

JOINT COURT OF THE NEW HEBRIDES

The Thirteenth day of February in the year One thousand nine hundred and forty two,

Before their Honours:

J.L.TROGNON,	French Judge,	President
A.H.FGAN,	British Judge,	
and Messrs. A.HENIN,	Assessor,	
BERRARD,	Public Prosecutor "ad hoc"	
S.DUBOIS,	Registry Clerk	

This is an accusation brought against JAMES VUSI or JEMIES, a native of Aoba, and he is charged with a breach of the provisions of the Anglo-French Convention of 6th August, 1914, concerning the recruitment of native labourers.

The accused JAMES VUSI or JEMIES did not appear nor was he represented at the Hearing.

The Court having heard the Public Prosecutor "ad hoc" in his address then considered its judgment.

J U D G M E N T .

The accused JAMES VUSI or JEMIES was legally summoned by the Court bailiff on 9th September 1941 to appear before the Joint Court at its sitting of 23rd January 1942 and to answer to a charge of having committed a breach of the provisions of the Protocol relating to the recruitment of native labourers.

The accused did not appear at the above-named sitting nor at the sitting of 26th January to which date the case had been adjourned, and is therefore in default.

The records of the case show that there is sufficient proof that the accused did at Longaga (Aoba) in May 1938 recruit the

the woman Agnes or Agnise or Alice (who died in September 1938) without the consent of her husband.

This act constitutes a breach of Article 33 (1) of the Protocol, but this offence is only punishable under Article 56 of the Protocol when committed by a non-native.

This opinion is based on the formal text of Article 56 paragraph 1 of the Protocol which lays down that "Any breach by non-natives of the provisions of the present Convention regarding the recruiting and engagement of native labourers shall be punishable etc., etc., " Paragraph 4 of the same Article provides that "in the event of conviction on a serious charge, or for a second offence, the recruiting licence, as well as the right of engaging labourers, may be withdrawn for a period not exceeding two years by the Resident Commissioner of the Power of which the recruiter or employer is a dependent."

According to the text of the Protocol, the recruiter, being necessarily a dependent, cannot be a native, as the natives of the Group do not possess nor can they acquire the status of dependents of other Powers.

The text of the various Articles of the Protocol under the heading "Recruitment ..... of native labourers" entirely confirms the interpretation given above by the Joint Court, that is to say, that recruiters must be British subjects or French citizens or the dependents of another Power but in no case natives or foreign (native) workers. (With reference to this latter point see the fifth sentence of Article 1, paragraph 2 of the Protocol.)

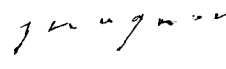
The spirit of protection of the natives which inspired the provisions of the Protocol would be radically compromised should the opposite thesis be admitted.

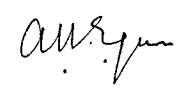
It is however made clear from the records - (proceedings against James Vusi, native, instituted at the request

request of the Joint Administration (documents 4 & 5);  
recruiting permit issued in respect of the cutter "Jeanne  
d'Arc" bearing the name of James Vusi<sup>as</sup> recruiter (document  
16, page 2) - that the practice of the Administration has  
been to tolerate, even authorise, the recruitment of natives  
by a native recruiter without perceiving the grave and  
dangerous irregularity of this practice nor the legal  
circumstance that breaches, committed by natives, of the  
provisions of the Protocol relating to recruiting are  
unpunishable, exception being made of the provisions of  
Article 12, paragraph 2 (c) of the Protocol.

ON THESE GROUNDS,

The Court discharges the accused and orders that the  
costs of the proceedings be borne by the Condominium.

  
French Judge

  
British Judge

Assessor



Registry Clerk

