

Case opened 10.30 am }  
" Closed 1.30 pm } = 3 hours

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BAROLONG HEADMAN'S KGOTLA---SIGNAL HILL

BEFORE S. J. MOLEMA, 7/7/26

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S. J. MOLEMA, Complainant (Presiding at Kgotla)  
PHOLO THARI, Defendant.

CHARGE:--- (1) Contravention of Forest Regulation,  
(2) Contempt of, and disobedience of orders.

PRESENT AT KGOTLA:--

Lucas Mokolobata, Matthew Modisa, Kostaff  
Merubana, Jacobus Monyatsi, Benj. Dithake,  
Skei Ndolosa and Albert Sekwati.

STATEMENT OF S. J. MOLEMA, (Complainant herein)

On or about April 16th, 1926 on my arrival from Umtata, I found about 4 or 5 loads of Brushwood being taken away from the Dam near my House, several large trees cut down and the Dam being dug out. I sent in the morning Mr. Matthew Modisa to tell Pholo that (a) I was glad to see them digging out the Dam (b) but was displeased to see large trees cut down (c) to ask Pholo what authority did he have in cutting so many large trees?

Two days after Pholo told me he did not obtain permission from Chief Silas Molema nor did he get consent from Mrs. Emma Molema to cut those trees near her house, whereupon I charge Pholo with:--

- (1) Contravention of Forest Regulation, and
- (2) Contempt, in that he ignored my presence at Signal Hill as his superior represented by Mrs. Emma S. J. Molema

PHOLO THARI denied any contempt, but that his whole mind was occupied by the digging of the Dam and did not think of any body else, other than the work.

Mr. David Dichaba and Matthew Modisa also Mrs. Molema who were present prayed for Pholo----I then ordered Pholo to take out of water in the Dam all poles which he had put there and bring them to my House.

I then went to Klerksdorp. On the 8th. May on my arrival from Klerksdorp I found no poles at my house. I went to Maritzani with the Chief and on my return found no poles at my House, then on the 24th. May last, 6 weeks after giving instructions to Pholo, I took 30 poles out of water at the Dam and reported matter to Silas Molema and asked him to allow me to try the case at Moleloane which the Chief allowed.

DEFENDANT'S STATEMENT:--PHOLO THARI

Pholo defendant himself as follow:--

- (1) Admitted having cut large trees without permission.
- (2) That it was an oversight on his part not to tell Mrs. Emma Molema.
- (3) That he was busy attending to his lads at the Farms and could not think or attend to taking out poles off water.

- (4) That he was sick and was afraid to get into the water.
- (5) That he wanted to take out the poles out of water when the water was dry and handed to me personally when he could have the opportunity to speak to me about his intention which made him to put those poles in the water.
- (6) He further stated that the reason why he did not ask any one to take poles out of water is because even his son-in-law Lucas Mokolebata or any other person at Signal Hill would refuse so to do.

S P E A K E R S

1. SKEI NDOLOZA:--stated that he found fault with Sebopioa by taking the matter to Chief Silas Molema, why did he not tell the Signal Hill people about Pholo's disobedience before reporting matter to fathers, this is a sign of contempt on the part of Sebopioa about the people at Signal Hill. The whole blame was on Sebopioa.
2. ALBERT MAKHUBALO (a stranger) said Pholo was a Headman at Signal Hill during Sebopioa's absence and when he was ordered by Sebopioa to take poles out of water it was a sign of forgiveness for contravening Forest Regulation if he had done so, and since he failed so to do he was guilty.
3. LUCAS MOKOLOBATA:--- agreed with Skei that Molema did wrong by taking matter to Higher Kgotla, but found Pholo guilty. He prayed that this matter be finished at Signal Hill Kgotla. It was a great matter and sore at heart, he recommended ~~at~~ Pholo be ~~adga~~ adjudged with leniency.
4. JACOBUS MONYATSI:--said Pholo was guilty on both counts and more so on disobedience. He also recommended leniency.
5. KOSTAFF MORUBANA:--said Sebopioa was not guilty of any thing as he asked his father that he might try the case at Signal Hill which he did. He disagreed with Skei and Lucas on this point. Further, why did not Pholo ask him Kostaff to take the poles out of water as he generally ordered them to do other things, as the digging of the Dam? He found Pholo guilty of disobedience and recommended for leniency.
6. JACOB MOSAGALE:--said he was waiting all this time for Pholo to order him to take the poles out of water. He also found Pholo guilty of disobedience and recommended for leniency
7. BENJ. DITLHAKI:--said Pholo himself admits being guilty and he found him guilty also, but recommended for leniency.

WHEN PHOLO ASKED IF HE HAD ANYTHING TO SAY BEFORE JUDGEMENT

- (1) Molema was too quick in his action by taking poles out of water.
- (2) He told Skei that he disagreed with his views about Molema being guilty, two persons in one case could not be both guilty.
- (3) He never quarrelled with Sebopioa at any time nor ever was before any Kgotla for any crime.

Case Commenced  
10:30 AM }  
Case Closed 1:30 PM } = 3 Hours

(3)

### SEBOPIOA MOLEMA'S VIEWS AND FINDINGS

There are two counts in this case (1) FOREST REGULATION CONTRAVENTION, which no speaker touched on, (2) DISOBEDIENCE AND CONTEMPT OF SEBOPIOA'S PERSON BY THARI.

#### FOREST REGULATION.

- (1) No one must cut Brushwood any where without first obtaining permission from the Chief or Headman.
- (2) No person must cut Brushwood at his plough lands without permission from the Chief or Headman.
- (3) Permission may be written, word of mouth or implied, but the Government requires that all permits to cut Brushwood must be written.
- (4) Permission by word of mouth was given by Pholo to cut trees at Signal Hill Dam near Molema's House.
- (5) If Pholo's messenger had miscarried his orders he could have punished him, that is to say if Pholo had the authority to cut trees which he did not.
- (7) Pholo expressed his satisfaction after the cutting down of large trees and ordered poles put into water, giving Brushwood to his 4 or 5 working men, and taking for himself a load of stumps of these large trees.
- (8) There was no sign of recognition of his superior in his action as he would have even taken a load to Mrs. Molema, everything rested to himself only.

#### MOTIVE OR INTENTION.

(1) There was a pre-arranged intention in Pholo's mind before the cutting down of large trees which made him to cut those trees without permission. It is on this intention that I will find if Pholo's action were a mistake or thought out.

(2) He said if I were present he would have asked me for permission to proceed to my farm Dithharapa to cut poles there. Why did he not ask for that permission here at my own residence? My ownership is only at Dithharapeng and not at Signal Hill. Everything at Signal Hill belongs to Pholo even round about my House, he has the right to sound an ax on trees in the hearing of Mrs. Molema. The digging of Dam was only a pretext to cut those large trees.

(3) If Pholo was afraid to get into water, why not tell me so when I instructed him to take those poles out of the water. All these reasons are false.

(4) Pholo is not telling the truth when he said he tells Mrs. Molema all things he does at Signal Hill. Mrs. Molema knew nothing about the digging of the Dam from Pholo, other than what she heard from passers-by, and from the sound of <sup>an</sup> the ax cutting trees about 100 yards from her House, and seeing people called by Pholo to do that work.

#### J U D G M E N T

- (1) If I did not listen to several speakers who recommended for leniency in judgment I might ask Pholo to pay one ox for each of the two counts, but I do not say so.
- (2) THEREFORE, I now do hereby order Pholo to pay one ox (kgomo-naka) for both of these counts---PULA

No of Trees & their approximate  
thickness cut down by Mr. Phelps  
during April 1926

1x 8"	5"	5"	5"	3"	1x 4"		
1x 6"					1x 6"		
1x 6"					1x 5"		
1x 3"					1x 4"		
<u>Big Tree</u> x 1x 11"	6"	3"	3"	3"	3"	5"	1x 6"
1x 3"							1x 4"
1x 3							1x 3" 3"
1x 3*							1x 5"
							1x 6", 3", 3"

There were about 17 Trees cut down  
 and about 20 poles in the Dam  
 of different dimensions on the 27-5-26

*Phelps*

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**Silas T MOLEMA and Solomon T PLAATJE Papers**

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