

Nº 59.

Hearing of 26<sup>th</sup> July 1912

Public Prosecutor against Raphael Galves, recruit, Second  
Class, Santo, charged with infringement of Articles 44, 51 &  
55 of the Convention of 20<sup>th</sup> October, 1906

The year 1912, 26<sup>th</sup> July, at 9 am, the Tribunal, composed  
of Honorary Court of Guinea Esperanza, President; Jean Polona,  
French Judge; Hilchrist Alexander, British Judge;

In the presence of Court d'Audience, Public Prosecutor;

Mr. Borge, Registrar, recording;

Sitting in police jurisdiction, reports and last records,  
delivered the following judgment:

The Tribunal:

Having heard the documents in the case read; the explanations  
of the offender;

The witnesses, previously sworn & their depositions;

The Public Prosecutor in his conclusions, the offender in his  
defense;

A. With regard to ill treatment

Whereas Article 44 of the Convention of 20<sup>th</sup> October, 1906, only  
provides for ill treatment committed by the Employer against the  
engaged laborer; that in the case at issue, Galves is not  
the employer, but Captain, charged with the repatriation;

B. With regard to the work effected by the natives  
Mare Nabrun, Louis and Charley Willy, at the  
accused's place,

Whereas it is not established that this work, as provided in Article  
55 of the above-mentioned Convention did not extend beyond three  
months;

C. With regard to the non repatriation of these three  
natives by Galves.

Whereas from the debates and the depositions under oath of the witnesses heard, it results that Lalines, after having agreed with the employers to repatriate the natives aforesaid, failed with deliberate intent, to fulfill his undertaking in this regard;

That the offence is provided against and punishable by articles 51 and 56 of the Constitution, as follows: Article 51: - 1) Every labourer who has completed his term of engagement shall be returned to his home at the first convenient opportunity, by and at the expense of his employer. - 2) Such labourer shall be taken back to the place where he was recruited, or, if this is impossible, to the nearest place thereto from which the labourer can without danger return his home. - 3) In the case of unjustifiable delay exceeding one month in returning a labourer, the Resident Commissioner concerned or the person appointed for the purpose shall provide at the expense of the employer, for the return of the labourer to his home at the earliest opportunity.

Article 56: - 1) Any infringement by any natives of the terms of the present constitution regarding the recruiting and engagement of native labourers shall be punishable by a fine of from Rs. 10 to Rs. 20 and by imprisonment of from one day to one month or by either of these above penalties. - 2) Damages may also be awarded to labourers for any injury suffered by them. - 3) The Civil Court shall inflict the penalties and assess the damages.

In view of regard to the damages asked for in favor of the natives aforesaid by the Public Prosecutors of the South Court.

Whereas it is just to condemn Lalines to pay damages to the three natives for the wrongs caused;

On these grounds:

Sitting in police jurisdiction, in first and last resort, condemns

Raphael Galves to fifteen days imprisonment and one hundred francs (£4) fine; condemns him to pay damages to each of the natives Marie-Nabou, Charles and Louis the sum of seventy-five francs (£3); declare they are not called upon to interfere in regard to infringements of articles 44 and 55 of which Galves is accused; condemns him to pay all costs and expenses.

So determined, judged and delivered, the day month and year as above, in public hearing and last resort; signed by Court de Buewa Superieur, President; Jean Bohouwa, French Judge; Sir Charles Alexander, British Judge; Baupel, Registrar.

The President:

*W. H. M. G.*

The Judges:

*J. G. Alexander*

The Registrar:

*B. Baupel*

