's restoration. When Sir Arthur Havelock received the telegram from Downing Street of the 4th February, 1888, he replied, "Affairs generally quieting down." It is to be assumed that his Excellency was not aware of the very "earnest" manner in which Mr. Addison was carrying out the views of the chief magistrate. In fact Sir Arthur Havelock did not know the state of things in Zululand, and an instance of this is found in his telegram to the Colonial Office of the 7th January, 1888, "Settlement of country progressing favourably." Just a few days before this telegram was sent Usibebu appeared at the magistracy, within five miles of Ndabuko's

kraal, with 1100 warriors. On the 18th January, 1888, the Governor had to cancel the favourable news sent on the 6th January. Sir Arthur Havelock's despatch of the 18th January, 1888 (C. 5331, 84), and his letter of the 12th January, 1888 (C. 5331, 87), are His Excellency's admission that two grave mistakes had been made—

1st. "That the risks attending the return of Usibebu had been underrated."

2nd. "That more care and greater discretion might have been exercised in the earlier stages of Usibebu's resettlement."

Sir Arthur Havelock knew that these fatal errors had been made long before the 18th January, 1888. His Excellency had the information when he wrote his letter to Mr. Osborn of the 16th December, 1887 (5522, 21). Mr. Galloway had reported on the 3rd December that

"Sibebu with 700 men and without food had been put down in the midst of thousands of enemies."

Surely this was evidence enough of under-rated risk and of carelessness amounting almost to crime, and yet the seriousness of the question does not dawn on his Excellency until the Usutus, threatened by Usibebu's army of 1,100 strong, collect at the Usutu kraal.

Sir Arthur Havelock, in his letter of the 12th and 18th January, 1888, sought to throw from his own shoulders on to those of his Excellency's advisers, Mr. H. C. Shepstone, Sir Theophilus Shepstone, and Mr. Osborn, responsibility for all trouble to arise from Usibebu's restoration. Mr. Osborn was censured by his chief, yet retained in office. His chief had stated on the 3rd January, 1888, that the treatment of the Usutus in Usibebu's location required the exercise of patience and discretion. Mr. Osborn who, on the 12th and 18th January was blamed for carelessness and want of judgment, was left to exercise the "patience and discretion" which, on the 3rd January were held to be necessary. By his despatch of the 25th January 1888 (C. 5331, 88), Sir Arthur Havelock admitted

"that the animosity of the Usutu party and such designs as they may have, are directed against Usibebu personally and not against the Government."

Sir Arthur Havelock was summoned as a witness for the defence, to state on oath his reasons for the opinions he had expressed in the despatch in question. His Excellency saw fit to ignore the summons addressed to him by the Court of his own creation. The Court of Sir Arthur Havelock's own creation thought fit to shut out his despatch above

quoted when it was tendered as evidence for the defence. In the face of this testimony in Dinuzulu's favour by the Governor of Zululand the President of the Special Court adopted as a fact the prisoners' "determined resistance to Her Majesty's officers in Zululand," and endeavour to regain the power which the annexation had put an end to and an intention to overthrow the existing form of government in Zululand.

On the 15th January, 1888, Mr. Addison reported to Mr. Osborn (C. 5331, 88) that Ndabuko objected to the removal of the Usutu people from land given to them by Dingaan (nearly fifty years ago), and which land was to be taken for Usibebu. Mr. Osborn, in reply, spoke of this land as if it belonged to Usibebu's location, and as if Usibebu was entitled to it because it was formerly occupied by Usibebu's tribe. This reply was an authority to Mr. Addison to give the land to Usibebu in defiance of the terms of the restoration, and in disregard of the protests of the people who had held the land under a title from Dingaan. This is an illustration of the way in which the "patience and discretion" enjoined by Sir Arthur Havelock on the 5th January were exercised by the chief magistrate. Mr. Osborn had been censured on the 11th January, 1888, for carelessness and error of judgment in the earlier stages of Usibebu's re-settlement, and on the 18th January he wrongly defined the land to which Usibebu was entitled. Usibebu was entitled under the ill-advised order of the Zululand Government to his "tribal lands" alone. Ndabuko protested against his occupation of lands which were not his "tribal lands." Mr. Osborn defined Usibebu's location to be "the lands formerly occupied by Usibebu's tribe." This description was wrong, as Usibebu's tribe in past years had occupied land outside his "tribal lands."

In December 1882, Sir Henry Bulwer, with the approval of Her Majesty's Government (C. 3466, 270), defined the dividing line between Usibebu and the Usutu chiefs; and employed Mr. Fannin, then a Government Surveyor (but presently to become a member of the Special Court), to beacon off the boundary (C. 3466, p. 273).

Sir Henry Bulwer's object in fixing this line was expressed as follows (3466, 271):—

"The territorial modifications and changes to which I refer, were considered to be necessary because a part of the territory that has during the last three years (*i.e.* during Cetshwayo's exile) been under Usibebu as an appointed chief, is that to which the two brothers Ndabuko and Usiwetu, and other chiefs

"of the Usutu party, namely Umsutshwana, Mbopa, and Mahu, belong.

"The relations of these chiefs with the appointed chief Usibebu, were so unfriendly that it became necessary for them to leave the territory and go elsewhere. This circumstance has been unfavourable to the peace and good order of that part of the country, inasmuch as the chiefs in question have been greatly dissatisfied on account of their banishment from their homes and districts."

Mr. Fannin placed the beacons in a way to give to Usibebu more land than Sir Henry Bulwer indicated. When called on for an explanation he threw the responsibility on Mr. Osborn, who in fact altered Sir Henry Bulwer's instruction to suit Usibebu's views (3705, p. 55). It was nobody's business to lay down a boundary to the location to which Usibebu was to be restored.

The restoration took place in November 1887, and it was not until 30th April 1888 that Mr. Knight, who was specially appointed for the purpose, made a report as to what the boundary ought to be (C. 5522, 73). Mr. Knight was called in to correct errors in the boundary laid down by Mr. Addison, and Mr. Knight's boundaries included a large area of land which did not come within the meaning of Usibebu's "tribal sites." Mr. Knight's boundary was not confirmed by Her Majesty's Government, and it cannot be confirmed unless the principles laid down by Sir Henry Bulwer, and the words "tribal sites of Usibebu" as used by Sir Arthur Havelock are to be ignored. Sir Henry Bulwer's line separated Umsutshwana and Mbopa from Usibebu, the lines laid down by Mr. Knight and Mr. Addison brought Umsutshwana and Mbopa under Usibebu. On the 3rd March, 1888, Dinuzulu stated (C. 5522, 12, 13):—

"Dinuzulu complains that the magistrate (Mr. Addison) did not abide by the Governor's orders, which were that Usibebu and his people were to re-occupy their old tribal sites. The magistrate has gone beyond these orders, by including in the location a large number of kraals which were never occupied by Usibebu's tribe.

"This action is causing a hardship on the people affected thereby—we have nothing to say against the Governor's permission to Usibebu, but we complain that the magistrate has not confined himself to the terms of that permission. . . . Dinuzulu says that if he is punished it will be through the doings of other black people. Usibebu's proceedings tend to provoke disorder."

The Special Court shut out from the evidence all messages sent by the Usutu chiefs as published in the Blue Books. The Commissioners shut out the prophetic statement of a young savage barely twenty years of age, that he was to be punished for the misdeeds of Usibebu and his people. The Commissioners shut out a few words contained in the message of the 3rd March, 1888, which are themselves an answer to the finding of the Court.

"Dinuzulu says the proceedings of Usibebu will form a lasting story; no writings coming from God or from great chiefs would approve of them.

"Dinuzulu says the story will be repeated to our children and by our children's children that Usibebu had killed his father (Cetshwayo)—that Dinuzulu then attacked and destroyed Usibebu who then went to the English *to whom they both belonged*.

"That afterwards the English permitted him to return to and re-occupy his old 'tribal sites;' that he did not limit himself to this permission but took possession also of the sites of others to which he was not entitled, and took possession of the grain of the people, who were to suffer want because of the loss of their corn."

The Special Court condemned the lad who used these words to ten years imprisonment for high treason! These are the words:—

"We are justified in saying to you (Dinuzulu) that we are convinced that at the time of your 'determined resistance' to Her Majesty's Officers in Zululand, &c., &c."

The only period in which it was possible for Dinuzulu to show "determined resistance to Her Majesty's Officers in Zululand," was between the 7th May, 1887, the day of the hoisting of the flag, and the 6th April, 1888, when he left the Usutu kraal to go into the Dutch territory. It is to this period to which the context of the judgment shows that reference was made; at the close of this period Dinuzulu admitted that he belonged to the English, he submitted to Usibebu's restoration, and he claimed that his complaints against Mr. Addison should be brought by his own messengers to the Governor. Usibebu could afford to play a waiting game whilst Mr. Addison made the running with his floggings and shootings and wrong boundary. Usibebu was put into occupation, not only of his "tribal sites," but of a much larger area of land outside those sites, which was full of people who had made him an exile for years. All Usibebu had to do was to show himself in force with the magistrate at his back; to keep his

spies in or near the Usutu kraals; to tell Mr. Galloway or Mr. Addison what stories he pleased about Dinuzulu's intentions, and to stir up the Usutus from time to time by taunts and threats.

Usibebu's chance came—Mr. Osborn's attack on the Usutu kraal on the 26th April, 1888, under colour of the concocted writ of arrest for contempt of court, failed. He asked for the Queen's troops to help him, and was given them by Sir Arthur Havelock for the purpose of arresting the four men for "contempt of Court." Usibebu had strengthened his body-guard on the 7th May, and this to the Usutus meant that Usibebu was to be slipped from the leash against them. Usibebu with fifteen companies was at the Ndwandwe magistracy on the 1st June the day before Ceza.

This was the chance that Usibebu waited for with complete assurance that it would arrive. Dinuzulu and Ndaduko had been able to control the people in the area of evictions, until the Usutus were forced by Mr. Osborn to leave the Usutu kraal. There were no reprisals for the evictions, except one, until after Ceza; as soon, however, as the police attacked the Usutus at Ceza there were a few reprisals.

When the news of the police attack on Ceza reached Umsutshwana's district two of his people killed two men of Usibebu's, in whose favour Gagahla's people had been evicted. The killing took place in a kraal from which Gagahla's people had been driven. Using this reprisal and others that followed it as his excuse, Usibebu threw off all disguise. The "fearful retaliation" which Mr. Osborn had predicted on the 15th of November, 1886, was now possible, for the restraining hand of the Government was removed. For form's sake Usibebu asked the permission of Mr. Foxon to attack Umsutshwana (Mr. Foxon of course was not called for the Crown in Dinuzulu's case because Dinuzulu was defended;—he gave evidence in the *undecided* case of Undabuko). Mr. Foxon replied with an encouraging negative and stated that he was only a *locum tenens*, and that a higher authority was necessary without which Usibebu was not to carry out his intentions. Usibebu treated the answer as an authority to act, and he commenced what was called by some of the witnesses a "Patrol."

The whole aim of the Zululand officials has been to burke inquiry as to this "Patrol." The history of this "Patrol" fully justifies the warnings given to Sir Arthur Havelock by the Usutu chiefs, and the President of the New Republic, and by Mr. Osborn on the 15th November, 1886.

Usibebu left Ndwandwe with six companies, say 300 men, who were

added to on the road. Umsutshwana, an Usutu chief of high standing, was attacked early in the morning and killed; three women and a child were killed. When Umsutshwana was done to death, the fact was notified by the Zulu word, "GEE." At this word, Usibebu, who was with the war party, 100 yards off, rode up quickly to the place of the murder, dismounted and stepped over the body of his fallen foe; stepped over the body twice, first forwards, then backwards. The evidence in the trials showed that Usibebu meditated the killing of Umsutshwana, and asked leave to attack him. All the facts came to the knowledge of the Special Court. The Commissioners of the Special Court, and the officials combined in leaving Usibebu at liberty whilst the trials of the Usutu chiefs were going on. Usibebu was left at liberty in disregard of an application to the Supreme Court for a bench warrant for his arrest, and he was allowed to ride about the place as if the officials dare not bring him to trial. When this scandal began to attract attention in England a preliminary examination was entered upon by Mr. Saunders, the magistrate at Etshowe, and a charge of murder was preferred against Usibebu. This charge of murder made no difference to his liberty, he still rode about, seemingly as free as air, and, as already stated, was allowed to accompany the guard which escorted the Usutu chiefs from the gaol to the Special Court to hear the sentences passed on them for high treason.

There is no Court in Zululand proper to try Usibebu. The Special Court left as soon as it had accomplished its object, which was to pass sentences on the Usutu chiefs who were condemned in express words by the Proclamation which appointed the Court.

The unequal treatment of Dinuzulu and Usibebu is in itself sufficient to show that the Special Court was not a Court of Law, but was a political expedient to shield Sir Arthur Havelock and Mr. Osborn from the consequences of their mal-administration in Zululand.

If Usibebu is brought to trial before the Zululand officials they will have to acquit him, or condemn themselves in condemning him.

After the killing of Umsutshwana Usibebu used his "patrolling" force, which was divided for the purpose, in raiding the country. One detachment went to Nkowane's kraal, captured the women and killed three people. It was the killing of Umsutshwana which led the Usutu chiefs to attack Usibebu at Undunu on the 23rd June, 1888. During Usibebu's raid which followed the killing of Umsutshwana, Usibebu sent a message to the coast chief Somkeli by a woman who had been taken prisoner. The woman was told by Usibebu to go to Somkeli and to pinch his ear, and to say that when the "wild dogs" (Usibebu's

warriors) had finished off Dinuzulu and Ndabuko, they would pay Somkeli a visit. This was before the fight at Undunu on the 23rd June. The woman carried the message to Somkeli, who then and there sought safety in the "reeds," where he remained until he surrendered himself to the authorities. The defence was not able to produce this woman as a witness until the last moment. Her evidence was of great importance to show that Somkeli's action was due to Usibebu's threat as distinguished from the alleged conspiracy with Dinuzulu and Ndabuko, which was the strong point of the prosecution at the earlier trials, but which was practically abandoned in Dinuzulu's case. The Special Court treated this evidence as if it was hardly worth recording.

Usibebu's warriors, from the time they arrived at the magistracy on the 1st June, until the fight at Undunu on the 23rd June, were engaged in constant raidings at and near the Usutu kraal. They raided seventy head of Makedama's cattle. The magistrate retained fifty head, and freed ten cows and ten calves for the purpose of supplying the women and children with milk. On the evening of the day on which the ten cows were released they again were raided by Usibebu's people. Usibebu, contrary to the orders of Sir Arthur Havelock, was allowed to join the attack on Hlopekulu, and his war cry used on that occasion explains the resistance which was offered by Tshingam. This prominent part taken by Usibebu at Hlopekulu was carefully repressed—no mention is made of it in the official report.

After Hlopekulu, and when, in fact, the disturbances were over, Usibebu was allowed to join with Yamela, Mr. Osborn's head "induna," in the measures taken to "discourage" rebels. These measures embraced the seizure of over 300 women; the partition of women amongst Usibebu's men by Usibebu, and the appropriation by Usibebu himself of the young women. Kraals were surprised early in the morning, and the inmates shot down like game. The story is told in part by a widow of Mbopa's, and another woman, who were kept as prisoners from the day of Umsutshwana's death. Usibebu extended his "patrolling" operations beyond Zululand into Tongaland. The nature of this "Patrol" will appear from a letter of the 27th September, 1888, by Colonel William Jesse Coope to the High Commissioner for Zululand, containing the following extract:—

"I and my party have reached the territories of these chiefs (Umgwamana and Usebondi) at considerable personal risk, "owing to the disturbed and excited state of the country, but I "have learned what I feel sure will cause both surprise and

"regret to your Excellency. It appears that after the Zulu War, terminating with the battle of Ulundi (1879), the chiefs professed their submission to Mr. John Dunn."

"They assure me they have not since borne arms against the British Government, yet a few days ago the Zulu chief Usibebu accompanied by six other horsemen and several hundred dismounted Kafirs made a raid upon their outlying kraals, burnt some of Usebondi's; and murdered, under circumstances of great atrocity—such as burning alive—many women and children of Umgwamana's people, carried off some of the latter into captivity, and cleared the country as far as they penetrated of cattle and money. The chiefs have expressed to me their surprise that England who professes such regard for the lives of women and children should sanction such atrocities as those perpetrated by a chief whose only power is derived from the support he receives from Great Britain.

"By my advice they now offer through me their submission to the British Government."

"I have been able to persuade them to this by assuring them in the name of my country that English justice will demand restoration to be made to them of—

"1. The children carried away into captivity.

"2. The cattle raided.

"3. The money stolen.

"In support of the statements made by these chiefs, I may add that what I have myself seen fully confirms it, such as deserted and ruined kraals, Umgwamana hiding with the residue of his women and cattle in the dense bush, in such abject fear that it was some time before we could persuade him, through messengers, to present himself to me."

Colonel Coope's statement is corroborated by the two women who were taken prisoners by Usibebu on the day of Umsutshwana's death, and by a notice in the *Natal Government Gazette* of the 11th December, 1888. The notice in question and seemingly in pursuance of Colonel Coope's assurance extended the territory of Zululand so as to embrace the lands of the two chiefs Umgwamana and Usebondi.

It has been stated that when Usibebu left the Reserve he was accompanied by the chief Sokwetshata. The official records completely concealed the connecting link between these two chiefs. They

combined together during the period of Cetshwayo's restoration, they were driven out of Zululand about the same time. They were both restored in November, 1887.

Sokwetshata and his force when detached from Usibebu were at once used by Mr. Arthur Shepstone the magistrate, on a warlike attack upon the kraals of Somopo and Bejana. Mr. Shepstone led the attack, two men were wounded. It is not conceivable that this attack was made by Mr. Shepstone without the authority of Mr. Osborn—but whether that officer directed it, or merely approved the attack after it was over is of little moment. Somopo was taken prisoner, Bejana escaped, but afterwards surrendered himself to know what crime he had done:—both were sentenced to hard labour at Etshowe. These two men are now in the “reeds,” they took part in or were otherwise responsible for the attack on Sokwetshata at the end of June. They are the only chiefs who did not surrender. Their exceptional behaviour may be explained by the treatment they received after the attack made upon them by Mr. Arthur Shepstone and Sokwetshata's people.

IX.

ZONYAMA.

Vusindhlu, Mr. Addison's native messenger, gave evidence in Dinuzulu's case, as follows:—

“He went with the police to the Nengwa kraal to arrest Zonyama, who escaped. All the people of the kraal ran away. We fired at them to ascertain that it was Zonyama. I fired myself.”

This was before the affair at Ceza. Witness tried to explain this firing by stating that there was no bullet in his cartridge.

There were bullets in the cartridges in Langa's case; and bullet or no bullet, the firing of guns by the police at people running away of course created a scare, and contributed to the complete terrorism, which, by this and many kindred acts of violence, was established by the officials.

X.

USIBEBU'S SPIES.

The solicitors for the defence called for a letter referred to in the (C. Blue Book 5522, page 22), written by Mr. Galloway on 5th December. A copy of the letter was furnished; the copy was certified by Mr. Osborn's secretary as correct. In the copy so certified as correct, a name had been written and erased. The erasure was initialled by the secretary. The erased name is the name of a spy of Usibebu's, who had been living at the Usutu kraal and left there on the 4th December, 1887, as soon as Usibebu had arrived from the Reserve. The evidence led by the Crown in Mkowane's case shows that the two men of Usibebu who were killed were probably spies. It is shown by Mr. Osborn's letter of the 5th February, 1888 (C. 5522, 2), that he derived his information with respect to the Usutu kraal through Usibebu and his spies, who were sent to Etshowe as messengers.

XI.

UNDUNU.

The affair of Undunu is referred to by Mr. Justice Wragg, in his judgment in Dinuzulu's case, as one of the "attacks upon Her Majesty's forces" which Dinuzulu was said to have led in person. A statement so misleading never issued from any judicial bench. None of Her Majesty's forces were at Undunu; except that a few Zululand police were in a fort which was not attacked but avoided. The attack at Undunu was led in person by Dinuzulu; it was an attack made on Usibebu and his people on the 23rd June because of the killing of Umsutshwana and his women on the 12th June. Mr. Addison was in the fort and saw the attack. He wrote his report of it at Nkonjeni where Mr. Osboru was on the 26th June; it is published on page 89 and 90 of Blue Book (C. 5522.) It states:—

"At six o'clock in the morning of the 23rd instant the alarm was given by the sentries of the Zululand police stationed at the Camp Ivuna, that a large body of men were advancing on the north side of the camp.

"In a few minutes the whole of the camp was in a stir, and the garrison, in number about fifty strong, including Zululand police, Europeans, and native messengers, took up a position in the fort.

"In the meanwhile the chief Usibebu was putting his men in companies near his camp on the Undunu hill opposite the fort. In about ten minutes the whole of the Usutu Impi came in sight over the hill, about 1,200 yards from the camp—the larger portion, about 3,000 strong, proceeding along the slope leading to Usibebu's camp, and a large body, about 1,000 in number, coming down the hill towards the fort. When about 400 yards

“off, the force opposed to Usibebu charged, and Usibebu’s men, about 800 strong, ran to meet them. There was a momentary waver on the left wing of the Usutu, but the superior numbers and the weight of the enemy told and the Mandhlagasi force broke, and fled hotly pursued by the Usutus.

“The force advancing on the fort when about 600 yards off wheeled to the left to the Umbibe spruit and then the order to fire was given by sub-inspector Osborn of the Zululand police on them, which made them rush down towards the Umbibe spruit, thus getting out of fire and cutting off any of Usibebu’s men who were making for the camp. The Usutus pursued Usibebu’s men for about two and a half miles, and then collected and retired by passing to the east of the Undunu Hill, and then wheeling to the left, crossing the main road about a mile from the camp, keeping well out of range of rifle fire, taking with them women, children, and large herds of cattle belonging to the natives who had come for protection to the camp.”

Mr. Osborn, in his report to the Governor, tried to magnify this attack upon Usibebu into an attack upon Mr Addison’s station. Sir Arthur Havelock however (C. 5522, 90) replied as follows:—

“It does not appear from Mr. Addison’s report of the engagement at Undunu that any very decided attack on the fort or the police force was made. It is stated that the force advancing on the fort when about 600 yards off, wheeled to the left, and upon being fired upon moved out of range. Subsequently, when Usibebu’s force had been completely overpowered, the Usutu left the field without making any further movement on the fort.”

This attack on Usibebu is one of the “overt acts” on which the charge of high treason was founded

Mr. Addison and Sir Arthur Havelock who, in their reports, show it was a fact on fight on a large scale, are kept out of the witness box; their reports are shut out from the evidence tendered for the defence. And the President finds in this affair an attack upon Her Majesty’s forces led in person by Dinuzulu. If there had been at any hour a traitorous thought in the heart of Dinuzulu here was the time when that thought might be expected to find expression. He was at the head of a force, said to number 4000—he had defeated the man for whom he had endured shame and indignities for seven months, he was flushed with victory—the fort contained but fifty men, this number included the hated Zululand police, and native messengers who had flogged and shot his people, and in Sir Arthur Havelock’s words—

"The Usutus left the field without making any further move-
"on the fort."

A still stronger proof of respect for authority is shown in the fact that eight of the Zululand police were allowed to recover 200 head of cattle and a number of women and children. The evidence in Dinuzulu's case is abundant that his orders before the fight at Undunu were that the fort was not to be attacked, and that old men, women, and children were to be spared. Umhlahlo, a witness for the Crown in Dinuzulu's case, gave evidence as to the orders issued before the attack on Usibebu. The attacking force was told that if the English from the fort fired, no notice was to be taken of it. After the fight, as appears from the evidence of one of the Crown witnesses, a prisoner was brought before Dinuzulu; he gave orders that no harm was to happen to him for "God had spared his life." After the fight at Undunu the Usutu Impi (according to the Crown witness Umbuzeni) was prompted by the Dutch to attack the English at N'konjeni. The answer was, "We are satisfied now that we have fought Usibebu."

XII.

SOMKELI AND THE COAST CHIEFS.

These men were found guilty of public violence, and sentenced to five years' imprisonment with the vindictive addition of hard labour. Before being tried by the Special Court, they had already been fined 1,800 head of cattle for the offence for which they were convicted at Etshowe. The fine was inflicted by the magistrate, Mr. Pretorius. The President of the Special Court admitted that no person could be punished twice for the same offence, and forthwith proceeded to inflict the second punishment. The officials, since the sentence of the Special Court, have tried to cajole the coast chiefs into receiving back the cattle. They gave to Somkeli a greater degree of liberty, in order to secure his assent, and they offered the cattle back. The chiefs claim their liberty in consideration of the fine paid. They are entitled to their liberty and to their cattle.

When Somkeli heard of the intended restoration of Usibebu, he sought to make an alliance with John Dunn for his own protection against his old enemy. This became known to the officials, and was a further warning, additional to those received from other quarters, of the madness of their intended act. It has been shown elsewhere that Somkeli retired to the "reeds" when his ear was pinched by Usibebu's messenger. As soon as Usibebu had killed Umsutshwana on the 12th June, it was clear to the coast chiefs that an alliance between Usibebu and Sokwetshata might be expected. They therefore attacked Sokwetshata at Mr. Pretorius' magistracy, in the same way that Usibebu was attacked by Dinuzulu and Ndabuko at Mr. Addison's magistracy. The tactics were the same, the orders were the same, but the result was different. Sokwetshata could not be attacked without an assault upon the magistracy, and therefore the attack was not pushed. One man of Sokwetshata's, and only one man, was wounded. Respect for authority saved Sokwetshata; when his forces left the magistracy they were beaten back.

The prosecution started with a theory that there was a conspiracy to make war against the Queen on the part of Dinuzulu, Ndabuko, and the coast chiefs and Tshingana. There was a common understanding between Dinuzulu, Ndabuko and the coast chiefs after Umsutshwana's murder, that the alliance between Usibebu and Sokwetshata should not be allowed to repeat itself, and that the coast chiefs should deal with Sokwetshata. All the chiefs saw that their self-preservation depended on the measures they might adopt to defend themselves against Usibebu who was "patrolling" on his own account; they knew from past experience of the ties which bound Usibebu and Sokwetshata together, and there was no room for mistake as to Usibebu's intentions when he threatened that his "wild dogs" after disposing of Dinuzulu would give attention to Somkeli.

The fine of 1,800 head of cattle was inflicted and exacted by Mr. Pretorius, the magistrate. He thought the affair which took place in his own district and under his own eye, was sufficiently met by a fine. He, under Proclamation II. of 1887 had power to deal with all offences which were not capital. His decision was over-ruled arbitrarily, and with the object of bringing the case before the Special Court as a case of high treason in conspiracy with Dinuzulu and Ndabuko. The Special Court could find no sufficient ground for finding high treason, and brought in a verdict of public violence only. Public violence was an offence cognizable by Mr. Pretorius, who had affixed to the offence the penalty of 1,800 head of cattle.

XIII.

NDABUKO.

This chief, brother of Cetshwayo and uncle and guardian of Dinuzulu was sentenced to fifteen years' imprisonment for high treason. The President of the Special Court, in delivering the judgment, said to him:—

“You skilfully used the restoration of Usibebu to his tribal lands as a means by which you would unite the various sections of your party in a determined resistance to the Queen's authority in Zululand; and there was in your mind, we are convinced, a settled intention hostile to the Queen.”

If the guilt of this chief is to be decided by the mere opinion of the court, nothing more need be said. If however the judgment of the court is supposed to rest on facts proved by evidence, then this judgment must be quashed.

The strong bias of the court against the prisoners which has marked all the proceedings, is shown by the words “restoration of Usibebu to his tribal lands.” If one fact stands out in evidence more strongly than another, it is the fact that Usibebu was not merely restored to his “tribal lands,” but that he with his people were inducted into an area of country in which neither he nor his father Mapita ever had a shadow of a right or title. This fact appears frequently in evidence, and is one of the facts which Mr. Fannin, the Commissioner, formerly a Government Surveyor employed to survey the district, was wanted as a witness to prove by his own survey and plan. The message from the Usutu chiefs of the 3rd March, 1888, states, that it is no longer a question of Usibebu's restoration, but a question of what land he is to occupy. Sir Arthur Havelock admitted, as he was bound to do by the terms of the restoration, that Usibebu was limited to the “Tribal Sites.” His Excellency reported to Lord Knutsford (C. 5522, 11) the area of land assigned to Usibebu by Mr. Addison comprised lands

which did not form part of the old tribal lands and sites. The words of the judgment, therefore, conceal the truth, and suggest what is untrue as regards the area from which the Usutus were evicted.

No member of the court can point to any evidence which will stand a moment's test of a "determined resistance to the Queen's authority."

The Queen's authority was established on the 7th July, 1887. Ndabuko was present at the Proclamation, and explained his absence on the day first fixed, the 24th June, by the recent death of one of his wives (Mr. Osborn's report, 5331, 22). He, with all the other chiefs, admitted that Zululand belonged to the Queen, their only complaint was that

"a considerable portion of their tribes and families had been included within the boundaries of the 'New Republic.'"

In reply to this complaint, Mr. Osborn made the suggestion

"that these tribes who did not like remaining in the Republic could, if they chose to do so remove into Zululand, where there is ample room for all."

Within fifteen days (C. 5331, 26), Mr. Osborn advised the return of Usibebu, which would leave no land for Zulus from the Dutch Republic.

On the 22nd August, 1887, Ndabuko concurred in a message to Mr. Osborn containing these words (C. 5331, 33)

"He (Dinuzulu) will never leave you, he will not go away from you. Dinuzulu says the Boers are not entitled to the land assigned to them, and as Zululand was conquered by the English, he wishes you to speak to the great English chiefs about this, and ask them to *pray the Queen to extend her authority* also over the part of Zululand assigned to the Boers, thus making one country of it as it was before, and removing the hedge he now complains about."

Up to this date is there any evidence of "determined resistance to the Queen's authority in Zululand?"

Dr. Lecky tells us in Dinuzulu's case of the respect with which Mr. Addison was treated in September, 1887, when he threatened the Usutu kraal. Ndabuko sent out a deputation of forty men to meet the magistrate, and to point out that he and Dinuzulu could not leave the kraal because of the threatening character of Mr. Addison's visit. Dr. Lecky did not tell us what we are able to prove before an independent tribunal, that the orders given by Mr. Osborn the chief magistrate to the force which accompanied Mr. Addison were, that the police were to fire if a stick was raised against them. We have, however, the fact

that the cartridges were got ready in front of the kraal. The cartridge papers left near the kraal carried their own meaning to the Zulus without any interpretation. After this incident, Luzipo's cattle, 120 head, were given up, although Mr Osborn had established no claim to them.

On the 8th October, 1887, Mr. Osborn had asked for the Queen's troops to enable him to use force to punish Dinuzulu (C. 5331, 4) for alleged misconduct. As every possible charge of misconduct was raked up against Dinuzulu and Ndabuko at Etshowe, in November, the groundlessness of these vague accusations will appear when the Etshowe incidents are dealt with. Wherever Dinuzulu is referred to it is assumed that Ndabuko is included in the charge, as the had never acted without his guardian, and a groundless charge against Dinuzulu is also a groundless charge against Ndabuko.

On the 11th October, 1887, Dinuzulu, Ndabuko, and Mnyamama (who had by this time been bought away from Dinuzulu and Ndabuko, by the stipend which he concealed) sent a message to the Governor. The message was to ask:—"What wrong have we done?" To complain about the alienation of half the country to the Boers. To represent that Dinuzulu finds

"himself being destroyed by Malimati (Mr. Osborn) without
"having been in any way told what wrong he has done."

The message said further:—

"Dinuzulu cannot understand where this ill-feeling towards him
"now comes from, but he sees there is this feeling as Malimati is
" (was) on his way to see him, and tell him the laws sent out;
"and had people arrested and cattle seized without his knowledge,
"and before the matters for which they were arrested and the
"cattle seized had been enquired into by him."

It is an important fact that Mnyamana was a party to this message. He had on the 3rd November, 1887, accepted his stipend; he was ashamed of having done it and concealed it from his own son (see Tshanibezwe's evidence in Ndabuko's case); yet he concurred in this complaint against Mr. Osborn. Mnyamana is quoted all this time as the loyal and faithful chief as distinguished from Dinuzulu and Ndabuko, against whom the Queen's troops were to be used. What the loyal and faithful Mnyamana did or said could not be disloyal in Ndabuko.

The Governor's reply of the 18th October, 1887, to Dinuzulu, Ndabuko, and Mnyamana, admits Cetshwayo's dying words:—

"He (Cetshwayo) died, and left word with Malimati that though
"he was dying he left his son, Dinuzulu, to succeed him, and

"asked that the Queen would place him over the Zulu people."
(C. 5331, 32).

These words have been denied by the officials; the Zulus have held on to them with a tenacity which nothing can loosen. Sir Arthur Havelock admitted them, and they explain all Ndabuko's actions. He was guardian of Dinuzulu, and it was with him a trust to place his ward in his rightful position over the Zulu people, but under the Queen. As trustee for Dinuzulu it was his duty to protest against the compact made by Sir Arthur Havelock with the Boers. For this protest, renewed from time to time, he was called "traitor," and when he put his sense of duty before the miserable salary offered to him to betray his trust, he was followed up by Mr. Osborn step by step until persecution could go no further.

The Governor's message of the 18th October, 1887, promised:—

"If Dinuzulu prefers to remain (in Zululand as distinguished from leaving his country), he will be left in charge of his own tribe and the kraals they occupy."

Two of his kraals, Impikayipeli and Nengwa, one containing eighty huts, were taken away from him and given to Usibebu within one month of this promise.

The words of an English governor are broken as if good faith was not to be kept with savages, and savages are sent to prison for the term of their lives because of alleged State necessity, and under the miserable subterfuge of a so-called court of law.

Even this broken promise was not resented by Ndabuko. He allowed Dinuzulu to give up without demur the kraal in question. He himself gave up without demur some of his kraals all situate in the district from whence he had driven Usibebu in June, 1884, and to which Sir Arthur Havelock restored that Chief in 1887. Does this present the appearance of "determined resistance to the Queen's authority in Zululand," as found by the Special Court?

The police and the troops and Mnyamana's 400 men went to Ceza with a writ for the arrest of Ndabuko dated the 13th of May. The writ alleges that Ndabuko did commit the crime of

"Assembling armed forces with the intention of disturbing the peace, and also with resisting the police in the lawful discharge of their duty."

This charge, which shows what was in the minds of Mr. Addison and Mr. Osborn on the 13th of May, 1888, is magnified in the indict-

ment into a charge of high treason. The charge as stated in the writ of arrest will be found to rest upon some affidavit prepared by Mr. Addison for Vusindhlu or a messenger of his stamp to sign. Just in the same way as Vusindhlu was used for the purpose of the writ of arrest of the 25th of April. Each assembly of an armed force at the Usutu kraal will be explained by what happened a day or two before. Either Mr. Osborn had sent his armed police to raid the country, or Usibebu had strengthened his "body-guard" as on the 7th of May. The alleged resistance of the police probably refers to the incident of the 26th of April when Ndabuko saved the 100 police from destruction.

Reference to the evidence of Umbelongo affords an illustration of the disadvantage Ndabuko was under, through being tried without counsel. Umbelongo gave evidence in Ndabuko's case of an alleged conversation between Dinuzulu and Sitekn, which if it had taken place would have indicated a turbulent if not rebellious state of Dinuzulu's mind at the time. The witness is reported to have said that he was present at the conversation. The same witness was produced on the 5th April, 1889, in Dinuzulu's trial, and admitted that he was not present on that occasion, and was only told of what had happened by some one else.

Wherever Ndabuko appears in the course of the evidence he is always behaving with dignity under oppression. Take two dates. On the 14th November, 1887 (5331, 63) the following conversation took place between Sir Arthur Havelock and Ndabuko:—

"*His Excellency.* I have already told them that the house of "Tshaka is dead; that it is as water spilt on the ground."

"*Tshingana.* Has that paper made between Tshaka and the English Government been destroyed?"

"*His Excellency.* I am not arguing with them, I am just telling "them their present position."

"*Ndabuko.* And we answer, what wrong have we done that we "should be turned into dogs?"

"*His Excellency.* They are not turned into dogs, they are "turned into subjects of the Queen."

"*Ndabuko.* We are not only to-day subjects of the Queen, we "have been all along."

On the 2nd June, 1888, Ndabuko sent two messengers to ask of the force which was advancing against him, what harm he had done that the first thing that he saw was an army advancing against him

(Vusindhlu's evidence). These messengers were stabbed, one of them to death. Ndabuko gave the orders for the Usutus to go up the hill, he went up the hill himself, he remained there. It was not his fault that his people got out of hand when the police were firing on the three companies below. The plain truth as to Ndabuko is that he saw through Mr. Osborn, and Mr. Osborn knew it; he was a marked man, and he knew it; for himself he showed no care; he owed a duty to Dinuzulu and to the national party, this duty he tried to perform.

If there was treason in Zululand, Ndabuko was the arch traitor; his was the severest punishment, fifteen years imprisonment equal to imprisonment for life. Justice Wragg, in passing sentence, said to Ndabuko:—

“There is abundant evidence of your treasonable conduct from the time of the hoisting of the British flag in June, 1887, to the end of July, 1888.”

If the President had given any reference to any evidence to sustain a single act of treason on any date, he would have found the ground cut away from under him, and he would have had to pass a verdict of “not guilty.” The President in the course of his judgment said:

“You were the uncle, the guardian, and the adviser of Cetsh-wayo's son, Dinuzulu, and instead of the responsibility of your office causing you to shrink from treasonable acts you abused the advantages of your trust. You gave to him evil counsels, and you used Dinuzulu's name in furtherance of your treasonable designs.”

If there was a scintilla of evidence to show that Ndabuko advised Dinuzulu badly, or used the young chief's name in the way alleged, the matter might perhaps be different, but as things are, these statements rest on imaginings and not on evidence admissible in a criminal court.

XIV.

TSHINGANA.

The judgment against Tshingana is couched, as is the case throughout, in general terms. No reference is made to any part of the evidence which is supposed to sustain the several propositions on which the judgment is based. Worse still, no reference is made to evidence which shows that Tshingana retired to Hlopekulu, through fear of Usibebu, and not with hostile intent against the Queen. No notice is taken in the judgment of Usibebu's war cry which was used at the attack upon Tshingana at Hlopekulu. No notice is taken of the advice given to Tshingana by Jantje's headman; that advice was:—

“Usibebu intends coming down to attack you, and he has asked for leave to do so. It is true that you are under the English Government, and it is right that you should be, and that your allegiance should be, to the English Government; BUT LIFE IS SWEET, AND MY ADVICE IS TO RETIRE TO THE FASTNESSES.”

This messenger came straight to Tshingana from Mr. Addison's magistracy, where Mr. Osborn was from the 12th April until the 20th May, 1888. Jantje (alias Umqundane) was the Natal chief, who was in Zululand to carry out Sir Theophilus Shepstone's views as regards the restoration of Usibebu. Usibebu was the official favourite, Jantje was the official instrument, and Jantje's headman must be looked upon as an official messenger. It was Jantje's headman who told Tshingana his life was unsafe unless he retired to a fortress; yet the Special Court finds the act of retirement an act of high treason, and completely ignores the *causa causans*.

It may have been thought necessary in the interests of the State, to put in prison every important person of the Usutu party, but surely there was no necessity to accomplish that object under a mock trial, and a judgment which disregards unquestioned facts.

XV.

UMHLUPEKI.

This man, belonging to Usibebu's tribe, was taken prisoner at Undunu. He was called as a witness for the Crown, and said that he heard Dinuzulu give an order: he was a prisoner at the time. He says the order was that the Usutu headmen were to pick out those men who had guns to fire at the Zululand police. The Zululand police were

"A party of eight mounted men under Corporal Matuta (all natives), who followed the enemy and recaptured about 200 head of cattle and a number of women and children . . . The police suffered no loss." (Mr. Addison's report of Undunu, (C. 5522, 89, 90).

The force under Dinuzulu at this time was, according to Mr. Addison, 4,000 strong (C. 5522, 89). They had just defeated Usibebu.

The alleged order is denied. It rests on the statement of one man only; it is not consistent with the plan of the attack on Usibebu, and if it is actually true what does it amount to? A party of eight natives with breech-loading rifles went out, and, as shown by Matuta's evidence, shot away as hard as they could, and were kept off by a return fire. When it is borne in mind that these eight native police belonged to a force which had been used for months to shoot at and flog the Usutus, the mere fact that they were allowed to escape from an army of 4,000 men is sufficient to show that respect for authority still survived all oppression.

Umhlupeki's evidence as a whole is a complete condemnation of the Zululand administration. He was called to prove the alleged order from Dinuzulu above referred to. He went further than was intended, and described Usibebu's march from the reserve to the area of evictions.—

"When we returned from the reserve there were a lot of Usutu kraals in the district. They (the people) left, Hemulana's people and Mfinyeli's. When we got there the Usutu crops were

"planted. We left. Arrived from the reserve. Eight companies joined us from Swaziland. Usibebu's people carried no corn from the reserve. We lived on bucks. Usibebu's people were returning to the country between the Black Umvolozzi and the Ivuna. Makedama's people (evicted) went to live in the holes in the bush. I am certain no women or children went up from the reserve, but Usibebu took a few girls. None of Usibebu's headmen took women with them. Women were left behind, because we had heard Dinuzulu had said we would not cross the Umhlatusi (the boundary of the reserve)."

Dinuzulu, as we know, had sent Mtumbu on to keep order in the country to which Usibebu was to be restored; yet, in Usibebu's force a fight was expected at the Umhlatusi, and therefore the women were left behind. An attempt was made by the prosecution to minimize the importance of the women being left behind, and another witness was promptly brought up to prove that there were some women. It was all of no use: the prosecution was at once referred to the Blue Book, 5331, 72, in which Mr. Osborn states, under date 25th November, 1887:—

"The chief Usibebu, with the MALE portion of his tribe, started yesterday from his kraal near Bond's Drift, Tugela, on his journey to Ndwandwe to re-occupy there, in terms of your Excellency's permission, the sites from which he and his people removed in 1884 as a consequence of the Boer-Usutu attack upon him."

His Excellency, as a fact, gave no such permission: the permission only extended to "the old tribal lands and sites occupied by Usibebu's tribe before the war of 1879" (Sir A. Havelock to Mr. Osborn, 5522, 11).

Mr. Osborn launched Usibebu's army from the reserve ready to fight Dinuzulu or any one else, and Umhlupeki tells us part of the story of its progress. He tells us, amongst other things, that Usibebu was to have the territory between the Ivuna and the Black Umvolozzi. His description of the boundary agrees with the district as defined by Mr. Osborn on the 25th November, 1887 (C. 5331, 72). It is widely different from the district as described by the Governor and the Chief Magistrate on the 30th March, 1888 (C. 5522, 11). The variance explains Dinuzulu's message of the 3rd of March, 1888 (C. 5522, 12):—

"The magistrate does not abide by the Governor's orders, which were that Usibebu and his people were to re-occupy their

"old tribal sites. The magistrate has gone beyond this order by including in the location a large number of kraals which were never occupied by Usibebu's tribes."

Another of Usibebu's men, Umbuzeni, states that when Usibebu's people came to the district to which they were restored they found the country fully inhabited, except a few ridges. He also shows how in January, 1888, Usibebu, with an army of fully 1,000 men, patrolled the country for five days, paying the magistracy a visit on his way. Whilst this "patrol" was going on Usibebu was described as building on each day a large kraal for his people. He was simply walking round to show his muscle; the building of kraals was an official invention to create a false impression that Usibebu was becoming domestic. During this "patrol"

"Usibebu's men walked straight through a garden belonging to Unkowana, doing damage to the growing crops by trampling."

On the 18th March Unkowana who is meantime evicted and can no longer control himself, kills two of Usibebu's men, who in fact were spies, and is hanged by a Magistrate's Court, of which Mr. Osborn was President, a few days before the Special Court arrived at Etshowe.

XVI.

ETSHOWE.

On the 26th October, 1887, Sir Arthur Havelock wrote to the Secretary of State (5831, 48):—

"I have instructed Mr. Osborn to send a message from me to Dinuzulu and Ndabuko, summoning them to appear before me at Etshowe on or before the 1st of November TO EXPLAIN THEIR CONDUCT IN COMMUNICATING WITH THE AUTHORITIES OF THE DUTCH REPUBLIC."

Dinuzulu and Ndabuko appeared before the Governor at Etshowe on the 14th November. A long indictment, filling pages 64 and 65 of Blue Book 5331, was read over to the chiefs. It contained three specific charges, but not the charge mentioned in the summons. The three charges were:—

1. In calling together and in taking part in the meeting at the U'sutu kraal.

2. In leaving Zululand without a pass, and in proceeding to the New Republic and asking for the protection of the Boers, he being a subject of the Queen living in the Queen's dominions under the Queen's laws.

3. In neglecting to obey Mr. Osborn's summons to appear before him at Nkonjeni.

Dinuzulu was called upon for an immediate reply to this formidable indictment, to be given to a governor made angry by delay, surrounded by his staff, and attended by a guard of honour. Dinuzulu and Ndabuko were acquitted of the two first charges, but with a threat that there should be a further enquiry. They were fined fifty head of cattle each.

They were summoned to explain their conduct in communicating with the authorities of the New Republic. They did explain their conduct, and they were punished for a totally different offence.

This was the first occasion on which Sir Arthur Havelock and Dinuzulu had met.

Sir Arthur Havelock read the Governor's Proclamation of Sovereignty over a country of which Dinuzulu was thereby dispossessed. The change of *régime* was celebrated by a fine. That fine was contrary to Proc. II. of 1887, Zululand, which was an accompaniment of the annexation.

Clause 13 provides (C. 5331, 4) :—

“The trial of every person charged with any offence shall be held by and before the Resident Magistrate of the district in which it was committed.”

Clause 7 provides (C. 5331, 4) :—

“The Courts of the Resident Magistrates aforesaid shall be respectively courts of record,” &c., &c.

XVII.

VUSINDHLU'S EVIDENCE.

This witness was Mr. Addison's native messenger. He was adopted by the prosecution as the best witness to traverse the whole ground of the prosecution, from the date of the hoisting of the flag. He was put in the box to supply the evidence which under ordinary circumstances would have been expected from Mr. Addison. The first message he carried to Dinuzulu was after the hoisting of the flag on the 7th July, 1887. He was told to deliver the large envelope containing the proclamation of the Queen's sovereignty, and he was to demand Umfokozana's cattle, which had been seized months before the flag-hoisting. He also said that he claimed on that occasion Mr. Osborn's fine of thirty head of cattle. He was wrong in this, unless he took the date of the fine from Mr. Osborn's report in the Blue Book (5522, 30) and not from Mr. Osborn's report of the 3rd September, 1887 (not in the Blue Book). He told us that Umfokozana's cattle were to be got from Umnyamana, Ndabuko, and Dinuzulu. In fact Umnyamana was never bothered; the object was to harass and worry Ndabuko and Dinuzulu and to conciliate Umnyamana. Therefore Dinuzulu and Ndabuko were dunned and Umnyamana was left alone.

Vusindhlu admitted that when the Usutu kraal was threatened in September, 1887, the headmen came out to see the magistrate, who would not speak to them; that the magistrate's party raided the whole country for two days and took all the cattle they could lay their hands on.

The Special Court shut out the official record in the Blue Book, of the Governor's meeting the chiefs at Etshowe in November, 1887. The evidence of this meeting was given by Vusindhlu.

The nagging and worrying about Umfokozana's cattle is well proved by Vusindhlu. Dinuzulu explained that he had not got the cattle. Vusindhlu replied, "How can you say so? when the magistrate has told you with what persons they are." This answer shows that the

intention was not to get the cattle, but to make Dinuzulu get them and bring them to the magistrate.

Vusindhlu went with Mr. Addison to the Usutu kraal with respect to a large collection of people there. Dinuzulu denied that the people were a war-party, and said they were collected to weed his corn and to protect him from Usibebu. Vusindhlu admitted that after Usibebu's arrival the people moved away in all directions. *The police were sent to order them out.* The magistrate did not go to the district which Usibebu was to occupy until after Usibebu's arrival there. The witness first saw Usibebu after he left the reserve when he was at the magistracy with his 1,100 warriors. They sang their war songs as they passed. Vusindhlu stated that the land of the Mzuzi tribe was not within Usibebu's "tribal sites." Yet it was given to Usibebu by the magistrate. Mr. Knight, who was sent to redress this grievance amongst others, confirmed this land to Usibebu (C. 5522, 75).

Witness after some doubting states positively that he demanded Mr. Osborn's fine of thirty head between the 7th July and the 3rd September. If this is true Mr. Osborn's report of the 3rd September is wrong. If it is untrue the error will show the unreliability of evidence given by these native messengers as to the messages carried by them. Witness was to demand Umfokozana's cattle from the three chiefs, because they were governing the country when the cattle were taken. The restoration of the cattle was ordered at the hoisting of the flag. Witness admits that a statement was made by the Usutu chiefs in September, 1887, when the Usutu kraal was threatened and the cattle were demanded, that if the magistrate would wait the cattle would be found. The magistrate replied he was not going to wait, and the next day the official raid began.

Witness admits that when he summoned Dinuzulu to meet the Governor at Etshowe he did not inform him that it was for a case (i.e., a trial). Yet Dinuzulu was fined fifty head after a mock trial, in which Sir Arthur Havelock appeared as complainant and judge.

Witness admits that during the official raid of the 25th April, 1888, Mgamule was struck, and Makedama was arrested because the police could not find his son.

Witness admits that when he went to the Usutu kraal to arrest the men for contempt of court, Ndabuko used to say, "speak to the men you want yourself," and that, he, the witness, would not do.

Witness admits that one of the four men charged with "contempt of court," Hlamba, stated, "he was off, to go out of the country because he saw he was getting the headmen into trouble."

Witness admits that Gagahla, one of the four men wanted for "contempt of court," had already been produced by Dinuzulu, and his case settled—he had paid some cattle, and was given time to pay more. Yet this man's name was mentioned in the concocted writ of arrest of the 25th April, 1888, which the Queen's troops were put in motion to enforce by Sir Arthur Havelock, and at the request of Mr. Osborn. Mr. Addison reported on the 26th April, 1888 (C. 5522, 31) that Gagahla had in every instance treated his summons with "contempt." This is disproved by Vusindhlu's evidence, and by the record of his own court of the 26th December, 1887. A comparison of Vusindhlu's evidence with his depositions of the 25th April, 1888, will show that the word "concocted" is not too strong for the writ of arrest.

Vusindhlu admits that the Usutu kraal was surrounded on the 26th April by the mounted men WITHOUT HALTING. Matuta, another official witness, stated on oath that the kraal was surrounded at the trot (running on each side). This proves that there was no talk or parley before the kraal was surrounded by the mounted men. Witness admits that the men in the kraal were surprised at seeing the magistrate's force surround the kraal, and that Ndabuko's words prevented an attack on the police. This is confirmed by evidence led by the prosecution in Ndabuko's case.

The President of the Special Court, during the address of the counsel for the defence, raised a question as to what evidence there was for counsel's statement that the messengers who were stabbed left Ndabuko and Dinuzulu on the 2nd June, before the fight at Ceza. Zietsman gave evidence that the wounded man Ndongunya stated that he had left that morning. Vusindhlu's evidence places this fact beyond question. In reply to Mr. Addison's question "Where do you come from?" Ndongunya, according to Vusindhlu, said, "From Ndabuko and Dinuzulu, in company with Mhlazana, to ask the authorities what he has done that the first thing he should see should be an 'impi' like this." This disposes of the attempt of the prosecution to show that the messengers did not leave on the morning of the 2nd June. Vusindhlu tells the tale of the flogging at Siziba's kraal. He says that they struck many that day; struck them all about; flogged them with a sjambok by the magistrate's orders, one in handcuffs.

Vusindhlu admits that he was at the Usutu kraal talking about compensation for the corn, a few days before the dragoons followed up the Usutus, who had retired from the kraal. This admission confirms the statement that whilst Mr. Osborn was calling up the troops to be

used against the kraal, in carrying out the writ of arrest of the 25th April, he was trying to lull the Usutus into a false security by messages about payment for their grain.

Vusindhlu admits that at his last visit to the Usutu kraal, which would be about the 10th or 11th May, he told Ndabuko not to say that the magistrate brought war if he came to arrest the four men for contempt of court. Vusindhlu's last message was replied to by the Usutu messenger Ndungunya who was stabbed in the belly by Yamela's men on the 2nd June. The evidence of Vusindhlu shows that the last communication between Mr. Addison and Mr. Osborn on the one side, and Ndabuko on the other side, was a message from the chiefs to the magistrate.

Vusindhlu heard that Dinuzulu had paid four head of cattle to keep Mtumbu out of trouble.

Vusindhlu admitted that it was Mr. Addison's regular custom to inflict floggings on the same day as the sentence was passed. This was in direct disregard of Proc. No. II. of 1887, which suspended all sentences of flogging until confirmed by the chief magistrate.

The case for the prosecution broke down when Mr. Addison was kept out of the witness-box and Vusindhlu was brought forward in his place. The collapse was ridiculous. Trials had been going on for months. The officials said that the Usutu chiefs were traitors. The chiefs replied:—

“Bad as your acts were,—cruel as was your persecution,—
“tyrannical as was your policy,—you could not make us traitors
“to the Queen.

“We give you notice we will prove that the disturbances were
“created by yourselves, that they were the natural consequences
“of your own wrongdoings.

How was this challenge treated? Mr. Osborn did not dare go into the box, and now we are told he is to throw the best colour he can on this statement before it reaches the Secretary of State.

The prosecutor broke his promise that he would put Mr. Addison in the box, and saved that officer from cross-examination.

Sir Arthur Havelock refused to go into the box, although summoned for the defence. Sir Arthur Havelock wrote to Mr. W. Y. Campbell, that the Special Court was available as a tribunal, before which the Zululand officials could be brought for their misdeeds. Every pains was taken to make this impossible. It was not possible under the Proclamation which constituted the court. It was only possible if Mr.

Osborn and Mr. Addison had been brought forward as witnesses for the prosecution.

The Zulu administration defended itself by Vusindhlu, one of a class of native officials who will make disturbances as long as they are employed. And what does Vusindhlu say? his whole evidence from beginning to end sustains the defence.

He shows that there was no need for a magistrate at Ndwandwe until Usibebu was restored. That the police evicted the Usutus in order to make room for Usibebu. That Usibebu was only to have his "tribal sites," yet Mr. Addison gave him land outside the tribal sites. He shows the evicted people, hounded and thrashed and fired on, were kept in control by Ndabuko and Dinuzulu. He shows that the Usutu kraal, which Mr. Osborn tried to keep full of Usutus by talk about the corn, was only evacuated just in time to avoid an attack which Mr. Osborn had already arranged. He followed up to Ceza the people who retired from the Usutu kraal, and who were shot down there without a word of parley or warning. He proves that the messenger from Ndabuko and Dinuzulu, who was killed by Yamela's men, and Ndungunya who was stabbed, left Ceza on that morning, and he does *not* show that Dinuzulu led an attack upon her Majesty's forces.

If Dinuzulu on the day of Ceza had been anywhere than in the rear, or engaged otherwise than in preventing a collision with the Queen's troops, Vusindhlu must have seen him, Mr. Addison must have seen him, Captain Mansel must have seen him.

Dinuzulu was not seen leading an attack on the Queen's troops—because he called off the pursuers, and engaged in no other work below the hill. This is shown by the evidence of Umhlahlo, which is dealt with under a separate head.

XVIII.

UMHLAHLA.

This witness was called in support of the prosecution. He stated that he went to the Usutu kraal because the "impi" was told to arm. The word translated "arm" was "hloma," which means be prepared. The arming or preparation was necessary in every case when Usibebu made a demonstration or sent a threat or spies. From the time when Usibebu had his 1,100 warriors together, the whole country was ready to turn out fully armed on short notice. Umhlahlo gave evidence that Ndungunya was sent from Ceza, as a messenger to Nkonjeni, when it was heard that the troops were coming towards Ceza, to ask, "What have we done? we have only quarrelled with Usibebu." An attempt was made to use this evidence to show that Ndungunya did not leave Ceza on the morning he was stabbed. The evidence of Vusindhlu shows that the man whose body had just been pierced with an assegai used words to Mr. Addison which made it plain he had left Ceza that morning. It is no part of the defence that Ndungunya was sent from Ceza to Nkonjeni with the message as stated by Umhlahlo, but if in fact he was so sent, the words said to have been used show no intention to fight the Queen, but the contrary.

The story of Ceza as told by Umhlahlo is as follows:—

"When the attacking force came to Ceza the Usutus expected it would encamp at Piet Louw's, at a distance by the road of three miles. When that force left Piet Louw's, we were ordered to move. 'The "impi" (Usutus) must move and go to the 'top' to the Dutch territory.'

"Dinuzulu said to the rear portion of the 'impi':—

"'The impi must go on quick. Why is it standing out here? It must not wait to go through the gate (gap); it must go into all 'portions of the bush.' We were all protesting, but only three companies (150 men) remained at the bottom."

At the bottom the witness says he saw two messengers (*N.B.*—not the two who were stabbed) who were going to inquire on behalf of the child (meaning probably Ndaduko, but possibly Dinuzulu) from the white people. (*Note.*—These messengers were, in fact, self-constituted messengers).

“He told them not to expose themselves. We heard them shout, ‘What has he done, white people? You have turned him out of his kraal,’ and before he could finish his sentence a shot was fired—(this was Captain Mansel’s shot). As soon as we heard the shot we rose and went down towards the police.

“We followed the Nongqai all along the country to Mfolozi. Did not see Dinuzulu during the fight. Myobana, a messenger, came to call us back because he said Dinuzulu had arrived at Ivunga.”

It is admitted, or at least it cannot be denied, that Dinuzulu got the pursuers together close to the Ivunga.

The evidence of Umhlahlo is wholly ignored, in the judgment of the Special Court, which found as a fact that Dinuzulu led an attack on the Queen’s forces. Added to this, no witness gives any evidence to support that finding.

Umhlahlo gives evidence of a threat by Dinuzulu that if the English stopped him from fighting Usibebu he would fight them too. This evidence is answered by the fact that at Undunu the fort fired on the right wing of the Usutu force, which attacked Usibebu; the right wing prior to that fire had wheeled away from the fort, and the whole force, after defeating Usibebu, went away without attacking the fort.

Umhlahlo gave evidence as to the attack on Usibebu.

“Before going to Undunu Dinuzulu said he was going to fight Usibebu. Hemulana (headman) said ‘You are to be quick and stop the Manhlagazi from going into the fort.’

“We had recently heard of Umsutshwana’s death.

“When we heard of Umsutshwana’s death it was common talk; the people said, ‘Was he asleep then?’ (meaning was he not on his guard), the king’s son long ago told him to leave his kraal and go to the bush as an ‘impi.’”

All the Usutu chiefs knew that Umsutshwana was a doomed man, and frequent warnings were sent to him. He was charged by Usibebu with bringing the Boers against him in 1884; he believed that the authorities were able to control Usibebu.

There was a native preacher named Paul who was with the Usutus at the Usutu kraal, at Ceza, and Undunu; he held daily services at Etshowe during the trial. Service was being held by Paul, at Ceza, when the police and troops were advancing to the attack. The officials looked upon Paul as an arch traitor. One of the Crown witnesses gave evidence that Paul preached war rather than peace. If this be admitted as a fact, and it is denied, it only shows that Dinuzulu and Ndabuko sought to avoid a collision with the troops in disregard of the words of the preacher.

Umhlahlo shows that Paul said after the fight at Undunu:—"Did I not tell you not to kill women and children." In fact the killings on the Usutu side were, from a savage standpoint, humanely small. They stand out in marked contrast with the unnecessary killings by the police at Ceza, the frightful sacrifice of life at Hlopekulu, and the barbarous reprisals of the avenging column which took the 300 women prisoners.

That Paul's words had effect upon Dinuzulu is shown here and there in the course of the evidence. His message of the 3rd March refers reproachfully to the acts of Usibebu as being unwarranted by the sacred writings. Prisoners brought before him at Undunu were to be well treated, because God had spared their lives. The circumstances under which these words were used are conclusive in favour of their sincerity.

Umhlahlo tersely describes the going to and fro of the Usutus between the Usutu kraal and their place of safety, whilst Mr. Osborn was calling up the dragoons at the end of April and beginning of May. They left because of the threats of the Nongqai (police) as they retired, baffled, on the 26th April. They returned and spent a few days at the Usutu kraal, and again fled to a kraal where they could not be surprised. Then they returned to the Usutu kraal, and a message came from Mr. Osborn to say, "Why are you going away?" Then he continues:—

"We heard of soldiers going to Dick's (Mr. Addison's); we left *"because we were afraid of a night attack, our bodies would not let us sleep*; the kraal we went to was a place of refuge. Messages were repeatedly sent to Dinuzulu, so that we were in fear. We feared an attack from all the impis (war parties), that the English would appear, that Usibebu's people would appear, that Mnyamama would appear (from different sides); we were afraid there would be a general destruction and no way of escape."

This is the evidence of a Crown witness as to the state of mind of the Usutus at a time when they had been driven out of the Usutu

kraal, and were being decoyed back again ; at a time when their leaders were charged with treason. The fears were amply justified. Within a few days Usibebu was called up to the magistracy with 750 men, and the police, and troops, and Mnyamana's 400 men, advanced upon Ceza.

Umhlahlo, called by the Crown, gave evidence as to the instructions issued by the Usutu chiefs before the attack on Usibebu :—

“ We were told on going to Undunu that if the English from the fort fired we were not to take notice of them, but go to where the blacks were. This was said to us just before we were despatched in our order of battle. We were all told this.”

It is not too much to say that with a jury the case for the Crown would have ended when Umhlahlo left the box. The official resources were not, however, exhausted, and Zililo was introduced.

XIX.

ZILILO.

The rule of preliminary examinations under the criminal law in force in Zululand is, that a witness shall make or confirm his deposition in the presence of the prisoner. This rule was not adhered to in the case of Zililo. He came upon the defence as a surprise. It may be conveniently stated here that when the preliminary examination of witnesses against Dinuzulu was taking place he was refused the help of counsel. This is shown on the record. This tyrannical decision was of no importance as regards Zililo, who was produced only when wanted. He was called to show that Dinuzulu said one day at Ceza, "He wanted the 'impi' to go and meet the English," and Ndabuko refused. He was not called in Ndabuko's case to secure to that chief the benefit of his alleged refusal to go against the English.

He was called in Dinuzulu's case to put in Dinuzulu's mouth words which are contradicted by every act of that chief from the date of the hoisting of the flag.

The attention of her Majesty's government is called to the way in which the evidence in these so-called trials was prepared by Mr. Addison. It is Zililo who tells the story. Zililo told Mr. Addison his story. Mr. Addison at a later date wrote it down; Zililo was told to repeat it, and did so. Mr. Addison was used the whole way through the trials for preparing the witnesses who were brought forward.

Mlokotwa, one of Usibebu's men who evicted Gagahla, gave evidence that he and three other witnesses, all Usibebu's men, were met together with Mr. Addison in the hut of Mr. Stuart, one of the officials, under circumstances which show that these witnesses were being coached as to their evidence. The evidence of coaching and prompting of witnesses was apparent throughout; but apart from this evidence the naked fact is sufficient, the fact that Mr. Addison, whose proper place according to the sworn evidence, was in the dock, was made the

Master of the Ceremonies, to marshal the witnesses for the Crown, and to prompt the prosecutor.

Zililo was not worth to the prosecution the trouble taken to make him useful. He tells of Ceza that the Usutus were ordered up the hill, that he did not know the three companies were left behind, that he heard a man shout that those three companies were being finished off, down below, and then adds, "A general impulse caused us to rush down." It was this impulsive rush down of the Usutus without leaders and against orders which led to the only casualties in the Queen's troops. Zililo also tells us that Dinuzulu got the Usutus who pursued the troops into hand at the Ivungu.

XX.

CONCLUSION.

This statement does not pretend to exhaust the subject. Time will not admit of it. It will, however, serve to show that the verdicts cannot stand, and that there must be a full and independent inquiry into the wrongs done in Zululand. The only difficulty which the defence fears is the difficulty of making people believe that at the close of the nineteenth century, and in the name of the Queen, these things have been done which are now disclosed. Yet that these several things are true is shown by evidence which is almost wholly led by the Crown, or is met with in the official records.

The Zulu case is understated; for instance, if opportunity is given, it will be shown that there have been wholesale confiscations of the cattle of the people who went up to the Usutu kraal when Usibebu's army was in the field, and of others condemned unheard followed by seizures without form of trial and at the mere will of the magistrate. What became of the cattle no one knows. The Zulu chiefs complain:—

That Sir Arthur Havelock broke promises, express and implied, that Usibebu should not be restored.

That Sir Arthur Havelock, condemning the attempted arrests on the 26th April, 1888, put the Queen's troops in motion to effect the arrests which he condemned.

That Sir Arthur Havelock, Mr. Osborn, and all the Magistrates have broken the Proc. II. of 1887, in depriving the Zulus of their rights, to be tried in the Courts thereby established as distinguished from being punished by the mere will of the Governor or magistrate.

That the claims set up to Mfokazana's cattle, and Luzipo's cattle, were unjust.

That the steps taken to seize these cattle or to obtain others in their place were acts of oppression against the Queen's subjects in Zululand.

That, in particular, the official raids of September, 1887, 25th April, 1888, and of Mtumbu's cattle, were acts of oppression and otherwise tyrannical and cruel.

That Mr. Osborn's official reports were disingenuous, misleading, and untrue.

That Mr. Addison revived torture in Zululand.

That the manner in which Usibebu was restored was an act of tyranny and oppression without a precedent in Her Majesty's colonial possessions.

That Dinuzulu and Ndabuko were persecuted and hounded into an appearance of seeming rebellion in order to cover the wrongs done by the restoration of Usibebu.

That the constitution of the Special Court under Proclamation IV. of 1888, the refusal of time for the defence of Ndabuko, and the mode in which the trials were conducted, and the judgments of the Court, were crowning acts of persecution.

That the persecution of the Zulu chiefs has been continued since the sentences were passed, in breach of the undertaking of the Queen's Government that the sentences should not be carried out until considered by the Secretary of State.

That the attack on Ceza on the 2nd June, 1888, was an act of war, carried out under a pretence of arresting offenders, and was the cause of all the bloodshed with which the Usutus are charged as from that date.

That the employment by Mr. Arthur Shepstone of Sokwetshata's armed men in November or December, 1887, was an act of oppression.

That the refusal of the authorities to prosecute Usibebu, and the license given to that chief to be at large, are acts of tyranny and oppression.

That many other acts of cruelty, oppression, and tyranny, have been committed in Zululand by officers of the Crown.

Since the unjust invasion of Zululand in 1879 England has refused, as if ashamed of acts done in her name, to accept the responsibility of governing the country.

Thirteen kinglets were set up as if with the express purpose of fighting one against another.

Cetshwayo was restored; but, as stated by General Joubert, he was at once enmeshed in a network of official intrigue which made his rule impossible.

Usibebu, assisted by Europeans, drove Cetshwayo into the Reserve, where he died.

Usibebu in turn was driven into the Reserve by Dinuzulu and Ndabuko, with the assistance of the Boers.

This defeat of Usibebu, who was an official favourite, exposed Dinuzulu and Ndabuko to the resentment of Mr. Osborn, who has never ceased from that time to persecute the chiefs of the national party.

Before the Boer help was asked for, England had disclaimed all responsibility in Zululand outside the Reserve.

This disclaimer was confirmed by Mr. Gladstone in the House of Commons on the 31st July, 1884, and by Lord Derby in August of the same year.

The Boers set up claims to land, and the national chiefs asked for England's help in dealing with these claims.

Half the land has been given by Sir Arthur Havelock to the Boers, the other half has been annexed to the Empire.

All the headmen of the national party are in prison.

The Court was guarded by three hundred fixed bayonets, when the judgments of the Special Court were delivered.

If Her Majesty's Government will see justice done, they may remove every soldier from Zululand.

There is not in the whole of Her Majesty's possessions a race more loyal and more wronged than the Zulus, on whose behalf this remonstrance is penned.

HARRY ESCOMBE.

JUNE, 1889.

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