

SILAS MOLEMA will state :-

I am 56 years. I am the son of old Chief Molema Tawaan, the brother of the old Montsioa, I have been a Councillor of the Baralong since 1879 when I returned from School at Hill Town Institute in the Fort Beaufort District. My father was also a leader of the Baralong under Montsioa in the war between the Boers and Baralongs against Mosilekatze. I have carefully perused the statements of Stephen Lefemya and Lekoko Montsioa. My evidence regarding the Chieftainship and paramountcy of Lekoko and the Chief's right to sue on behalf of the people will be the same. I also say that the reasons we claim to be exempt from taxation by the Divisional Council are the same and that we have certain privileges reserved to us by our Charters viz :- The Treaty of May 1884 and the Letter of Sir Sidney Shippard in August 1895. In reference to the statement of the Reverend Mr. Weavind I say that from late father, they late Chief Montsioa and other Chiefs and headmen I learned that before the Baralong entered into the arrangement with the Boers to attack Mosilekatze it was specially agreed that the Baralong would not join unless the stipulation that they were to be re-established at the Molope, when the common enemy was defeated was made clear. This the Boers readily agreed to and they subsequently recognised Montsioa as the Paramount Chief of the Baralong at the Molope.

I was interpreter when the arrangements for the annexation of Bechuanaland to the Cape Colony were being conducted and had interviews with Sir Sidney Shippard on the subject which culminated in the letter of 29th August 1895, above referred to. This letter was obtained from Sir Sidney Shippard because the

Baralong feared that they might lose the rights they had from the Queen after annexation.

I say that the present action was brought because the Baralong, consider that they have been disturbed in their rights.

I remember Sir Sidney Shippard handing this letter to Montsios saying "This is your Charter".

National Office
The Street Prefecture
Sept 23rd 12

To the Hon W. P. Schreiner B. Co. C. M. S.
Barister at Law. Member of the Senate.

Hon Sir

We the Chiefs & people of the
Baulong Nation are anxious to inform
you that Mr. attorney de Kock who formerly
acted for us in the case re Dugter is not
now doing so

We are now anxious to place our case
in your hands you to choose your
own law agent. If you should so desire
we are quite prepared to advance you
any money you may desire, with which
to defend the case

We desire to thank you Hon Sir not only
~~not only~~ for what you have done for
us in the past but also for what you have
done for the natives in general

We trust Sir that you will acquiesce
with our desire, and that you will
send us a favourable answer soon

We are Hon Sir

Yours Humbly ~~Yours~~ Servants
Chiefs

P.S. our old friend Mr. Gerrans
desires to be kindly remembered to you

We learned that this case has
been sent back to ~~some~~
Capetown by the Devonport
Council for consideration.
If so please look at this
with the matter, and ascertain
whether it is so.

LEKOKO MONTSIOA will state

I am about 66 or 67 years old. I am the son of younger brother of old Montsioa, Marumoloa, and succeeded Badirili Montsioa about two years ago. I was born at Potchefstroom during the time the Baralongs were trekking back to the Molopo after the war against Mosilekatze. I claim to be the Paramount Chief of the Baralong people. I base this claim upon my succession to the Chieftainship by the acceptance of myself as such by my people with the approval of the Government,

The Baralong people originally lived along the Molopo. They were driven away from there by the Matabili under Mosilikatze - that was before I was born about 1830 - They migrated for their own protection to what is now known as the Orange Free State in the Thaba'Nchu District, under the old Chief Marala, a cousin of old Montsioa, whilst they were settled there the Boers were trekking North following Mosilekatze. He had previously fought the Boers and stolen their cattle. The Boers went to Thaba'Nchu to the Baralongs who they knew had also suffered from Mosilekatze and enlisted their assistance in trying to recover their stock. The Baralong under Montsioa and the Boers, then joined hands fought Mosilekatze and beat him. He retired beyond the Limpopo and founded the Matabili Nation, and the Baralong and the Boers were then left in peace. Montsioa declined to accept cattle as a reward for his services in the war. He declined

He claimed that he fought for the Boers were willing and agreed. He settled there again with his about 7 years to migrate back.

Montsioa was recognised

of all the Baralong living along the Molopo until the time when they requested the Protection of England and the British Protectorate and-entit was established. As I have stated for the above reasons I claim that I am Paramount Chief of the Baralong People.

This paramountcy I only claim in respect of the Reserves at Molopo, Mosiße, and Maritzani. I also claim that land in these Reserves belongs to the Baralong residing in them under me as their Paramount Chief and I hold it as Trustee for my people. In 1875 certain Baralongs came from Thaba'Nchu and settled at Polfontein (in the Transvaal about 18 or 20 miles from Mafeking) they then asked for permission to settle in what is now the Molopo Reserve. They settled at Rietfontein, when permission was granted them. They recognised my paramountcy.

As the head of my tribe I claim that the treaty which was signed by old Montsioa and his Councillors on 22nd May 1884 and the Letter written by Sir Sidney Shippard on 28th August 1895 to Montsioa as the Charter upon which my people base their rights and privileges and I further base the present reservation to me of certain powers by the Imperial Government by those documents.

Above I have stated that I am the Paramount Chief of the Baralong resident in the Reserves known as Molopo, Mosiße and Maritzani.

Those Baralongs resident there who are not of the Bora Tsili I claim have been absorbed by the Bora Tsili and that they all recognise my paramountcy. These people include those who came from Gansese

I contend that I hold the Reserves in TRUST for my people and that the land to individuals of the Reserves should devolve upon the children

to their children and so on. They have not the right to alienate the land but only to till the soil, graze their stock and to reside upon it for life.

As an instance where I exercise a prerogative in case a man were to die without issue the land would go to a brother or next of kin, being male with my approval.

In regard to taxes the only tax which I and my people have paid has been the hut tax of 10/- per hut and 2/- wagon tax in all a sum of 12/- This tax is collected and paid to the Government Inspector at the Magistrate's Court in the Native Affairs Office.

We have never been called upon to pay any tax to the Divisional Council until the Dog tax was claimed from us, which forms the cause of the present proceedings.

We claim that the imposition of this tax by the Divisional Council is in direct violation of the rights conferred upon or reserved to my people by the Treaty of May 1884 and the letter of 29th August 1895.

STEPHEN LEFEMYA will state :-

I am 77 years of age. I am nephew of the old Chief Montsioa my mother having been his sister. My father was a leader under Montsioa in the war against Mosilekatze, and after the Baralong were re-established at Molopo under Montsioa, he was one of his Chief advisers. I was about 15 years when the Baralong returned to the Molopo. My father told me the whole history of the war and the circumstances under which Montsioa was recognised as the Paramount Chief of the Baralong settled at the Molopo. I have heard the statement as given by Lokoko and say it is correct so far as it concerns his Chieftainship and paramountcy.

I went to Salem near Grahamstown and there learned to read and write. I also learned some English on my return. I was appointed by Montsioa to be his Secretary. Owing to my position as Secretary I got to know all the business affairs of the Tribe and of all the negotiations with the British Government through their Agents and Administrators. I was also a signatory to the Treaty of May 1884, and the interpreter at the Meeting at which it was signed. The Baralong had hardly settled down within the Territory agreed upon by the Boers and themselves when trouble began with the former owing to their ceaseless continued encroachments in this Territory. They gradually took away from this Territory and altered the boundary line until the Baralong suspected that there would soon be nothing left for them.

In or about 1872 the
settled among the Baralong
Molopo. The Chief
he should do regard
prepared to fight for

resort to arms, but it was suggested by him that instead the Barakong should call in the aid of the British Government. I was interpreter at these Meetings and consultations. As far as I remember Mr. Webb wrote to Sir Richard Southey at Kimberley. I also remember that the Chief Montsioa wrote to Sir Owen Lanyon and after negotiations in which both Southey and Lanyon dealt the Treaty was after some years, as a direct consequence of the free booting concluded in May 1884.

Some years before this Treaty was entered into Mr. Rowland came to live among us and he also advised us to conclude it.

Previously in answer to the letters to Southey and Lanyon and before the signing of the Treaty Christopher Bethel was sent by Lanyon, who then was Administrator of Griqualand West, to reside at Schuba as a British Agent.

As an individual Barakong, as a Councillor of the Paramount Chief, as one of his advisers and by virtue of my special knowledge of the affairs of my tribe I say that the Barakongs as a free, as distinguished from a conquered people voluntarily incorporated themselves in the Empire of Queen Victoria they were entitled to and did make certain conditions upon which they so entered the Empire. The main conditions upon which they claim that certain rights are reserved to themselves are those in the Treaty of 1884 and the undertaking given by Sir Sidney Shippard in 1884. We therefore claim that we are the Barakongs as a free people for us by the British Government and that we are recognised by the Government of the Cape to the manners and customs of the Barakongs and that we are in the Reserve and that we are entitled to the rights upon us which are reserved to us in the Treaty of 1884 and the undertaking given by Sir Sidney Shippard in 1884.

administration of the Reserves according to European custom. When beyond the Reserves we quite recognize that we abandon the privileges we claim, and as a consequence whilst in the Reserve we are exempt from all Divisional Council taxation in any form.

From the time when we first concluded the Treaty we were only taxed in respect of huts by the Government. This was made clear to us at the time and the tax is due to the Government, but further than this we say we cannot be taxed unless with the consent of the tribe.

NOTE FOR COUNCIL :- Nobody in the Reserve is on the Divisional Council Voters List. The people do not object to this for if they were on the List they have no wish to be there. They say they wish not to be subject to the Divisional Council and only to be under the Native Affairs Department.

IN THE SUPREME COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Between: Lekoko Montsioa in his capacity as Principal
Chief of the Baralong People
Plaintiff.

and

1. The Government of the Union of South Africa.
2. The Divisional Council of Mafeking
Defendants.

Sir,

Be pleased to take notice that at the trial of
this case the Defendants will avail themselves of the follow-
ing documents:-

1. Treaty between Montsioa, his Sons and Councillors,
and the Imperial Government dated 22nd May 1884.
2. Letter from Sir Sidney Shippard to Montsioa dated
29th August 1895.
3. Correspondence between Plaintiff's Attorneys and
Defendants' Attorneys.
4. Blue Book C - 4889 Report of the Commissioners
appointed to determine land claims and to effect
a land settlement in British Bechuanaland.
5. Blue Book C - 7932. Correspondence relative to
the transfer of British Bechuanaland to the Cape
Colony.

Such

(2)

Such of these documents as are in your possession you are hereby required to produce at the trial.

Dated at Cape Town this 27th day of January
1913.

W. H. L. Stephen
Defendants' Attorneys

To Lokoko Montsica,
the abovementioned Plaintiff,
Mafeking.

George the Fifth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India:—

*Silas Molema, of Mafeking,
but presently of Baitland,
Cape Town.*

Greeting:

We command you, that, laying aside all and singular business and excuses, you, and every of you, be and appear personally before our Justices of our Cape of Good Hope Provincial Division of our Supreme Court of South Africa, at Cape Town, on the *10th* Day of *June* 191*3*, at Ten Thirty o'clock in the Forenoon of the same Day; and also that you, the said *Molema* bring with you and produce, at the time and place aforesaid,

*All books and documents relating to
the matter mentioned below.*

then and there to testify and show all and singular those things which you, or either of you, know concerning a certain cause now pending in our said Court, at Cape Town, between

Mootoia

Plaintiff, and

*The Union of South Africa
and Divisional Council of Mafeking.*

Defendant, wherein the said

complains

of Declaration of Rights.

on the part of the

Plaintiff

and this you, or any of you, shall by no means omit, under the penalty, upon each of you, of One Hundred Pounds Sterling.

Witness:— *The Honourable Christian George Haasdoop* ~~our Judge President of our~~ *Judge President* of our *of the Cape of Good Hope Provincial Division of our Supreme Court of South Africa* said Provincial Division, at Cape Town, the *6th* Day of

June 191*3*, in the *fourth* Year of our Reign.

C. J. Schurz.
Plaintiff's Attorney,
43, Parliament Street.
Cape Town.

(Signed) W. G. Hoal.
Assistant Registrar of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa.

George the Fifth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India:—

Stephen Lefunya, of KwaZulu, but presently of KwaZulu, Cape Town.

Greeting :

We command you, that, laying aside all and singular business and excuses, you, and every of you, be and appear personally before our Justices of our Cape of Good Hope Provincial Division of our Supreme Court of South Africa, at Cape Town, on the 10th Day of June 1913, at Ten Thirty o'clock in the Forenoon of the same Day; and also that you, the said *Lefunya* bring with you and produce, at the time and place aforesaid,

All books and documents relating to the matter mentioned below.

then and there to testify and show all and singular those things which you, or either of you, know concerning a certain cause now pending in our said Court, at Cape Town, between

Plaintiff, and

Aboulsira The Union of South Africa and Divisional Council of KwaZulu

Defendant, wherein the said

complains

of Declaration of Rights.

on the part of the

Plaintiff

and this you, or any of you, shall by no means omit, under the penalty, upon each of you, of One Hundred Pounds Sterling.

Witness :— *The Honourable Christian George Haardorf our Judge President of our said Provincial Division, at Cape Town, the* ~~our Judge President of our said Provincial Division, at Cape Town, the~~ *6th Day of*

June 1913, in the *Fourth* Year of our Reign.

G. J. Schuby
Plaintiff's Attorney,
A 3 Parliament Street,
Cape Town.

(Signed) W. G. Hoal.
actg. Assistant Registrar of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa.



Documents sent to Attorney E. J. Schultz, 43 Parliament Street, Capetown, by Paramount Chief Lekoko Montsioa of Mafeking, Bechuanaland.

-----oOo-----

1. A Short Account --Phitshane Trouble. Original of this is sent through the Resident Magistrate to Secretary Native Affairs, Capetown sometime last year.
2. Story of Mafeking (Diamond Field/Advertiser July 15, 1897)
3. Tribal Dispute (Montsioa vs. Ramosiane)(D.F.Ad. Sept. 20, 1910)
4. Letter (Glen Grey Act) to E.G.Green Mar. 14, 1904.
5. Reply to letter above by E. G. Green March 16, 1904
6. Letter from Green (Molopo Reserve Under Divisional Council) June 20-1906.
7. Letter from Green (advice of Secretary of Native Affairs) March 26, 1906
8. Letter from Green Stating Boundaries of Field Cornetcy March 20, 1906

LETTERS SHOWING THAT LEKOKO MONTSIOA IS A PARAMOUNT CHIEF OF THE BAROLONG NATION FROM SEVERAL GOVERNMENT OFFICIALS-----

9. Letter by Inspector Native Reserve, Nov. 30, 1908
10. Letter " " " " Dec. 9, 1911,
11. Letter " " " " Mar. 3, 1910,
12. Letter by Assistant Principal Veterinary Surgeon June 19, 1908
13. Letter by J. D. Barry, Acting Administrator of the Government of Griqualand West -----June 23, 1877

LK/SJM.

Copy

Mafeking, June 16, 1915.

E. J. Schultz Esq
attorney & Notary & Conveyancer.
Piquetberg - Cape Province

Montsisa vs Union Govt. & Mafeking
Divisional Council

Dear Sirs,

It is true you wrote to us on the 31st of March last and on the 1st Inst. on the above matter, for which please accept our thanks and in reply would say when your letter of March 31st came I was laid in bed on account of illness and have been waiting to see if I would get better before making arrangements to settle indebtedness still hanging between you and the Barolong but I am still ill and now in the Victoria Hospital of Mafeking.

During my illness the Barolong Council asks you to please wait for them for about a month or two, should you do so, they will be too proud to pay you for your professional services and so forth. The said Barolong Council have asked me on their behalf to thank you for your friendly and gentlemanly dealings with them in the litigation above stated.

Enclosed please find Twenty nine pounds six shillings and four pence sterling leaving a balance of a hundred pounds sterling. This amount the Barolong send

send you with the request. that would
you be kind enough to wait for them
a few months.

Hoping you are well and having
a lucrative business in Piquetteburg,
and thanking you for your services
in the past. I am Sir, on behalf
of the Barolong Nation

Yours very truly.
(Signed) LeKoko Moutsoia
H. J. M.

Enclosing £29.6.4
L.M./S.M.

Montsioa vs Union Government and

Divisional Council of Mafeking.

With a view to a settlement the Defendants have applied for a postponement of the Trial of this Suit.

The Plaintiff consents to the application which is to be made this morning provided :-

- (a) That those witnesses who are at present in Cape Town be allowed to give their evidence on Commission.
- (b) That the matter be set down for further hearing and argument for a day not later than three weeks hence.
- (c) That Plaintiff be at liberty to call any further necessary evidence on the day the suit is set down for.
- (d) That Mr. Percy Jones be appointed Commissioner and
- (e) That the costs of the Commission be costs in the cause.

C A P E T O W N.

10th June 1913.

In the Supreme Court of South Africa,
(Cape of Good Hope Provincial Division.)

Between

LEKOKO MONTSIOA in his capacity as
Principal Chief of the Baralong
People,

Plaintiff,

and

1. THE GOVERNMENT OF THE UNION OF SOUTH
AFRICA and
2. THE DIVISIONAL COUNCIL OF MAFEKING,

Defendants.

Sir,

Be pleased to take notice that we have this day
set down the above Cause with the Registrar of this Honourable
Court for Trial and Argument for Tuesday the 4th day of Febru-
ary 1913.

Dated at Cape Town this 30th day of November 1912.

J. & H. REID & NEPHEW,
First Defendant's Attorneys.

To

Lekoko Montsioa,

The above-named Plaintiff,

Mafeking.

Collection Number: A979

Silas T MOLEMA and Solomon T PLAATJE Papers

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