**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

PUBLIC PROSECUTOR - v - HANNINGTON BEN

Public Prosecutor for Prosecution
Public Solicitor for the Defendant

SENTENCE

Mr Hannington Ben, you appear today for sentence. You were charged and convicted for one count of intentional assault, causing damage of permanent nature, contrary to s.107(c) of Penal Code Act (Cap135).
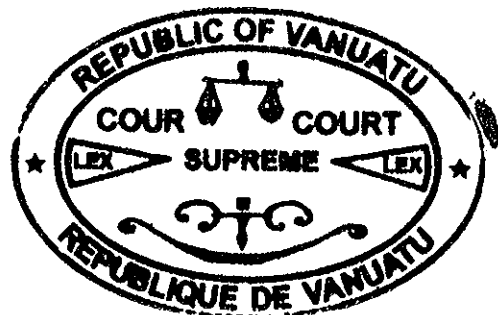
Briefly, in the night of 7 September 2002, at Port Vila, you assaulted MORRIS Ben by punching his neck and kicked him on his chest causing serious damage on his body warranty for medical surgery. The type of injury described in this case is a rare one.

As a result of the assault on the neck and the kick on the chest, air compressed in the oesophagus rending the complainant's system difficult to swallow food or water with the risk that the food be disposed into the lung with the complainant's life threatening consequence.

The complainant went through the medical surgical operation resulted in permanent damage on his body.

s.107(c) carries a maximum penalty for imprisonment for 5 years. It is a serious offence. I sentence you to 3 years imprisonment as a starting point. I reduced your sentence to 1 year and 6 months to take account of the delays due to the file reconstruction (because of fire) and other mitigating factors including the fact that you are a first time offender.
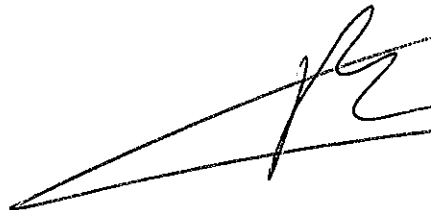
You are sentenced to 1 year and 6 months imprisonment which is suspended for a period of 2 years. During the period of suspension of your sentence, you must keep the peace and you must not re-offend. If you re-offend before the end of 2 years suspension you will be charged and dealt with that new offence. In addition your imprisonment term of 1 year and 6 month will be re-activated.

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You have 14 days to appeal this sentence if you are not satisfied with it. Your appeal right starts at the date of this sentence.

DATED at Port-Vila this 28th Day of June 2013

BY THE COURT

Vincent LUNABEK
Chief Justice