

Criminal hearing of November 29th 1912

The Public Prosecutor v Emile Pierre Dénéiné, trader, of Nélé,
accused of a breach of Article 59 of the Convention of October
20th 1906.

The year one thousand nine hundred and twelve, and the
twenty-ninth day of November at 9 o'clock A.M., the Joint Court
consisting of The President Count Buena Esperanza, the French
Judge Jean Colonna, the British Judge T. F. Rosby;
in the presence of the Public Prosecutor Count Andino;
M. Bengel being Registrar of the Court;
Sitting in public audience as a court of first & last
instance, in a case of police jurisdiction, after having
duly deliberated in accordance with the Law, has delivered
the following judgment:

The Joint Court.

Having heard the documents of the case;
Having heard M. My representing Dénéiné in the reading
of his conclusions with relation to the case;
Having heard the witnesses Veloh & Bato, of Sante, being sworn,
in their evidence;
Having heard the Public Prosecutor in his charge; M. My on
behalf of the accused having addressed the court last;
by means from the enquiry held on November 18th 1912 by
Captain Harrowell and from the sworn evidence of the
natives Veloh and Bato, it appears that Dénéiné did in
November one thousand nine hundred and twelve sell to natives
two glasses of gin for the sum of one franc;
and whereas M. My counsel for Dénéiné ^{objects} that the case
of flagrant delict has not been proved & that in consequence
Article 60 subsection 3 not having been observed, the procedure
followed must be annulled by the Court;
whereas, on this point, the enquiry prescribed by Article 60
subsection is only provided for in the case of flagrante delict;
but whereas the provisions of the said article in no wise
nullify the report which may be drawn up with regard to

sale or gift of alcohol, by agents duly authorised for this act; and whereas, if there were annulment of them, it would be necessary for the application of Article 61 of the Convention that the sale or gift prohibited by Article 59 should be, in order to be punished by the penalties provided in Article 61, subsection 1, always followed by drunkenness; and as this is not the desire of the authors of the aforementioned Convention who saw in the consumption of alcohol by natives of the New Hebrides a danger likely to compromise their health and in consequence to decimate the race; and whereas the accused by his counsel M. My refuses to accept the evidence of the natives Valoh and Balo on account of the fact that, they being accused in the principal case, their statements could not be valid against D'Aménil the accused in the present case; and whereas the ~~breach~~ offence of which the above named natives have been guilty does not affect the Joint Court but the Administrative Authorities, and consequently, not being accused in the present instance, they can be admitted under oath to establish the breaches committed by the accused;

and whereas, again, D'Aménil has been before convicted;

By application of Articles 59 and 61 of the Convention of October 20th 1906, in these terms: Article 59 "...

It shall be forbidden to sell or to give to natives in any manner whatsoever and under any pretext whatsoever alcoholic drinks." Art. 61. 1 The breaches of Articles... 59 ... above mentioned committed by non-natives shall be punished by a fine of ^{from} 5 francs to 500 francs and..."

Upon these grounds:

condemns D'Aménil to a fine of 50 francs and orders him to pay the costs.

Thus made, judged & pronounced, the day, month & year above mentioned.

By the Joint Court, The President; The French Judge and the British Judge who have signed with the Registrar.

Certified true translation of the Original

Vila Dec 11th 1912. Official Interpreter-Translator to the Joint Court of the Condominium.