

JOINT COURT OF THE NEW HEBRIDES.

This fifth day of January in the year one thousand nine hundred and forty three,

Before their Honours :

Y. GESLIN, French Judge, President.

A.H. EGAN, British Judge,

and M. Coustard de Nerbonne, Assessor,

and Messrs. M. Jocteur, planter, French citizen,

L. Bairstow, business employee, British subject,

G. Rolland, planter, French citizen,

D. Gubbay, merchant, British subject.

The four latter assessors were drawn by lot in accordance with Article 11, paragraph 2, of the Convention of 6th August 1914, to assist the Court as required by paragraph 1 of the said Article.

M; S. Solier, Public Prosecutor "ad hoc"

and M. Buteri, Acting Registrar.

The Court gave the following judgment in the case of wilful homicide brought against RUBEN, a native of Longana, Aoba, New Hebrides, son of Pierremaboot and Signo (deceased). The accused, who could not give his age, had been employed by M. A. Rossi.

The charge having been read, the accused was examined and the evidence of witnesses was taken.

The Public Prosecutor then addressed the Court and the defence of the accused was afterwards presented by M. Errard, Native Advocate "ad hoc"; Mr Dubois being interpreter for the bichelamar dialect.

The Court then, with the assistance of the assessors, considered its verdict, the assessors being consulted only on the question of punishment.

The evidence and the pleadings do not sufficiently prove that Ruben did, on the 19th September 1942, wilfully cause the death of Eli, but they do prove that Ruben is guilty of having, on the 19th September 1942 at Vila (New Hebrides) wilfully struck and wounded Eli and thus unintentionally caused his death.

This is a crime punishable by Article 309 of the French penal code which sets out : Article 309, paragraph 4 "Si les coups portés ou les blessures faites volontairement sans intention de donner la mort, l'ont pourtant occasionée, le coupable sera puni de la peine des travaux forcés à temps."

There being however extenuating circumstances, it is desirable that the accused should benefit from the provisions of Article 463 paragraph 1 of the penal code which provide : Art. 463. paragraph 1. "Les peines prononcées par la loi contre celui ou ceux des accusés reconnus coupables, en faveur de qui le jury aura déclaré les circonstances atténuantes, seront modifiées ainsi qu'il suit."

Paragraph 6. "Si la peine est celle des travaux forcés à temps, la cour appliquera la peine de la réclusion ou les dispositions de l'article 401, sans toutefois pouvoir réduire la durée de l'emprisonnement au-dessous de deux ans."

ON THESE GROUNDS

The native Ruben is sentenced to two years imprisonment, and to pay costs taxed at One hundred and thirty nine francs fifty centimes.

The time already spent in prison by the accused to be deducted from the above-mentioned period of two years.