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UNION OF SOUTH AFRICA.
UNIE VAN SUIDAFRIKA.

DEPARTMENT OF NATIVE AFFAIRS.
DEPARTEMENT VAN NATURELLESAKE.

Tzaneen 8/5/30.

The Native Commissioner,
Tzaneen.

Death of Chief Muguboya.
Inquiry into question of Heir to
Chieftainship.

I have the honour to report that on the 23rd and 29th April 1930 I held Meetings at Muguboya's Location with the Headmen, Councillors, and people of the Location with a view to ascertaining their views as to a successor to the late Chief.

A copy of the notes taken during the proceedings is attached hereto also a genealogical Tree prepared from information obtained at the Meeting on the 29th April. The notes consists almost solely of statements made by Headmen and others during the course of the Meeting. The cross examination of speakers by other natives present was not permitted as it was thought that such a course would only serve to intensify the illfeeling hereinafter referred to. All questions asked were put by me with a view to clearing up points which were not clear.

In submitting these notes I would make the following remarks:-

- (1) The statements shew that the Tribe is agreed on the point, that (a) at the present moment there is no direct heir to the Chieftainship and (b) that Matsapa Phaiane (one of the wives of the late Chief) is the Tribal wife (Tribal Candle) and that she is the one who should under Custom bear a male child who will be the heir to the Chieftainship.
- (2) The statements however reveal a wide divergence of opinion as to

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of opinion as to who should under Native Custom and Law be the regent and raise up an heir to the Chieftainship through the Tribal wife (Matsays Phalane). One section of the Tribe supports the claims of William Mutatu Muguboya (own brother of the late Chief) while the other section supports the claims of Solomon Charles Muguboya (eldest surviving son of the late Chief by his first wife and ordinary wife and not the tribal wife). It will be necessary to go into this question at some length in order that the position may be understood.

(3) The people of Muguboya's Location are Bapedi and it is an acknowledged Custom among the Bapedi that the heir to the Chieftainship is the eldest son born by the tribal wife (otherwise known as the Tribal Candle) notwithstanding the fact that the Chief may have other and older sons by other wives (see Harris' Bapedi Laws and Customs of the Bapedi).

(4) Under Bapedi Custom when a Chief dies before an heir is born (as is the case in the Chieftainship dispute now under consideration) the tribal wife cohabits with a member of the Ruling Family and the first male child born of such cohabitation is recognized as the heir to the Chieftainship. In "Harris' Laws and Customs of the Bapedi" it is stated on page 55 that the member of the Ruling Family who should cohabit with the Tribal wife is preferably the Chief's next own brother. In the present case the late Chief's next own brother (one of the claimants to the Regency) is the late Chief's next own surviving brother. Two brothers older than him have died.

It will be seen that this point is disputed by the supporters of Charles Solomon Muguboya the eldest surviving son of the late Chief. They say that the Chief's own brother would only become regent and raise up an heir in the absence of a grown up son of the Chief. I would however draw attention to the statement of Chief Maake (a disinterested person) regarding the customs obtaining among Bapedi Tribes.

(5) From records in this office it appears that the late Chief acknowledged before Mr. G. D. Wheelwright, Additional Native Commissioner, Pietersburg that in the event of no heir being born before his death his own brother William Mutatu Muguboya would be the one to act as regent. *A record of the proceedings when this statement was made is attached.*

William Mutatu Muguboya

(6) The cause of this dispute arises it would be seen from the long standing enmity which existed between the late Chief and his brother William Mutatu Muguboya. *Mutatu* It is stated that while Mr. Stanford (Sub Native Commissioner, Haenertsburg) was in charge of this area, William Mutatu Muguboya committed an assault on the Chief and thereafter ordered by Mr. Stanford to move his kraal away from the Chief's kraal which he did. The late Chief had for many years suffered from ill-health which at times rendered his personal control of tribal affairs impossible. It seems probable that owing to the Chief's ill-health, William Mutatu Muguboya at times assumed the powers of the chief and ignored the Chief by not reporting matters to him and that this was the cause of the enmity which existed between them.

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As a result of this enmity all more and more on his Prime Minister and his eldest son (Charles Solomon Muguboya). Had the enmity not existed William Mutatu Muguboya would it seems clear have been the one to undertake the duties of the Chief whenever the latter was incapacitated by illness. This is borne out by the statement of Manku Muguboya that when the late Chief's predecessor Ramoba Muguboya was ill his own brother Ted Muguboya undertook the Chief's duties but as he carried out the duties in a tactful manner and reported all his acts to the Chief, no illfeeling resulted.

(7) It will be seen from some of the statements which are however disputed by others, that it is alleged that under Native Law and Custom Charles Solomon Muguboya is a son of the late Chief's predecessor (Chief Ramoba Muguboya). This point was not pursued to a conclusion as it was thought that would not seriously affect the issue and that lengthy argument on the point might only serve to increase the illfeeling existing in the Tribe.

(8) Two letters received from the claimants and their supporters are put up. The letter from Charles Solomon Muguboya was received in the interval between the first and second Meeting. Although this letter is in the name of Headman Manamela as one of the signatories it is known that he has been absent from the location from a date prior to the death of the Chief and he is still absent.

With regard to the letter of William Mutatu Muguboya which was received several days after the conclusion of the second Meeting, I would state that the points mentioned in regard to Chiefs Mandzole, Mpanzole and Mlake were not brought out in statements made at the Meeting. I am therefore unable to comment on them. As Sibaka from the concluding portion of the letter it may appear that certain women were not permitted to speak, I would explain that I was not aware that they wished to speak. The Meeting was closed by me as it appeared that all speakers were merely repeating what previous speakers had already stated.

(9) From appearances at the Meeting it would seem probable that the majority of the Tribesmen present support the claims of William Mutatu Muguboya but the supporters of Charles Solomon Muguboya are not by any means inconsiderable. As the question be asked why a vote was not taken I would state that I deemed it inadvisable to do so without definite instructions for the following reasons:-

(a) It is not in accordance with Native Law and Custom to take a vote although no doubt before the advent of the European the strongest section in a Chieftainship Dispute usually won the day.

(b) As it is understood that both the claimants have engaged Attorneys to look after their interests and as this appears to indicate that they are prepared to fight the matter to the bitter end, it was thought that the taking of a vote might be held to bind the hands of the Government to the claim of the claimant.

(c) It was also felt that an awkward position might arise if the Government should find it inadvisable to appoint the person supported by the majority of the Tribesmen. The legal adviser of such person would naturally

would naturally ask why a vote was taken if it was not intended to abide by the result thereof.

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I am not personally sufficiently acquainted with the claimants to the regency to make a recommendation as to the most suitable candidate from a point of view of character and ability but enquiries which I have been made seem to point to William Mutatu Muguboya, for this reason and for the fact that an interpretation of Native Laws and Customs (of which I am not fully acquainted) is involved I would respectfully suggest that this report and the accompanying statements be submitted to Mr.G.D.Wheelwright, Additional Native Commissioner, Pietersburg for an expression of his views.

Mr.Wheelwright has an intimate knowledge of the Native Laws and Customs obtaining in these parts and he has also a personal knowledge of the affairs of Muguboya's Location from which this dispute arises. The claimants are also known to him personally.

There seems to be no other suitable person who could be appointed to the regency whose appointment would be acceptable to the tribe as a whole. This point was not put to the tribe at the meetings referred to herein.

As Attorneys representing the claimants were not permitted to attend the meetings it is thought that they should be asked to submit any representations they may desire to make. A letter from Mr.Attorney Maritz and Mr.Attorney De Four in this connection are put up,

If after consideration of the report and the annexures and the representations of the claimants Attorneys the information in the hands of the Government is insufficient to enable it to come to a decision further meetings of the Tribe should be called to elucidate points which are not clear.

Amicholani

Assistant Native Commissioner.

Tzaneen.