

The claims of the Barolong were based on the grounds of

1. Inheritance of the land from their forefathers, who had owned and inhabited it from time immemorial.
2. Treaty with Hendrik Potgieter/^{in 1837} whereby the Barolong right to the ~~lands~~ the country of their forefathers was recognised.
3. ~~Treaty~~^{Treaty} with Andries ~~Potgieter~~ Pretorius in 1851 recognising and confirming the Treaty of 1837 between the Barolong and Potgieter.
4. Treaty with Jan Viljoen in 1853, recognising and confirming the Treaty of 1851 between the Barolong and A. Pretorius/^{in 1851}, and the ~~land~~^{the} previous Treaty with Potgieter, in 1837.

In the Conference, Montshiwa claimed for all the Barolong clans the territory bounded on the north by the Molopo River in the whole of its course, and also from its source to the source of the Harts (Kolong) R, thence to the source of the Schoonspruit (Khing); and on the east by the Schoonspruit; on the south by the Vaal R. down to its confluence with the Harts R., and thence by a line between the Barolong and the Batlhaping. On the west by the illimitable Kgalagare desert. Of this domain, Moroka's share was the portion between the Harts R and the Schoonspruit, which he claimed as an inheritance from his forefathers, and ^{said he} was able to point out old ruins and remains of stone kraals as evidences of their former abode.

Montshiwa's claim was honest and quite legitimate ^{so far} inasmuch as it represented what he considered truly to be his right, but he went on and alleged that ~~Hendrik Potgieter had in 1837~~ after the defeat of Mzilikazi by Document ^{by Document} the Emigrant Dutch and the Barolong in 1837, Hendrik Potgieter had acknowledged the right of the Barolong to their ~~in~~ country. Matlaba stood up to say that Potgieter had handed him the document in question in the presence of Paul Kruger's father-Gasper Kruger, and also Ludowik Kruger, and that he had in turn given it to Moroka for safe-keeping. Moroka followed next to confirm Matlaba's statement, and to add that the document had been destroyed by fire together with his other papers and furniture. This story might have some elements of truth as regards Potgieter's recognition of the right of the Barolong to their fatherland, but it sounds like a naive romance when that recognition is reduced to ~~writing~~ a document, and the document has such an unfortunate destiny. The Rev. J Ludorf, chief Montshiwa's missionary and adviser was probably responsible

responsible for this ^{artifice} fabrication, which I feel justly calls fabrication.

The Delegates of the South African Republic based their counter claims on the grounds of

1. The Sand River Convention (1852) which gave them untrammelled rights north and west of the Vaal River

2. Right of Conquest of Mzilikazi who had over-run all the lands in question.

3. Negotiation with African chiefs, who had admitted and recognised of the above (No. 2) claim

4. Occupation of the country in question by the Emigrant Dutch for over twenty years 1850 to 1870.

Government

5. Treaty with the Portuguese/wherby the lands of the Barolong were ceded to the South African Republic. It was claimed in this last connection

that the Portuguese Government had bought the lands some 280 previously from the half-fabulous empire of Monomatapa, and then ceded them to the S.A. Republic. *There was counter-artifice which may justly be termed fabrication.*

The African chiefs were staggered at this stupendous and alarming information. There was indeed a treaty under consideration between the S.A. Republic and the Portuguese East African Government, but it was primarily of a commercial nature, and only defined the boundary between the Eastern Transvaal and the western limits of the Portuguese possessions, and it was not ratified until eight months later (July 1871).

The conference which had been conducted in a friendly manner came to a deadlock on this last claim of the South African Republic.

The African chiefs said that no more discussion was possible until they had got into communication with the Governor of the ~~East African~~

Portuguese possessions in East Africa. They were unanimous in emphatically repudiating any authority of the Portuguese over their country.

As a last resort, the delegates of the S.A. Republic spoke ~~tenderly~~ tenderly. They advised the Barolong chiefs to save their lands from the English by joining the Transvaal, dwelling peacefully in the Republic and paying taxes. To this invitation Montshiwa replied that "No one ever inspanned an ass with an ox under the same yoke."

As the commission of the S.A. Republic and the African chiefs could not come to any settlement, both parties agreed to refer their dispute to a court of arbitration.

Accordingly the chiefs addressed a letter to Lt-Gen Hay Her Majesty's High Commissioner ^{him} requesting ^{to} appoint two gentlemen as judges. At the same time, on the 17th November they addressed a letter of protest to His Excellency ^{Carlos Pedro Pedro Barahona} C.P. Barahona e Costa, Governor of Quilimane:- "At a meeting held on the 15th and 16th November on the Molopo River with a commission of the Transvaal Republic over which His Honour the State President of the said Republic presided, a copy was produced of a treaty entered into between His Majesty the King of Portugal and the southern African Republic whereby a new boundary line is laid down between the alleged Portuguese possessions in the interior of South Africa and the Transvaal Republic, which treaty has been made the ground on which His Honour President Pretorius claims a certain portion of our rightful territories, stating and asserting that thereby we had become responsible subject of his state. Therefore we the united paramount chiefs of the several Barolong tribes write to your Excellency as the president of the Portuguese Diplomatic Commission in order to record, with all due respect for your high position, for the government which your Excellency represents as well as for the government of the South African Republic- to record we say our protest and remonstrance against any transactions which would involve our liberty and property. Neither we ~~or~~ nor our ancestors ever were subjects to the Crown of Portugal nor to the somewhat fabulous "Empire of Monamotapa" from which it was said that His Majesty the King of Portugal had acquired by purchase a right to the interior of South Africa. We can not acknowledge any such rights over our persons and lands, and shall lay a formal complaint on this matter with ^{Her} Britannic Majesty's High Commissioner for South Africa. We remain, Sir, most respectfully, Your Excellency's obedient servants:

1 Montshiwa :Paramount chief of the Tshidi Branch of the Barolong

2 Bakgobi :Chief of the Mabeu Branch of the Barolong

- 2 Bakgobi :Chief of the Maebu Branch of the Barolong,
 3 Moroka :Paramount chief of the Seleka Branch of the Barolong,
 4 Izaak Motlhabane :Chief of the Ratlou Branch of the Barolong,
 5 Gaseitsiwe :Chief of the Bangwaketse.

To this ~~protest~~ ^t Barohona e Costa replied on the 30th ^m November. He took exception to the phrase "fabulous empire of Monomatapa", referred to the essentially secret~~s~~ nature of treaties and the impropriety of giving publicity to them before their ratification, the necessity of defining boundary lines between the possessions of His Majesty the King of Portugal in South Africa and the Transvaal, and finally repudiated any cession of foreign lands by his government, and took his stand on the inviolability ^{of the} rights of nations.

A territorial dispute of the same nature had been going on since 1867 between Nicholas Waterboer ~~on the one side~~, captain of the Griquas at Griquatown on the one side, and the Orange Free State on the other in respect of the wedge of territory between the confluence of the Orange River and the Vaal. In the meantime, (1870) great diamond finds had been made at Pniel, Bulfontein, Dutoitspan and Dorstfontein within that wedge, on ^{the} south bank of the Vaal and thousands ~~of~~ of diggers had rushed there, to try their luck and unwittingly lay the foundations of Kimberley. The Free State maintained that ~~the~~ ground was theirs because it was included within the boundaries of the Orange River ^{sovereignty} ~~sovereignty~~ as defined by Governor Sir Harry Smith in 1848, and was in undisputed occupation of the Free State burghers since the transfer of the country to them by Sir G. Clerk in 1854. Nicholas Waterboer who was represented by ~~the~~ an exceptionally clever and versatile Eur-African attorney by the name of David Arnot, claimed the land on the ground of inheritance from his father Andries Waterboer as well ^{as} previous recognition of sovereign and proprietary rights in part of that ^{area} by the Orange Free State government. ~~Under these circumstances the claim of the~~

Under these circumstances the claim of the Free State and the Griquas to the diamond lands, and that of the Transvaal, the Barolong, the Batlhaping, and the Koranas to the adjoining lands were so interwoven as to form one large ^{insoluble} question.

The ownership of the territory in dispute between the Orange Free State and the Griquas was still hanging fire when suddenly on the 25th August 1870 Nicholas Waterboer ceded his claims to Her Majesty the Queen, and requested that he and his people might be received as British subjects. In the following year, this rich territory was annexed to the British dominions as Griqualand West.

At the beginning of 1871 Sir Henry Barkly the new High Commissioner visited the diamond-fields and there at Klipdrift ^{now} Barkly West met all the parties claiming the fields - Pres. Pretorius, the chiefs Montshiwa, Moroka, Phoi of the Barolong; Bothasitse, Jantje, Motlhabane and Mankurwane of the Batlhaping and Nicholas Waterboer of the Griquas, together with their agents. All of them having made their statements before His Excellency, he got them to agree to submit their claims to a court of arbitration. Deeds of submission were accordingly drawn up, and duly signed by the claimants. The judges of the court were to be Anthony O'Reilly, landrost of Wakkerstroom, on behalf of the S.A. Republic, and John Campbell magistrate of Klipdrift on behalf of all the other claimants, while Lt Governor Robert Keate of Natal was to be final umpire in case of disagreement of the judges.

The arbitration court opened at Bloehof ^m on the 4th April 1871. before a large crowd drawn by interest or curiosity. They had ~~Montshiwa was also there, accompanied by his brothers Motema and Rabodietse,~~ come by wagons, cape carts, on horseback and on foot. Pretorius and state-attorney F. ^{Klein} Kelin appeared for the South African Republic; David Arnot for Attorney ~~Dr. Grant~~ Nicholas Waterboer and his Griquas; Attorney D.C. Grant for the Batlhaping of Mankurwane, Attorney Carl Mathey for chief Gaseitsiwe of the Bangwaketse and Motlhabane of ^{The} Ba-Maidi tribe accompanied by his brothers Motema and Rabodietse and also by Montshiwa was also there, his missionary Joseph Ludorf and his

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