

## JOSEPH MILTON - ON TRIAL FOR MURDER!

### [The Northern Miner \(Charters Towers\) - Thu 5 Feb 1891](#)

Charles Finloe or Philo was charged with inflicting grievous bodily harm on a Chinaman named Ah Maie.

Mr Marsland appeared for the accused.

Detective McQuaker in giving evidence of the arrest said the name inserted in the warrant was like Charles Finloe. He read the warrant to the accused, including his name, and he replied "*it is a long time since I was down at Millchester Creek.*" On the way to the watch-house the accused said "*Am I the only one what is arrested?*" A Chinaman was with the witness when he arrested the prisoner. He identified the accused as the man who assaulted Ah Maie. The prisoner was remanded until Monday, 9th inst., as the injured man is in the Hospital and unable to appear. Bail was allowed, his own recognisances in £100 and two sureties in £50 each.

Ah Maie, the Chinaman, on whose account Charles Philo was arrested, is also still in the hospital suffering from a compound fracture of the skull and is in a dangerous state. We learn that another arrest has been made in connection with the case of Ah Maie.

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### [The Northern Miner \(Charters Towers\) - Fri 6 Feb 1891](#)

At the Police Court yesterday, before Messrs R Kirkbride and W Holliman, JJP, a young man named **Joseph Milton** was charged with inflicting grievous bodily harm on Ah Maie, a Chinaman, in the 15th January, ult. Detective McQuaker proved the arrest of the prisoner in Vulture Street on Tuesday afternoon. The prisoner said, "*It is a bit rough.*" He was remanded until Monday next. Mr Marsland who appeared for the defence, asked for bail, which was granted, the prisoner in £100 and two sureties or £50 each.

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### [The Northern Miner \(Charters Towers\) - Tue 10 Feb 1891](#)

**Chas H Philo** and **J Milton** were charged on remand with inflicting grievous bodily harm on Ah Maie, a Chinaman.

Mr J Marsland for the defence.

Sub-Inspector Meldrum said he was unprepared to go on with the case, and asked for a remand for eight days. He also said that Ah Maie was in such a state that it might be advisable to take his deposition at the Hospital. It was arranged to do so next day at noon. The prisoners were further remanded for eight days, bail being extended.

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### [The Northern Miner \(Charters Towers\) - Tues 17 February 1891](#)

#### **POLICE COURT - YESTERDAY**

(Before the Police Magistrate)

**C F Philo** and **Joseph Milton**, were charged with inflicting grievous bodily harm on a Chinaman named Ah Maie, in January last.

Mr John Marsland appeared for the accused.

The deposition of Ah Maie, the injured man, which was taken at the Charters Towers Hospital on Tuesday last, was as follows: -

My name is Ah Maie; I am a gardener residing near the Enterprise crushing mill; I remember the day I got hurt; it was on a Thursday; I don't remember the date, but it was over five weeks ago; I am very tender in the head and cannot remember the exact time; I accuse Milton of hitting me on the head and accuse Philo of hitting me on the leg; it was done with stones; he had a gun fixed outside the door of my place; I was inside cutting meat at the time; could not see who fixed the gun; I took a horse whip and ran outside; my mate's name is Ah Kee and he was living with me in my house; when I ran outside I saw the accused Milton with a watermelon in his hands which he threw on a stone; one had the gun, and the other had the melon; the accused Milton, had the melon and the accused Philo had the gun; when I saw them taking the melon I sang out and they both ran away to the creek and took up stones and threw them at me; the accused (Milton) threw the stone that struck me on the head; it was about the size of my fist; I was struck in the three places, on the knee, side and head; the accused (Philo) struck me on the lower part of the side with a stone; it was a big flat stone; the accused (Milton) struck me on the knee with a big round stone; they were about three or four yards away when they threw the stones; the blow on the head was the first time I was struck; I fell down, and my head felt all on fire; I was also struck on the side and knee after I fell down; the accused then ran away; Ah Kee carried me home, tore my trousers down, and put some ginger on; the constable at Millchester saw me, all over [with] blood; I was not able to walk about, [but] was in a room in bed; Ah Kee told the police at Millchester; no doctor was attending me when I was in bed; Dr Lam Pan did not attend me; I had no money and no tucker; [I] was in bed in my own place about three weeks before I was taken to the Hospital; Ah Kee put some ginger on my wounds; ginger is very good; I saw the accused first day of the accident about four or half-past four in the afternoon; I saw them

going into my garden; this was the first time I saw them in there; there is a stake fence around my garden; they went in by the door or gate; I have melons and cabbages growing in my garden; I am sure these are the two lads who struck me with stones.

By Mr Marsland: Accused might have been six or seven yards away from the garden when they struck me: I had a whip in my hand, but Ah Kee had nothing.

Detective McQuaker produced a plan of the garden and premises at which the alleged assault took place; he also produced a gun, of which he took possession on the 9th inst., he took it from the accused Philo's father's house; the accused Philo handed him the gun and said "*That is the gun we had, but we fired no shots.*"

Albert King Yeen was duly sworn as interpreter.

Ah Kee stated: I am a gardener, residing about two miles from Charters Towers, on the same creek as runs around the town towards Queenton; I know Ah Maie; he is my mate, and was living in the same place with me; I saw the two accused come to the door, and ask Ah Maie if he had any watermelons, about 4 o'clock on a Thursday four weeks ago; when they asked Ah Maie if he had any watermelons they went away; I did not see them then: my mate sang out to me, and I came out and saw them in the middle of the garden; accused Milton carried a rifle, and was outside; I saw the accused Philo carrying a watermelon away; followed him; the accused Milton pointed the rifle at me, and fired at me; the shot went over the top of the house; he fired straight up; the rifle was pointed at me before he fired; afterwards the accused Philo handed the watermelon to the accused Milton; Ah Maie had a whip and followed them; both of us followed the accused; I had nothing in my hand; both of them went down the creek and broke the watermelon; both accused picked up stones and threw them at Ah Maie and myself; Ah Maie was struck on the head with a stone and he fell down; accused Milton threw that stone; when they saw Ah Maie fall down they threw more stones, and Philo struck Ah Maie on the hip with another stone, and the accused Milton threw another and hit Ah Maie on the side of the knee; the accused Philo threw one and hit Ah Maie on the knee also; I was present and saw all this; the accused were about five or six yards from Ah Maie and myself when they threw the stones; they were in the creek, about 40 or 50 yards from the garden fence; it was a wet stone and flat, about 4 inches square, that struck Ah Maie on the head; it was something like a flat stone that struck Ah Maie on the hip; it was a long stone, about the size of a large egg that struck him on the knee; I was about 4 or 5 yards from Ah Maie when he was struck; I was not struck; the defendants then ran away. I walked towards Ah Maie and tore his trousers off and bandaged his head up. His head was bleeding: I took Ah Maie up to the house; I put some Chinese tobacco and ginger on the wound to keep the inflammation down; on the Friday night following the wound on the knee had gone away; I went down to Millchester and saw Dr Lam Pan, and reported the matter to the constable; I did not send for a doctor as I had no money to pay him; Ah Maie was taken to the Hospital on a Saturday about a fortnight ago; I was attending Ah Maie until he was taken to the Hospital; I saw accused, Milton, with the gun; the rifle produced is like the one he had.

By Mr Marsland: They fired the rifle once, it made a big noise; Ah Maie was inside the house when the rifle was fired; they asked for the melons before they fired; Ah Maie said he had not got any watermelons when accused asked for them. Ah Maie did not come out of the place after the shot; Ah Maie came out when accused Philo had the watermelon, and Philo handed the rifle to the accused Milton; Ah Maie and myself followed the accused about six or seven yards before they threw stones; I had nothing in my hand; Ah Maie and I did not try to hit the accused with sticks before the stones were thrown.

Witness now says only Philo was in the middle of the garden, not both of them.

At this stage, Sub-Inspector Meldrum applied for a further remand for one week, which was granted, bail to be enlarged.

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#### [The Northern Miner \(Charters Towers\) - Thu 26 Feb 1891](#)

The Chinaman, Ah Maie, who was in the hospital since 31st January, suffering from a fractured skull and other injuries, alleged to have been caused by his being struck with stones by the two young men Charles Philo and J Milton, died yesterday at half-past 12.

A post mortem, made by Drs Paoli and Forbes, showed that the skull was fractured on the left side near the crown. There were also bruises on the right thigh and left leg. He was buried in the afternoon, the funeral being attended by a number of deceased's countrymen. Philo and Milton will be brought up at the Police Court on Saturday.

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#### [The Northern Mining Register \(Charters Towers\) - Wed 4 Mar 1891](#)

### **POLICE INTELLIGENCE**

**SATURDAY, FEBRUARY 28**

**(BEFORE THE POLICE MAGISTRATE)**

Chas F Philo and Joseph Milton were charged on remand with the manslaughter of a Chinaman named Ah Maie, who died in the hospital on 25th inst, from the effects of wounds alleged to have been caused by the accused pelting him with stones on the 15th January.

Mr J Marsland appeared for the defence.

Detective Jas McQuaker, recalled, stated since the last remand was granted, the Chinaman, Ah Maie, died in the Hospital; I charged the accused today with the manslaughter of one Ah Maie, on 15th of last month; the Chinaman died on the 25th inst; I was present at the Hospital morgue when a post mortem was made by Drs Paoli and Forbes on the body of Ah Maie; the nearest residence to the late residence of Ah Maie is about 300 yards; a Chinaman named Ah Chee lives there, it is on the opposite side of the creek.

Ah Chee, examined through an interpreter, deposed: I am a gardener, living next to Ah Maie's garden; about seventy yards off; I knew Ah Maie seven years; Ah Maie sometimes went round selling vegetables with a basket; I last saw Ah Maie on Thursday morning six weeks and two days ago; I do not know the date; saw Ah Maie in his house; I heard a gun fired, but did not see anyone; after the gun was fired I saw two men near the creek; the creek is about 30 yards from Ah Maie's garden; Ah Maie was in his own garden; I do not know the two men.

Sub-Inspector Meldrum: What did you see the men doing?

Mr Marsland objected, as there was nothing to connect the men with the prisoners. They might have been some other men.

The Bench overruled the objection.

Witness continued: I heard Ah Maie's mate sing out and saw Ah Maie lying down; the two men ran away; Ah Maie's mate called out, and went over; Ah Maie's mate, Ah Kee, was tying up Ah Maie's head; I helped Ah Kee to carry Ah Maie home, and then went back to my own garden.

Constable Patrick Molloy, stationed at Millchester, stated: on the afternoon of the 16th of last month a complaint was made to me, in consequence of which I went to Ah Maie's place early the next morning; I saw Ah Maie was lying on his bed; he had a cut on the left side of his head over the left temple; there was blood over his forehead and face; his mate was present.  
[Witness identified Ah Kee.]

By Mr Marsland; I did not take any steps to get medical attendance for the Chinaman; I did nothing; the Chinese doctor made a complaint to me; that was the reason I took no steps to get medical attendance.

Dr Paoli, Government Medical Officer, stated: I examined the deceased Chinaman, Ah Maie, on 31st January last in a humpy\* at Charters Towers near a creek; I found a wound on the head, and ordered him to be taken to the Hospital; he was taken there; I made a post mortem examination on the body of deceased on 25th inst. at the Hospital morg assisted by Dr Forbes; found there were lacerated wound on the upper and left side of the head; the skull was depressed and fractured; on cutting through the left leg bone of the knee was necrosed with sloughing of the lower part of the leg; there was a lacerated wound on the iliac crest on the right side leading to an abscess cavity; on opening the skull the inner table was depressed about a

quarter of an inch, and the dura and pia mater adherent to the depressed bone; the other organs were healthy, and the cause of death was exhaustion through the injuries and suppuration; deceased was from 35 to 40 years of age; with the exception of the injuries I saw, the other organs were healthy.

By Mr Marsland: If the Chinaman had been attended to before he might have lived longer; I do not think the application of ginger and tobacco would do much good; it would neither do harm nor good; I don't think he would have recovered if he had been attended to earlier, I believe he would have died in any event.

By the Bench: I consider the necrosis of the bone resulted from the injuries inflicted.

Dr H F Forbes, Medical Officer Charters Towers Hospital, deposed: I remember the deceased Chinaman Ah Maie being brought to the Hospital on the evening of the 31st January; I examined him and found his pigtail all matted with blood and stinking; on its being removed a wound about an inch long was found, suppurating, and at the base of the wound was a depressed fracture of the skull about a quarter of an inch in depth, and showing several spicules of dead bone; there was a wound on the front part of the right iliac crest there was a wound discharging and showing rotten bone. The left leg was swollen, especially about the knee and thigh; he could not move the leg; he was considerably emaciated; the ordinary dressings were applied; he remained much the same; his leg was swollen and the wound suppurating and he got weaker; there were several consultations at various times with Drs Browne and Paoli; he was conscious all through from the time of his admission until his death on the 25th; after he died I insisted Dr Paoli to make a post mortem examination.

[The witness here gave evidence similar to that of Dr Paoli.]

The cause of death, in my opinion, was exhaustion from the various wounds; it is hard to say how the injuries were caused as it was so long before I saw them, whether by contusion or laceration; they were the result of violence, and could have been caused by stones; the injuries to the head could have been caused by small stones.

By Mr Marsland: The injuries were just as consistent with the deceased having come into contact with something immovable as with something moveable having come into contact with him.

This concluded the case for the prosecution, and both prisoners reserved their defence.

The prisoners were committed to take their trial, on the charge of manslaughter, at the next sittings of the Circuit Court, to be held on the 4th May.

Bail was allowed, each prisoner in two sureties of £100 each, and themselves in a similar amount.

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[The Northern Mining Register \(Charters Towers\) - Sat 9 May 1891](#)

**AFTERNOON SITTINGS**

**MURDER**

Charles Philo and Joseph Milton were charged with the murder of Ah Maie, a Chinaman, at Mosman's Creek.

The prisoners, who pleaded not guilty, were defended by Mr Macnaughton, instructed by Messrs Marsland and Marsland.

James McQuaker, detective, stated that he saw Philo on 3rd February and read a warrant to him and arrested him; he was identified by Ah Kee; arrested Milton 4th February; on 25th February he went to the Hospital and saw a Chinaman named Ah Maie; had seen him on the 10th and heard him give his depositions; it was a charge of inflicting grievous bodily harm on Ah Maie the prisoner was there, and had an opportunity of cross-examining him; I saw a post mortem examination made on the body of Ah Maie by Drs Paoli and Forbes; he went on to Philo's father's house, and prisoner Philo handed him a rifle, and said "That's the rifle we had when we fired the shots." he was it was his.

By Mr Macnaughton: I know the deceased man's garden; his humpy\* was outside it; the nearest point of the humpy to the garden is three yards; there is a creek about 60 yards from the garden; the garden is between the humpy and the creek.

Ah Kee, a gardener, stated that he lived at Mosman's Creek; remembered a man named Ah Maie; saw him last at his garden; remembered 15 January last; the prisoners came about 4 o'clock in the afternoon; Philo asked Ah Maie if he had any water melons. Ah Maie said there were none, and told them to go away.

Milton stayed outside and Philo went into the garden and took some watermelons; one of them fired a shot from a rifle; Ah Maie heard them fire the gun and ran outside with a whip; witness and Ah Maie ran after them; one of the prisoners (Philo) broke a watermelon on a stone; the prisoners afterwards threw stones at the deceased and inflicted the injuries, which subsequently resulted in his death; witness repeated generally the evidence given in the Police Court at the preliminary examination.

Wm M Mowbray, Police Magistrate at Charters Towers, stated he remembered that a Chinaman named Ah Maie went to the Chinese Ward at the Charters Towers Hospital on 10th February; saw a Chinaman who was pointed out as Ah Maie; he had him sworn; there were present

Sub-Inspector Meldrum, MR W T Russell, Deposition Clerk Mr John Marsland; the two prisoners, Detective McQuaker, Dr Forbes, resident surgeon, and he thought a constable; George Bing, the Chinese interpreter, was called in to interpret, and the two prisoners were charged with inflicting grievous bodily harm on Ah Maie; the oath was administered according to the statutory form; Ah Maie was examined, and gave his evidence through the interpreter, and it was taken down in writing by Mr W T Russell; prisoner's solicitor had the opportunity of cross-examination; it was interpreted over again to him by George Hing, the interpreter, and corrected in various places; it was signed by Ah Maie in witness' presence; witness also signed the deposition; the deposition produced it the same; the associate then read the deposition referred to.

Patrick Molloy, a police constable, stationed at Millchester, stated that he went to Ah Maie's place on 17th January; saw him there, and found him in a bad state; his face was covered with blood and his knee was tied up; went there two days afterwards.

By Mr Macnaughton: I did not get him any medical assistance.

Dr H F Forbes, resident surgeon Charters Towers Hospital, stated that Ah Maie was taken to the Hospital on 31st January; examined him, and on removing his pigtail found a wound on the upper part of the left side of his head; at the base of the wound there was a fracture and depression of the skull; there was an abscess over the right iliac crest; the left leg and thigh were swollen; the usual dressings were applied; he remained in the Hospital until 25th February, when he died; a post-mortem examination was made by witness and Dr Paoli;

Detective McQuaker was present and found a depression of the skull with slightly necrosed bone; on opening the left knee the bone was found to be rotten; the cause of the death was injury to the knee, which might have been caused by its being struck with a stone; one stone would have been sufficient.

By Mr Macnaughton: The deceased was in a very neglected condition when he arrived at the Hospital; I have heard the evidence in the case; if he had been brought to the Hospital on the 15th January it might have made a great difference in his condition; it is impossible to say that I could have prevented the necrosis of the knee; it would have depended on his constitution; he would have been placed in a more favourable position certainly, but I don't know the result. Application of Chinese ginger and tobacco would not do the wound any good; I should think tobacco would act as an irritant; as an application coupled with neglect it would tend to produce suppuration; the wound on the knee was not open.

By the Crown Prosecutor: Dressing the wound on the knee would not do either good or harm; I think the wound on the knee would have been serious from the beginning, on account of the danger of necrosis; the effect of necrosis in the knee would be prolonged illness, and possible death from suppuration and exhaustion.

By His Honor: Necrosis in the knee would not necessarily cause death in every case; the injury to the head would not of itself have caused death.

This was the case for the prosecution.

For the defence the following evidence was given:

Henry Neap, a lad 15 years of age, living at St Patrick, stated his father was a dairyman, and he assisted him; knew the prisoner, and knew Ah Maie's garden; remembered being near the garden on the afternoon of the 15th January last, was riding; saw the prisoner's there and two Chinamen; the Chinamen were hitting the prisoners with sticks. Both Chinamen had sticks in their hands; The prisoners were hitting the Chinamen with their hands; they were about 500 yards away from the garden; heard no shots fired; the scrimmage continued about 15 minutes; the Chinamen were getting the best of it; saw some stones thrown; the Chinamen threw some; did not know who started it; saw the Chinaman holding his head in his hand; the Chinamen left them alone after they threw the stones.

By the Crown Prosecutor: have know Philo a long time; have never spoken to either of them since this thing happened; when the Chinaman began to throw stones they had the sticks in their hands; the prisoners ran away from the Chinamen, and when they stopped they picked up stones and threw them at the Chinamen; those were the first stones thrown.

By Mr Macnaughton: Before there were any stones thrown the Chinamen were striking them with sticks.

By His Honor: The prisoners were 300 yards from the garden, when I first saw them running; Philo was carrying a gun; saw the prisoners the same night, but did not speak to them; they said nothing about the Chinamen; saw no marks of bruising on them; did not tell anyone what I had seen; Philo told me on Monday last to come here. I went to Mr Marsland's office; have not spoken to Philo about this before; should not know the Chinamen who were chasing the prisoners with saplings if I seen them now; one of the Chinamen is dead; I don't know that it was the same Chinaman; all that I have said today is true.

The Court adjourned until 7.30pm.

## **EVENING SETTINGS**

Mr Macnaughton addressed the jury for the defence.

His Honor summed up, and the jury, after 65 minutes, deliberation found the prisoners not guilty.

His Honor, before discharging the prisoners, said they had been found not guilty by the jury, who had possession of the facts, but he did not agree with their verdict, as he considered the accused had been guilty of manslaughter.

Had a verdict to that effect been given he should have passed a moderate sentence and allowed the prisoner the benefit of the Offenders' Probation Act.

The jury had, however, taken a very merciful view of the case, and found them not guilty, and the prisoner might go.

The Court adjourned until 10 o'clock next morning.

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*\*A humpy or gunyah was a small, temporary shelter made from bark and tree branches, traditionally used by Australian Aborigines, with a standing tree usually used as the main support.*

[All newspaper reports sourced from The Trove - <http://trove.nla.gov.au/> ]

[Records suggest that Charles F Philo was born in 1873, making him around 18 years of age at the time of this incident. He died on 24 July 1939 at Proserpine, Queensland, aged 66 years

Joseph Milton was about 26 when he was arrested and tried. He died on 19 Oct 1894 in Brisbane Hospital from Tuberculosis, aged just 29.]