



## **JUDGMENT**

1. On 30 October 2012, National General Elections were held throughout Vanuatu for the election of Members of Parliament. The official results gazetted on 6 November 2012 showed that Ham Lini Vanuarora, Charlot Salwai (First Respondent), David Tosul (Second Respondent) and Tony Nari (Third Respondent) were duly elected as Members of Parliament for Pentecost Constituency.
2. Extracts of the results from the official gazette publication on 6<sup>th</sup> November 2012 show the following:

### **"8. CONSTITUENCY OF PENTECOST: 4 SEATS (24 CANDIDATES)"**

Total registered voters: **11,634**

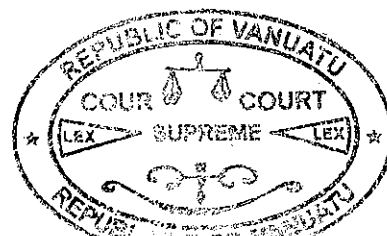
Total votes cast: **8,414**

Turnout: **73%**

Total void votes: **132**

Total valid votes: **8,282**

CANDIDATE	AFFILIATION	VOTES
1. <b>Ham Lini Vanuarorora</b>	<b>National United Party</b>	<b>1,134</b>
2. <b>Charlot Salwai</b>	<b>RMC</b>	<b>901</b>
3. <b>David Tosul B.</b>	<b>Peoples Progressive Party</b>	<b>688</b>
4. <b>Tony Nari</b>	<b>Iauko Group</b>	<b>609</b>
5. Silas B Bule.Melve'	National United Party	600
6. Steven Sau	Union of Moderate Party	593
7. Reginals Saonbilas Bebe.	Vanuaaku Party	561
8. <b>Chani Francois Tabisalsal</b>	<b>Vanuaaku Party</b>	<b>496</b>
9. Barnabas A.Tabirupmwel	Vanuatu Presidential Party	380
10. Bruce Asal	RMC	360
11. Salathiel Taribas	RMC	298
12. Samson Buleuru	Independant Movement	252
13. EzekielBule	National United Party	243



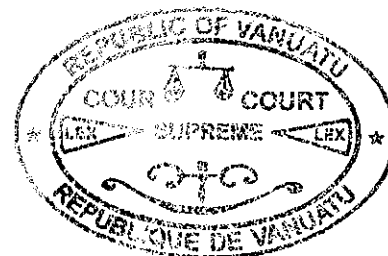
14. Saka Bule Saltugro	Independant Candidate	225
15. Ronald Bulewak Molbah	Union of Moderate Party	221
16. Edouard Muelsul	Union of Moderate Party	188
17. Joseph Tariodo	Green Confederation	116
18. Athanas D. Rentamit	Independent Candidate	107
19. Noel Mala Tamata	Peoples Progressive Party	90
20. Gabriel Rahupane Wareat	Vanuatu Presidential Party	60
21. Brian Bule	Melanesian Progressive Party	48
22. Luc Siba	Vanuatu Presidential Party	46
23. Edouard Bororoa	Vanuatu Republican Party	43
24. Lazare Asal	Natatok	23

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**8,282**

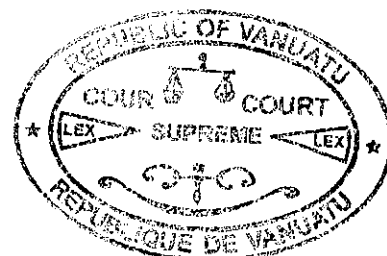
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3. The Petitioner, Chani Francois Tabisalsal, has Locus Standi to file the Petition pursuant to Section 55 (b) of the Representation of the People's Act [CAP.146]. He was a candidate who contested the four (4) seats for the Pentecost Constituency and he was 4<sup>th</sup> runner up to the Third Respondent who secured the last seat with 609 votes. The Second Respondent had 688 votes and the First Respondent secured the 2<sup>nd</sup> seat with 901 votes while the Petitioner obtained 496 votes.
  
4. The Petitioner filed the Petition on 29 November 2012 challenging the election of Charlot Salwai, David Tosul and Tony Nari. However at the first conference, the Court struck out the allegations against Tony Nari on the basis that there was no case made out against him.
  
5. The Petition is filed pursuant to *Section 54* of the Representation of the People's Act [CAP 146] (as amended) ("the Act") which provides that the validity of any election to Parliament may be questioned only by a Petition brought before the Supreme Court for that purpose under that Act.



## **Allegations levied against the Respondents**

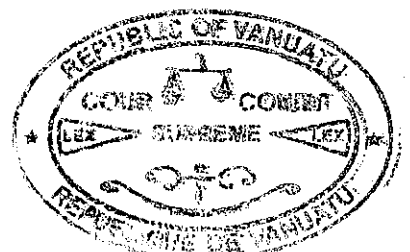
6. The Petitioner has alleged breaches of Sections 45, 46, 47, 61(A), 61(B) and 61(C) relating to the offences of bribery, treating, undue influence and the notion of providing food on the polling day with the "corrupt intention" of influencing or inducing voters to vote for a particular candidate.
7. As against the First Respondent, the petitioner alleged that:
- "(i) On or about 29 October, the First Respondent, Mr.Charlot Salwai and his immediate agents distributed, rice, pieces of raw beef, tins of fish and noodles to the following polling stations:*
- (a) Melsisi Polling Station*
  - (b) Ubiku Polling Station*
  - (c) Nokanwawos Polling Station*
  - (d) Livetnambal Polling Station*
- (ii) On 30 October 2012, the First Respondent, Mr. Charlot Salwai and his agents served a public feast (kakai) 100 meters away from the above polling stations and Mr. Salwai's Agents made undertakings to the public that "if you vote for Charlot Salwai your food and kava are ready at the Nakamal"*
- (iii) Alternatively, that on the polling day, Mr. Chariot Salwai bought bags of rice and distributed bags of rice and raw beef to the following villages at East Pentecost:*



- (e) Onlapa Village
- (f) Savat Village
- (g) Levetlis Village
- (h) Larinmat Village
- (i) Vanrasini Village
- (j) Levetnanbal Village

The Agents of Mr. Charlot Salwai announced verbally to the said Villages that "Yufala igo vote from Charlot from kakai blong yufala istap long nakamal."

- (iv) That on the polling day at Tsingbwele polling station, on Central Pentecost, Mr. Salwai and/or his Agents continued to serve food to the public, a hundred meters from the polling station and Mr. Salwai's Agents announced to the public that those who have cast their vote in favour of Mr. Salwai are welcome to drink kava while voting was in its process.
- (v) That Mr. Charlot Salwai's Agent, Mr. Edmond Buleuru, after having casted his vote in favour of Mr. Salwai brought the remaining bundle of photos to the Nakamal and then demanded people to do the same so as to check that Mr Salwai's photo has been voted into the ballot Box to guarantee partaking on the food and kava at the Nakamal.
- (vi) East Pentecost during his campaign, Mr. Salwai and his campaign team and Agents in particular, Mr. Noel Buleuru (The President of the Subcommittee of RMC and Morris Tabivahka (Provincial Councillor of RMC for the Penama Province) told the general public at East Pentecost that if they happen to vote for the Petitioner, Mr Chani Francios Tabisalsal, the Police would arrest them and cane them and throw them to Jail as



*Mr Tabisalsal is from Australia and that Mr Tabisalsal is not known in Pentecost or Vanuatu."*

8. There are 2 allegations in the petition against the Second Respondent, namely, that:

(i) His agents and himself had offered rice and tin fish to the general public after every campaign meetings.

(ii) His agents had distributed his membership card to the general public on polling day.

9. In respect of the Fourth Respondent, the Petitioner alleged that there was complete lack of compliance in the conduct of the elections in the Pentecost Constituency by the Electoral Commission of Vanuatu and its Agents in so far as it relates to:

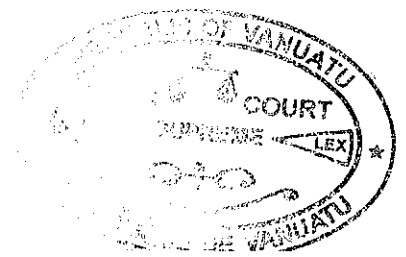
(1) The registration of the electoral lists;

(2) The proper compliance of the electoral rolls; and

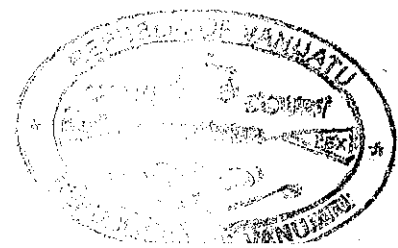
(3) The issuance of electoral cards.

10. Reliefs sought by the Petitioner

"1. *That Pursuant to Section 60 (1) of the Representation of the Peoples Act [CAP] 146] (as amended) a declaration that election of the First Respondent, Mr. Charlot Salwai of 6 November 2012 at the Constituency of Pentecost, is hereby declared void.*



2. Pursuant to Section 61 (1) of the Representation of the Peoples Act [CAP 146] (as amended), it is hereby declared that the National General Election of the First Respondent to the Constituency of Pentecost of 6 November 2012 is void for breaches of Sections 45, 46, 47 and Sections 61A, 61B and 61C of the Act by the First Respondent himself and his Agents.
3. Consequent upon Declaration in 1 above, the Parliament seat occupied by the First Respondent, Charlot Salwai, the Second successful candidate in the Constituency of Pentecost on 6 November 2012, be vacated.
4. Pursuant to Section 61(1)(b) and (d) of the Act, a declaration that the election of the Third Respondent Mr. Tony Nari of 6 November 2012 in the Constituency of Pentecost be declared void and that the Parliament seat occupied by the Third Respondent, Mr. Tony Nari as the fourth successful candidate in the Constituency of Pentecost on 6 November 2012, be vacated.
5. Pursuant to Section 61(1)(a) of the Act, a declaration that the election of the Second Respondent, Mr. David Tosul of 6 November 2012 at the Constituency of Pentecost be declared void due to breaches of Sections 61A, 61B and 61C and Sections 45, 46 and 47 of the Act by the Second Respondent himself and his Agents and that the Parliament seat occupied by the Second Respondent, Mr. David Tosul as the third successful candidate in the Constituency of Pentecost on 6 November 2012, be vacated.
6. Pursuant to Section 60 (1) of the Representation of the Peoples Act [CAP 146] and alternatively, the National General Election to



*Parliament of the Republic of Vanuatu held on 30 October 2012 for the Constituency of Pentecost is hereby declared void.*

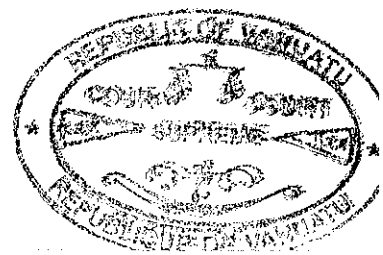
7. *An order directing the Fourth Respondent to conduct By - Elections pursuant to Section 22 of the Act for the three seats of Parliament for Pentecost Constituency as the result to orders 1 to 6 above.*
8. *Costs.*
9. *Such further orders as this Honorable Court may consider necessary."*

#### **Burden and Standard of Proof**

11. It is well settled that the burden of proving the allegations remains on the petitioner and it is on a higher standard of proof on the balance of probabilities. See **Lop v Isaac** [2009] VUSC 23; Election Petition Case 05 of 2008 (6 April 2009) where the Chief Justice said:

*"The Petitioner has the burden of proof. The burden of proof necessary to establish whether an act of bribery or corrupt practice had been committed by the First Respondent is a civil standard of proof. That is on balance of probabilities and I agree ... that the standard of proof is a higher standard than in normal civil cases."*

See also Saksak J. in **Taranban v Boedoro** (2004) VUSC 15, CC No. 149 of 2004 (3 December 2004) and the recent decision of Spear J. in **Kalsakau v Principal Electoral Officer** [2013] VUSC 99; EP 20-12 (26 July 2013).





## Relevant provisions

12. **Section 45 of the Act provides for Bribery** as follows:

*"(1) A person commits the offence of bribery -*

*(a) if he directly or indirectly by himself or by other person -*

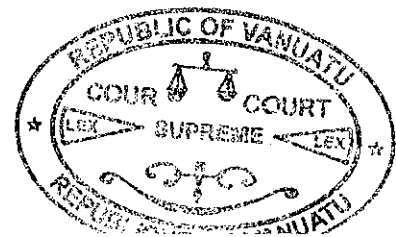
*(i) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting;*

*(ii) corruptly does any such act on account of any voter having voted or refrained from voting; or*

*(iii) makes any such gift or procurement to or for any person in order to induce that person to procure, or endeavour to procure, the election of any candidate or the vote of any Voter;*

*or if upon or in consequence of any such gift or procurement he procures or engages, promises or endeavours to procure the election of any candidate or the vote of any voter;*

*(b) if he advances or pays any money or causes any money to be paid to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or knowingly pays any money or causes any money to be paid to any person in discharge or*



*repayment of any money wholly or in part expended in bribery at any election;*

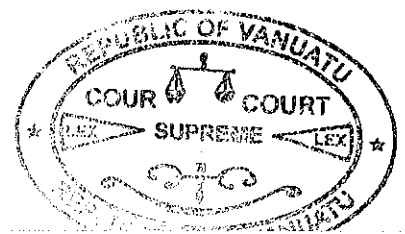
- (c) if before or during an election he direct or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration or any office, place or employment for himself or for any other person for voting or agreeing to vote or from refraining or agreeing to refrain from voting;*
- (d) if after an election he directly or indirectly by himself or by any other person is on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.*

*(2) For the purposes of subsection (1) of this section -*

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising and promising to procure or to endeavour to procure any money or valuable consideration; and*
- (b) references to procuring office include references to giving, procuring, agreeing to give or procure, offering, promising and promising to procure or to endeavour to procure any office, place or employment.*

**Section 46 of the Act provides for Treating as follows:-**

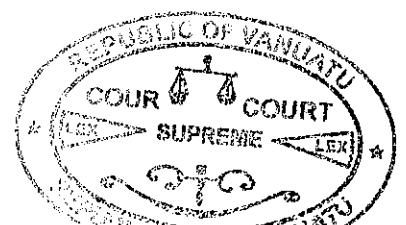
*A person commits the offence of treating:*



- "(a) *If he corruptly by himself or by any other person either before, during or after an election directly or indirectly gives or provides or pays wholly or in part the expenses of giving or providing any food, drink or entertainment to or for any person-*
- (i) *For the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or*
- (ii) *On account of that person or any other person having voted or refrained from voting or being about to vote or refrain from voting;*
- (b) *If he corruptly accepts or takes food, drink or entertainment offered in the circumstances and for the purpose mentioned in paragraph (a) of this section.*

**Section 47 of the Act provides for undue influence as follows:-**

- (a) *he directly or indirectly by himself or by any other person on his behalf-*
- (i) *Makes use of or threatens to make use of any force, violence or restrain; or*
- (ii) *Inflicts or threatens to inflict by himself or by any other person any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or*



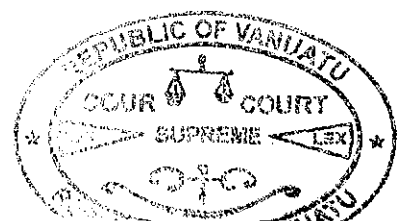
**Section 60** of the Act sets out the decisions the Supreme Court may make on hearing an election petition, which are:-

- "(a) declare the election to which the petition relates as void;*
- (b) declare a candidate other than the person whose election is questioned was duly elected; or*
- (c) dismiss the petition and declare that the person whose election is questioned was duly elected."*

**13. Section 61 - Grounds for declaring election void**

*"(1) The election of a candidate may be declared void on an election petition if it is proved to the satisfaction of the Supreme Court, that -*

- (a) the candidate or any agent of the candidate has contravened section 61A, 61B or 61C;*
- (b) there has been such non-compliance with the provisions of this Act, in the conduct of polling or in any other matter that such non-compliance affected the result of the election;*
- (c) the candidate was at the time of his election a person not qualified or disqualified for election; or*

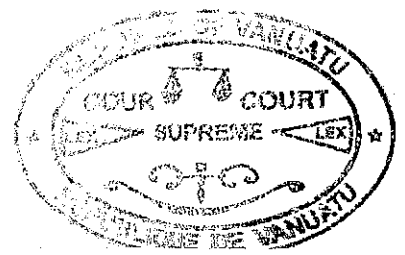


- (d) *there was such irregularity in the counting of the votes as may reasonably be supposed to have affected the result of the election.*
- (2) *Despite subsection (1), if on an election petition, the Supreme Court finds that there has been failure to comply with any provision of this Act, but the Court further finds that:*
- (a) *it is satisfied that the election was conducted in accordance with the principles laid down in this Act; and*
- (b) *such failure did not affect the result of the election, the election of the successful candidate is not to be declared void."*

14. **Section 61A of the Act (as amended) provides as follows:-**

**"Cut-off date for using representation allowance, any money or donations in kind**

- (1) *A candidate for election must not spend, allocate or otherwise disburse to the constituency in which he or she is a candidate, any money, whether in the form of:*
- (a) *His or her representation allowance – if the candidate is a member of Parliament; or*
- (b) *Any money obtained from any other sources of funding whether in the form of:*
- (i) *Cash donations; or*



(ii) Donations in kind,

from the period commencing at the end of the life of Parliament or at the date of the dissolution of Parliament under sub-article 28(2) or (3) of the Constitution, to and including, the polling day.

(2) For the purposes of this section:

**Donation in kind** includes, but is not limited to, for or food products, transport, transport fares, machinery, cooking utensils, building materials and furniture."

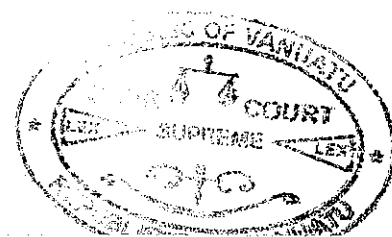
15. **Section 61B of the Act provides for Exceptions on polling day as follows:-**

"Despite section 61A and subject to paragraphs 46(a) and (b), a candidate may, without the intention of corruptly influencing any person, provide food, drink, transport and accommodation to any person on the polling day."

16. **Section 61C of the Act provides for Exception during the election period as follows:**

"(1) Despite section 61A and subject to paragraphs 46(a) and (b), a candidate may during the campaign period;

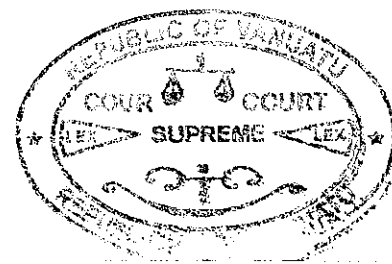
(a) Present a gift of a custom mat or an amount not exceeding VT1,000 or both, to a chief or any person of similar authority or in an area or village for the purposes of holding a campaign in that chiefs or persons village or area; or



- (b) *Provide food, during, entertainment, transport or accommodation only to his or her agents; or*
- (c) *Provide entertainment to the public for the purposes of entertaining the public during his or her campaign rally.*
- (2) *For the purposes of this section, an agent of a candidate is a person approved by a candidate as a member of that candidate's campaign team.*
- (3) *To avoid doubt, this section applies only during the campaign period declared by the Electoral Commission for purposes of this Act."*

### **Discussion on Evidence**

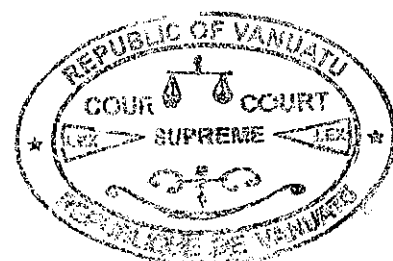
17. In order to prove his case, the Petitioner called several witnesses to testify. In particular, Michel Bule and Ephraim Veremal's evidence was against the First Respondent with regard to the cooking that was alleged to have been done.
18. In answer to questions put to them under cross examination, both witnesses maintained that baskets of food were cooked and distributed to the polling officers as well as the people who had come to cast their votes. Michel Bule testified that he voted at Ubiku polling station in Central Pentecost and that he had seen Augustine Tabi carrying food wrapped in laplap and that Augustine Tabi had told him that he would get some food if he voted for the First Respondent.
19. The evidence adduced clearly shows that food was cooked and distributed at all the polling stations in the First Respondent's area.



Furthermore, according to the evidence of the First Respondent's witnesses, the planning for the preparation and distribution of food was carried out by RMC's Committee in or around June/July 2012. The First Respondent called six witnesses who testified that the cooking was done for the campaign team, the observers and the committee members and that it was not a public feast and it was made in accordance with the provisions of the Act as amended.

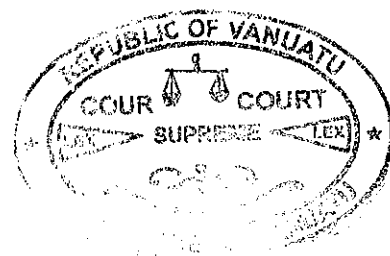
20. **Section 61B** of the Act clearly provides that a candidate may, without the intention of corruptly influencing any person, provide food, drink, transport and accommodation to any person on the polling day. The operative words are without the intention of corruptly influencing any person ( emphasis mine).
21. The crucial question for the Court's determination is whether or not the First Respondent had "corrupt intention" of influencing any person. The word corruptly is not defined in the Act. However, some guidance is to be found in Halsbury 's Laws of England, Fourth Edition at paragraph 768. It reads:

*"corruptly" imports intention: it does not mean wickedly, immorally or dishonestly or anything of that sort but doing something knowing that it is wrong and doing it with the object and intention of doing that thing which the statute intended to forbid. See **Salemalo v Tari** [1998] VUSC 46.*
22. The Petitioner contends that the careful planning of the distribution of food and meat to be consumed by the public shows that the First Respondent and his Agents had corrupt intention to influence voters to cast their votes in favour of the First Respondent.



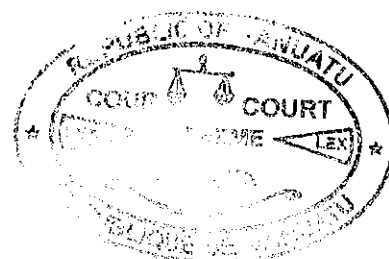


23. In his submissions, the Petitioner's counsel, Mr. Leo, argued that the food (rice and meat) was intended to be consumed by the general public so as to induce them to vote for the First Respondent. That the food was cooked in 4 - 6 large pots called "macocot" and that, given the large quantity in the supply of food in every polling station in which the First Respondent had control over, it was manifestly evident that the First Respondent had corrupt intention to gain support for his RMC party which was a new political party in his locality and in Vanuatu.
24. It is trite that he who asserts must prove. The burden of proving the allegations remains on the Petitioner and it is on a higher standard of proof on the balance of probabilities. The Petitioner has the burden of proof necessary to establish whether the First Respondent had corrupt intention to influence voters to cast their votes in his favour. As I mentioned earlier, it is in evidence that food was cooked and distributed. I accept that piece of evidence. However, the question is as to the extent of the cooking and the distribution. The Petitioner has referred to the size of the pots as large and to the quantity as around 4 - 6 pots called "macocot."
25. Be that as it may, however, this Court has not been afforded the opportunity to verify the size of the pots so as to assess the quantity of the food that was cooked. Regrettably, such evidence has not been placed before me and it is not my duty to speculate about the sizes and appearance of "macocot" pots. The witnesses did not produce the cooking pots for the Court to see the sizes to support the allegation that the cooking was done on a very large scale with corrupt intention to influence the voters. At the very least, the Petitioner could have



tendered photographs of the pots to bolster the evidence adduced by his witnesses. There is also no proof as to the number of people who partook of the food. On the balance of probabilities, I find that it could well have been the First Respondent's campaign team, the party's observers and committee members, who partook of the food. The Petitioner's evidence was grossly insufficient in this regard.

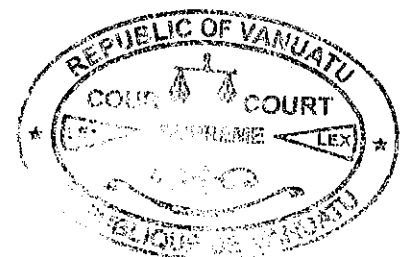
26. I find that the two witnesses called by the Petitioner have failed to show that the First Respondent had evinced corrupt intention to influence voters. Ephraim Veremal testified that he was among the first ten people to vote in the morning. He also confirmed under cross examination that by then the food had not been cooked. He said that he later partook of the food. I find it difficult to reconcile this piece of evidence with the fact that Ephraim had testified that Augustine Tabi had told him that he would get some food if he voted for the First Respondent. It is clear to me that he had already voted before he held the alleged discussion with Augustine Tabi. Moreover, he had already voted before he ate so it is difficult to phantom how his voting was dependent on the food he was offered. Obviously, he must have exercised his right to vote for the candidate of his choice when he got to the polling station. I do not believe his testimony and he did not come across as a reliable witness. I also find no proof of the Petitioner's allegation that *the Agents of Mr. Chariot Salwai had announced verbally that "Yufala igo vote from Charlot from kakai blong yufala istap long nakamal."*
27. On the balance of probabilities, the Court rejects the version of facts given by the Petitioner's witnesses regarding the allegations against the First Respondent.



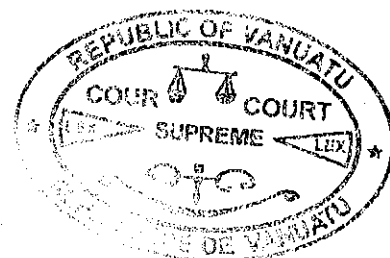
28. In respect of the allegations in the Petition against the Second Respondent, I find that the Petitioner has not produced any evidence to confirm the allegation that the Second Respondent and his agents had offered rice and tin fish to the general public after every campaign meetings.
29. The Petitioner had also alleged that on polling day the agents of the Second Respondent, David Tosul, had distributed his ID cards to the general public at the polling station. The Petitioner relied on the evidence of Donald Webak who was not called to be cross-examined. In any event, his sworn statement is mainly hearsay and therefore treated as unreliable and inadmissible evidence.
30. The issues arising from the allegations levied against the Fourth Respondent are:

Whether there was lack of compliance by the Fourth Respondent or its agent in the conduct of Elections in so far as it relates to the registration of electoral lists and the proper compilation of the electoral rolls and the issuance of electoral cards in Pentecost Constituency?

31. The Petitioner filed 16 witness statements of which around 9 sworn statements were made against the Fourth Respondent. All of the 9 statements were either hearsay or false statements or based on opinion evidence.



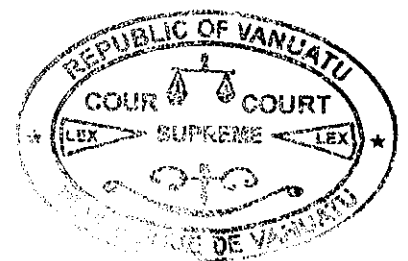
32. Didier Tabisalsal's statement contained no evidence at all as it was all hearsay. He stated he was a VP supporter and residing in Port Vila. All he said was what he heard from his VP counterpart in Pentecost. Accordingly his statement was disregarded on that basis.
33. Arthur Toa's statement contained largely hearsay and assumptions. He stated that a number of voters' names, including himself, were not on the roll. However during cross examination he admitted casting his vote. In his statement he stated that about 146 people could not vote because their names were not in the roll. However, during cross examination when asked who they are he said he did not know. When asked whether he knew whether or not the alleged number of voters inspected the electoral roll during the inspection period he said "no". He admitted that the problems for the names not being on the roll was due to the voters own fault for not inspecting the roll during the inspection period to ensure their names were included on the roll. He admitted not knowing the alleged 146 voters. When it was put to him that he had made that statement up he agreed.
34. In respect to his evidence about the under aged voters the witness stated he did not know how old they were but that they were under aged as one of them was his niece. When asked if he had attached their birth certificates to confirm their ages he said he do not know and did not attach same. During cross examination he was shown the electoral roll for Nazereth polling station and he was asked to show the Court the names of the under aged voters. Arthur Toa confirmed he did not find their names. When it was put to him that he had made up the story about the under aged voters he replied in the affirmative.



35. Accordingly this witness cannot be believed or relied on as not only did his statement contain hearsay evidence, it was also based on assumptions and false information.
36. Basil Tabi made two statements, one filed on 14 May 2012 and another on 21 November 2012. The one filed on 14 May 2012 was objected to on the basis of hearsay and the Court so ruled in respect of paragraph 3 thereof. The balance of the statement is only his opinion. It proves nothing and it goes to no issue.
37. In the statement filed on 21 November 2012, the witness stated that he took a list of names to the Electoral Office to register but then he was told to see Thomas Doro. Thomas Doro did not register the names on the list. Under cross examination when it was put to him that "Thomas Doro cannot register the names based on a list?" He said "yes."

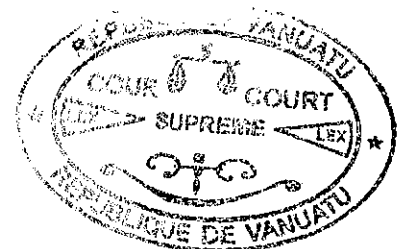
#### **Evidence of the Fourth Respondent**

38. Martin Tete, Acting Principal Electoral Officer filed two statements in support of the Fourth Respondent's Defence. The first statement was filed on 4 June 2013 while the second was filed on 10 June 2013. The statements enclose the electoral roll of Nazareth polling station, marked as annexure "MT1" to the statement filed on 4 June 2012, the polling station which was specifically referred to by Arthur Toa who stated that some under aged persons had voted.
39. The Electoral Roll shows that the names stated by Arthur Toa, namely, Tania Bulu, Grensley Bolenga and Annee Liliu, alleged as under aged



who had cast their votes were not on the roll for Nazareth polling station. The statement further explained the roll and the responsibilities and obligations of a registration officer, and an assistant registration officer and how one becomes a registration officers and the updating of the electoral roll and inspection of the roll.

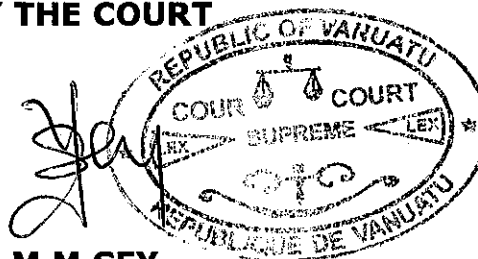
40. The further statement of Mr. Tete filed on 10 June 2013, was made in response to the sworn statement of Basil Tabi and Winston Bule. Paragraph 3 stated that Basil Tabi attended the office of the electoral officer with a list of names to be registered. Mr Tete told him that registration does not happen that way but for him to see Thomas Doro to verify the names and to ensure the persons reside on the location they alleged so they can then be registered. He further stated that problems would arise if registration was done based on a list, and that there would be double registration, uncertainty of named persons and where they reside which would lead to mistakes on the roll.
41. In light of the analysis of the evidence relied on by the Fourth Respondent, it is clear that there was insufficient evidence to prove, on the balance of probabilities, that there was lack of compliance by the Fourth Respondent or its Agents in the conduct of Elections in so far as it relates to the registration of electoral lists and the proper compilation of the electoral rolls and the issuance of electoral cards in Pentecost Constituency.
42. Judging from the results before the Court, it is clear that the Petitioner must obtain another 113 votes in order to secure the fourth seat and 405 votes in order to secure the second seat in the Pentecost Constituency.



43. Furthermore, the Petitioner has not in any way established that the non-compliance with the Act, the cooking and provision of food or such like, have had an effect on the outcome of the election.
44. On the whole, I find that the Petitioner has failed to prove any of the breaches alleged in his Petition against all the Respondents.
45. For these reasons, the petition is hereby dismissed.
46. The Respondents are entitled to costs on a standard basis to be agreed or taxed.

**DATED at Port Vila, this 16<sup>th</sup> day of August, 2013.**

**BY THE COURT**



**M.M.SEY**

**Judge**