

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**

(Criminal Jurisdiction)

Criminal Case No.13 of 2003

Criminal Case No. 14 of 2003

PUBLIC PROSECUTOR

-v-

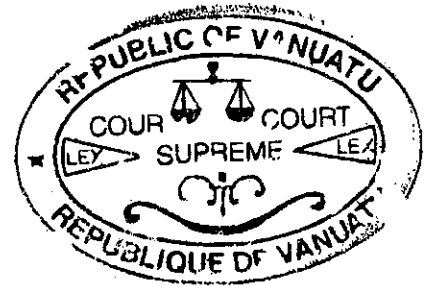
CHARLIE NAICAH

HARRY AMBUA

SIRI KALO

IAN WILLIE

DEVI ROBERT



SENTENCE

You have been convicted of arson. That is a serious offence. I cannot give credit for a plea of guilty. The matter went to a full trial.

I do give credit for the fact that none of you have convictions from before the date of this incident. You say you have tried to make a custom settlement although one has not taken place. You all have wives and children to support, and other relatives. I accept it is now well over a year since these incidents. It is not suggested you were responsible for the delay. You have also had to live away from your home island for a long time, as a result of these proceedings.

You have been convicted of unlawful assembly in the Magistrates Court and Kalo and Robert of assault. These convictions all arise out of the same incident. They should all have been dealt with together with the arson charge. It was wrong to deal with these separately.

Arson is a particularly serious offence when someone's home is involved or there is a lot of damage to property. Leiwia David had to rush out of her house to avoid being inside when it was burnt. She had a 2 year old girl with her. She was very frightened. The damage done to the copra dock was substantial. That meant

people had done a lot of work making copra and you made all that work a waste of time.

I must also look to deterrence. If there are disputes people must understand if they assault others or cause damage they will come to Court and face fine or imprisonment. If you burn somebody's house or cause a lot of damage that will mean a prison sentence.

On the 8th February you went to Marae village, you knew what was going to happen. It was violent and shameful behaviour. If a chief tells you to do something which is a crime you must refuse. No one has the power to tell another to do unlawful acts.

I take into account the case of *PP -v- Remy Michell*. There is a difference, in that case it was at night and there were people in the house, unaware of the fire being set.

I see no reason to differentiate between the two arsons, although somewhat different in what was burnt I find they attract equal sentence.

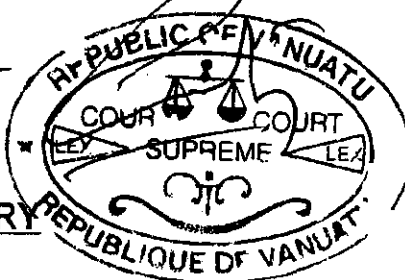
Sentence is one of 2 years prison each. Given the circumstances I cannot suspend it.

I have been told Kalo and Devi Robert have already served sentences for assault from that day. It is probable that sentence would have been concurrent. Accordingly Ambua and Robert will be sentenced to 2 years prison less the time they actually served.

Informed of Right of Appeal.

Dated at Port Vila, this 26th day of May 2003.

R. J.
R. J. COVENTRY
Judge.

The seal of the Supreme Court of Vanuatu is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written along the top inner edge, and "REPUBLIQUE DE VANUATU" along the bottom inner edge. The words "COURT SUPREME" are written across the center, with "COURT" on either side of the scale. The word "LEY" is written on the left and right sides of the scale.