

*2 copies to Mr. Wolford*

NEW HEBRIDES JOINT COURT.

CONDOMINIUM

v.

Nellie NEBINA of TANNA.

J U D G M E N T.

The accused Nellie NEBINA was charged before the Court on a first Count : That on the 29th. June, 1964 at VILA, Central District No. 1 she attempted maliciously to administer a poison or other destructive or noxious thing with intent to injure or annoy Yvonne PALMER

and on a second Count :

That on the 29th. June, 1964 at VILA, Central District No. 1 she attempted to practice sorcery to the detriment of Yvonne PALMER.

An application by the Prosecution to withdraw the second Count and to add a fresh one charging attempted assault was granted.

The Public Prosecutor gave evidence of a complaint from Mrs Yvonne PALMER received on the 6th. July, 1964 and receiving from her certain vegetable matter. He said he divided the vegetable matter in two. He showed the matter to an ex Police Corporal, PAKOA TONG, and then sent one portion to Sydney for examination. He produced a certificate from the Department of Public Health signed by the Senior Analyst to the effect that the particular species of plant had not been identified and that attempts to separate any recognisable active principle were unsuccessful.

On the 17th. August the witness said, he interviewed the accused and explained to her what was alleged against her and she denied it.

Ex Corporal of Police PAKOA TONG told the Court of having seen the vegetable matter in the Public Prosecutor's office on the 6th. July, 1964. He said there were two different types of leaves wrapped up in a banana leaf. He said that he was very experienced and well informed on the various leaves of the New Hebrides having learned about them from his father who was also an authority on them. He said that on many occasions he had been invited by the authorities to assist where persons had been affected by leaves.

He told the Court that the two leaves he saw were in themselves harmless but when mixed together and eaten or lain upon they produced a mental derangement and also caused stomach upset. During an adjournment of the Court he obtained specimens of leaves which he said were not easily obtained; those obtained by the Public Prosecutor had dried out and were reduced to a condition in which they could not be recognised.

Allan PALMER, the ten year old son of the complainant gave unsworn evidence. He told of how he went to the house of his father on the 29th. June, where the accused lived; the witness lived in a nearby house with his mother. In the garden, he said, he saw the accused carrying a basket. She put leaves into the basket in which there was also taro and lettuce, and gave it to him telling him to give it to his mother and to tell her to chop up the leaves and put them in a stew. In cross examination the witness said he went into the garden with the accused who carried a basket. He said she first put taro into the basket then the lettuce, the manioc and the leaves. These leaves he said, came from a

plant with a white potatoe like root, and were green with red streaks and came from the same plant, though some were larger than others. When, after the adjournment, the new leaves obtained by ex Corporal TONG displayed with other leaves were shown to the witness he selected one of the two TONG had obtained, but this was a reddish brown leaf.

The witness said that when he returned home with the basket and gave it to his mother, two New Hebridean servants when they saw the leaves said they were bad leaves.

The two New Hebridean servants, Margaret and Leirut, told the Court of Allan returning home from his father's house on the 29th. June with a basket containing manioc and "bad leaves". These witnesses said there was only one type of leaf in the basket, and when shown a number of leaves including the two obtained by ex Corporal TONG each identified one of the leaves he had obtained but not the one identified by Allan. They each stated that the type of leaf in the basket on the 29th. June, would make a person sick and could even be fatal.

Mrs. Yvonne PALMER gave evidence of Allan returning home on the 29th. June with a basket containing among other things, two types of leaves. She said in the course of her evidence that Allan had one of the leaves in his mouth. One of her maids took it from him, she said, and said it was poisonous. She examined the displayed leaves and identified the same leaf as Allan as being of the same type as one of those in the basket, and picked out the one identified by the girls as possibly being the other. She said the one she positively identified was the one Allan had in his mouth; but when this leaf had been pointed out to Margaret and Leirut they said they had never seen that type before.


The accused in evidence denied that she ever gave anything to Allan. She said Allan came to play with her daughter and said he wanted manioc. She told the Court that her daughter came to the house in which the accused was and got a knife, and then went and pulled some Chinese cabbage. Allan then came to the house and borrowed a basket. She said that she got a basket from the store which Allan took, and, after the children had put vegetables into it, Allan was driven home by his father in the latter's motor car. She denied that she went into the garden at any time with Allan. To the Court she said Allan was lying if he said she pulled any leaves or vegetables. She said she told him the manioc was not ready for use but never said anything about mixing the leaves and putting them into a stew.

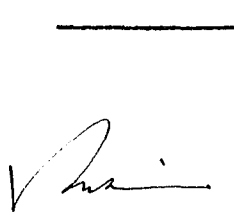
Frank PALMER, the husband of the complainant and father of Allan said he remebered the 29th, June. He said he remembered being annoyed with the children for pulling manioc in his garden as they had not had his permission and, as well, it was not ready for use. He told the Court that he drove his son home that morning and that upto the time his son left the accused had not left his, the witness's, house. He said she could not have left the house without his knowledge, or been in the garden without him seeing her from the kitchen in which he was working.

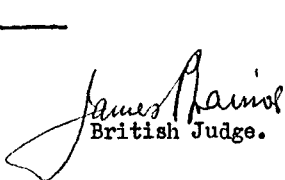
The Court having heard the evidence retired to consider it.

Its conclusion is that there is a considerable discrepancy in the evidence of the witnesses called as to the leaves (for example was there one or two types?) and their toxicity (for example TONG said that separately they are harmless but together injurious, while Margaret and Leirut say that one leaf ~~is~~ is dangerous.) Further, the principal evidence against the accused was the unsworn evidence of the 10 year old Allan PALMER.

In the circumstances, however strong the suspicion may be, <sup>to Court</sup> considers it would be dangerous to convict.

  
French Judge.

  
Registrar.

  
British Judge.

JOINT COURT OF THE NEW HEBRIDES.

Criminal Jurisdiction.

CONDOMINIUM

v.

Nellie NEBINA of TANNA.

FEES DUE TO Mr. S. DUBOIS, Bailiff :

SUMMONS TO ACCUSED :

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copy	9		
mileage	<u>5. 0</u>		£.stg. 0.10. 3

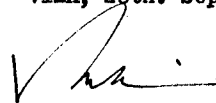
SUMMONS TO WITNESSES:

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copies (5)	<u>3. 9</u>		<u>6. 9</u>

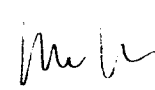
TOTAL £. STG. 0.17. 0  
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SEVENTEEN SHILLINGS STERLING.

VILA, 26th. September, 1964.

  
Registrar.

S E E N :

  
French Judge.

  
British Judge.