

BETWEEN: WILLIE TASURURU

AND: PUBLIC PROSECUTOR

Coram: Mr. Justice Frederick G. Cooke
Mr. F. Coté, Prosecutor
Mr. G. Vasaris, Defence Counsel
Mr. U. Bani Bani, Assessor
Mr. J. Bolango, Assessor
Miss. J. Walsh, Chief Registrar
Miss. M. Leona, Interpreter

JUDGMENT

In this case the accused was charged with four offences as follows:-

1. That on or about the 26th of June, 1981, at Woralapa, without claim of right, fraudulently took a sum of 37,070VT, with intent permanently to deprive it's owner Joe Valia, of it, an offence contrary to section 21(a)(11) of Joint Regulation No. 12 of 1962.
2. That on or about August 31st, 1981 at Port Vila, did steal a sum of 45,471VT in which Lik Simelum had a special interest, an offence contrary to section 125(a) and (b) of the Penal Code.
3. Near the end of October 1981, at Pele Village on Tongoa, did steal a sum of 27,783VT, being the September salary of Willie James, in which the Government of Vanuatu has a special interest, an offence contrary to section 125(a) and (b) of the Penal Code.

and

4. Near the end of October 1981 at Port Vila, did convert a sum of 27,783VT which had been entrusted to him for paying the October salary of Willie James, an offence contrary to section 125(a) and (b) of the Penal Code.

The accused pleaded not guilty to the first two charges and after hearing the evidences relating to the said charges, the assessors and myself were of the unanimous view that the prosecution had not established a prima facie case against the accused and we accordingly acquitted him of the two offences.

pleaded The accused/guilty to the third and fourth charges. The facts relating to these charges was that the accused was given envelopes containing the salary for Willie James and instead of handing the money to the said Willie James, he stole the money.

The accused was an Assistant Education Officer holding a position of trust. The procedure whereby the packages of money to pay teachers were put into and taken from the safe, left a lot to be desired but the fact still remains that the accused was given a responsible position helping to make up salaries of teachers, put same in the safe, entrusted with the key of the safe, and finally the payment of the salaries to teachers in various areas. The act of the accused in not paying the salary to Willie James, was a grave breach of the trust bestowed upon him by the Education Department. How can large sums of money be entrusted to such persons, if they are not responsible? The legislature has deemed that the penalty for an offence of the nature the accused was charged with, should carry a maximum sentence of twelve years. Although the accused had no previous record, the assessors and myself were unanimous in our view that a custodial sentence had to be imposed in this case.

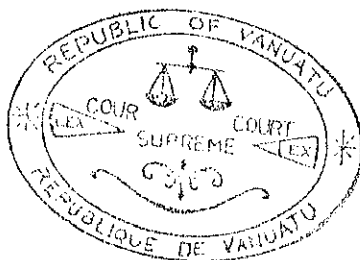
Accordingly, we considered that the least sentence we could impose in view of the gravity which the legislature attaches to such offence, was one of twelve months imprisonment, on each charge. The sentences to be concurrent.

We also considered that the accused should make restitution in the amount he stole i.e. 55,566VT and we ordered that he pay the said sum within three months of his release from prison or suffer a further total imprisonment of three months.

Frederick G. Cooke

(FREDERICK G. COOKE)

CHIEF JUSTICE



Dated on this 16th day of March, 1982.