IN THE SUPREME COURT)
)
OF THE TERRITORY OF ) CORAM : ELLERENSHAW, J.
)
PAPUA AND NEW GUINEA) Friday,
19th April, 1968.

REGINA

v.

BOGARABI-BERAGAI

FOR SENTENCE

The offender has been convicted of the wilful murder of the girl Pinee.

He was the luluai of his region and he belongs to the village of Meiu, situated about half a mile from the District Office at the Station of Karimui, some five-days walk from Kundiawa, the headquarters of the Chimbu District.

His area was brought under Administration influence as recently, speaking comparatively, as 1958 but that influence has been strong since 1962. It would appear that his whole life has been spent in his primitive village environment; he has had no schooling or mission training. However, he is said to have been a strong supporter of mission work in his village area and his position as luluai indicates more than ordinary contact with the officials of the Administration. Nevertheless it cannot be overlooked that the greater part of his life, including all his formative years, has been spent outside that influence.

He is about 30 years of age and the girl was fifteen. She had been affianced to his brother who died. Thereupon he decided to take her as his own wife according to a custom of his people. (He already had two or three wives).

I do not think that the custom applied in this case with any strength and this is because of the great gap between

bi-Beragai

renshaw, J.

their ages. The girl's father said in evidence that he did not want his daughter to marry the offender and this certainly supports my view. In answer to the question : "And did you think it was all right for Bogarabi to marry your daughter" he replied : "This girl did not want to marry Bogarabi. He was an old man and she did not want to marry him."

A little later it was made clear in his evidence that he had repaid the bride price paid by the dead brother and that he himself was opposed to the marriage.

He did not, however, offer any resistence to the taking of the girl when the offender, accompanied by a young fellow-villager, came to collect her. I feel sure that this was because he was in no position to oppose his luluai, notwithstanding that he was the girl's father.

The girl, however, demonstrated her opposition and the offender was obliged to hold on to her and pull her along the track towards his village. On one occasion he hit her on the face and on another she bit his finger.

They eventually came to a bridge to be crossed over a fast-flowing rocky stream in a ravine. They were crossing it in single file, his fellow-villager in front, then the girl with the offender bringing up the rear.

Suddenly he pushed her into the water with his hand at her back and he watched her in the water until, it seems, it was clear that she was being carried on her way to death by drowning.

I can imagine no motive except to punish a girl who had insulted him by her refusal to accept him as her husband, a girl whom he thought at the moment would be useless to him because of the clear likelihood that she would not remain with him even if he got her to his home that day.

This was a wanton, wicked and arrogant killing. However, here again it was the impulsive action of a primitive who was presented with a too ready way to kill a woman who was offending him. It was on the sudden and not premeditated. With more doubt than I had in the case of Marumo I find that there were extenuating circumstances but once again having said that it was an impulsive

killing by a native there is little if anything more to be said. Indeed there is less to be said for this offender than for Warume. However having regard to his age I think that in all the circumstances a sentence of fifteen years imprisonment with hard labour will suffice and that is the sentence I impose.

Before leaving these two cases R. v. Warume and R. v. Bogarabi I would add that in considering the appropriate sentences I have come closer than ever before to pronouncing the death sentence. I trust that I have not failed in my duty to the people of these Highlands by refraining from doing so.

I hope, too, that the widest possible publicity will be given to the sentences I have passed. I am sure that they are merited and if advertised they may take their places towards the deterrence against the killing particularly of innocent people, a deterrence that judges firmly should bear in mind in this type of case.