

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

**Criminal Case NO. 73 of 2015**

**PUBLIC PROSECUTOR**

**VS**

**MOANA CARCASSES KALOSIL  
SILAS ROUARD YATAN  
PAUL BARTHELEMY TELUKLUK  
TONY NARI  
SERGE VOHOR  
JOHN AMOS  
ARNOLD PRASAD  
STEVEN KALSAKAU  
TONY WRIGHT  
SEBASTIEN HARRY  
THOMAS LAKEN  
MARCELLINO PIPITE  
JONAS JAMES  
JEAN YVES CHABOD  
WILLY JIMMY TAPANGARARUA  
ROBERT BOHN**

***Coram: Mrs. Justice Mary Sey***

***Counsel:*** Mr. Josaia Naigulevu and Mr. John Timakata for the Public Prosecutor

Mr. John Malcolm for: Moana Carcasses Kalosil

Mr. Gregory Takau for: Tony Nari, John Amos, Sebastien Harry, Thomas Laken,  
Silas Rouard Yatan, Arnold Prasad and Jean Yves Chabot

Mr. Colin Leo for: Serge Vohor, Anthony Wright and Jonas James

Mr. Robin Kapapa for: Paul Telukluk, Steven Kalsakau and Marcellino Pipite

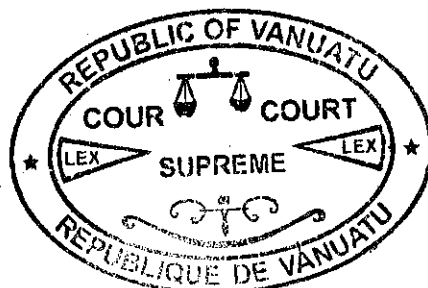
Mr. Ronald Warsal for: Willy Jimmy Tapangararua

***Date of Decision:*** 22 October 2015

**SENTENCE**

[1] **Willy Jimmy Tapangararua**, you appear for sentence today having been convicted on 7 September 2015 upon your own guilty plea to counts 52 and 53 as charged in the Information.

[2] However, since this Court has refrained from proceeding with offences laid under the Leadership Code Act, your sentencing will only be in respect to count 52 which is the charge of **Corruption and Bribery of**



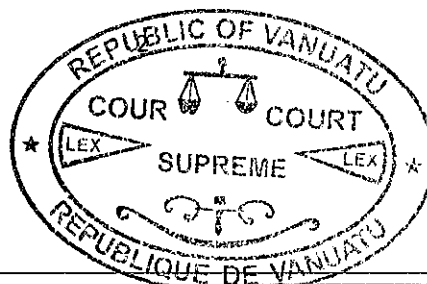
**Officials**, under section 73 subsection (1) of the Penal Code Act [CAP 135] in that you did corruptly accept a bribe namely VT1,000,000 from Moana Carcasses Kalosil (MP).

[3] There is no dispute on your part about the facts in this case and you concede to the facts as outlined in the prosecution's sentencing submissions as being those that rendered you guilty.

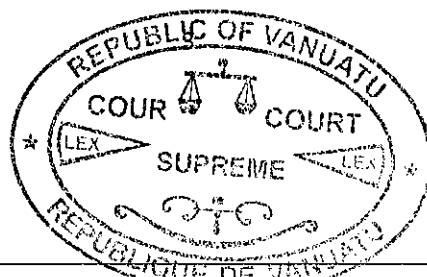
[4] **Moana Carcasses Kalosil, Silas YatanRouard, Paul BarthelemyTelukluk, Tony Nari, Serge Vohor, John Amos, Arnold Prasad, Steven Kalsakau, Anthony Wright, Sebastian Harry, Thomas Laken, MarcellinoPipite, Jonas James and Jean Yves Chabod**, you were all found guilty at the conclusion of your trial on 9 October 2015 and accordingly convicted as charged in respect of 32 counts relating to the charge of **Corruption and Bribery of Officials**, under section 73 subsections (1) and 2 of the Penal Code Act [CAP 135].

[5] For ease of reference, I have tabulated hereunder the specific 32 counts and charges for which you were found guilty and convicted on 9 October 2015:

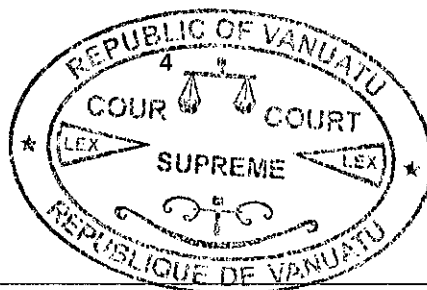
COUNTS	ACCUSED PERSONS	CHARGES
6.	<b>Tony Nari</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give money namely VT500,000 to <b>John Tessei (MP)</b> .
8.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000



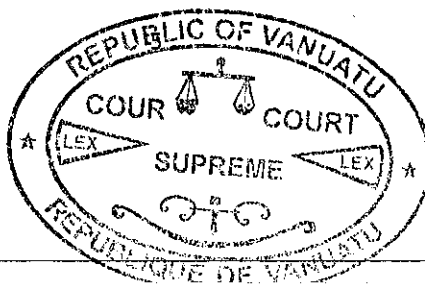
		to <b>Jean Yves Chabod (MP)</b>
9.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Sebastien Harry (MP)</b>
10.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Jonas James (MP)</b>
11.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Thomas Laken (MP)</b>
12.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Marcellino Pipite (MP)</b>
13.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Anthony Wright (MP)</b>
14.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Tony Nari (MP)</b>
15.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a



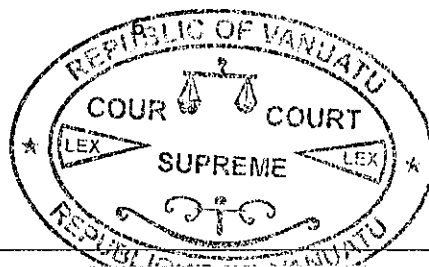
		bribe namely VT1,000,000 to <b>Samson Samsen (MP)</b>
16.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Silas YatanRouard (MP)</b>
17.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Willie Jimmy (MP)</b>
18.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Robert Bohn (MP)</b>
19.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Paul Barthelemy Telukluk (MP)</b>
20.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Hosea Nevu (MP)</b>
21.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>John Amos (MP)</b>
22.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2)



		of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Serge Vohor (MP)</b>
23.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Arnold Prasad (MP)</b>
24.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Steven Kalsakau (MP)</b>
25.	<b>Moana Carcasses Kalosil</b>	Corruption & Bribery of Officials contrary to S.73 (2) of the PCA in that the accused did corruptly give a bribe namely VT1,000,000 to <b>Kalfau Moli (MP)</b>
26.	<b>Silas YatanRouard</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil(MP)</b> .
28.	<b>Paul BerthelemyTelukluk</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil(MP)</b> .
30.	<b>Tony Nari</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses</b>



		<b>(MP).</b>
32.	<b>Serge Vohor</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
34.	<b>John Amos</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
36.	<b>Arnold Prasad</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
38.	<b>Steven Kalsakau</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
40.	<b>Anthony Wright</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP)</b>
42.	<b>Sebastien Harry</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses</b>

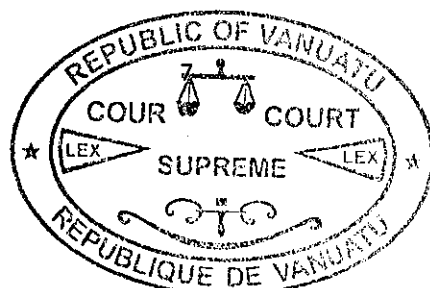


		<b>Kalosil (MP).</b>
44.	<b>Thomas Laken</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
46.	<b>Marcellino Pipite</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
48.	<b>Jonas James</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>
50.	<b>Jean Yves Chabod</b>	Corruption & Bribery of Officials contrary to S.73 (1) of the PCA in that the accused did corruptly accept a bribe namely VT1,000,000 from <b>Moana Carcasses Kalosil (MP).</b>

### Brief Facts

[6] The following facts were proven in evidence during the trial:

**August 29, 2014:** a request for an Extra Ordinary Session of Parliament and Notice of motion of No Confidence in the then Prime Minister Joe Natuman was sent by the then Leader of the Opposition Moana Carcasses Kalosil and some Members of Parliament (MPs) to the Speaker of Parliament.



**September 01, 2014:** the Speaker of Parliament in response to the request for an Extra Ordinary Session of Parliament declared the Motion as "not in order."

**October 24, 2014:**Parliament issued summons to MPs for Parliament to sit and commence Second Ordinary Session of Parliament on November 18, 2014 at 8:30am.

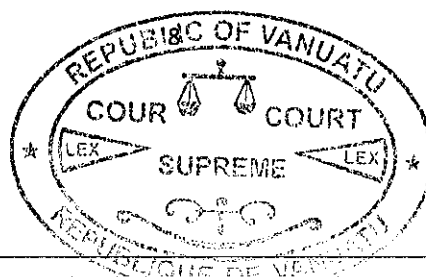
**October 30, 2014:** Moana Carcasses Kalosil made individual bank payments of VT1,000,000 to each of the other 14 convicted persons with instructions to the bank that the funds were "to help opposition MPs to develop further their communities and get political support in preparation of the 2016 general election"

**November 18, 2014:**Leader of Opposition Moana C Kalosil and some MPs filed a Notice of Motion of No Confidence in the then Prime Minister Joe Natuman.

[7] In its judgment handed down on 9 October 2015, this Court found that the individual payments of VT1,000,000 were "corruptly made" by Moana Carcasses Kalosil to the other 14 convicted persons in October 2014 and "corruptly accepted" by them as an inducement to secure their support in the motion of no-confidence which ousted the then Prime Minister Joe Natuman and brought the Government of Sato Kilman to power with Moana Carcasses Kalosil as Deputy Prime Minister.

[8] The Court also found as an established fact that Tony Nari corruptly gave VT500,000 to John Tessi with intent to influence him as a public official in his official capacity.

[9] **Moana Carcasses Kalosil, Silas YatanRouard, Paul BarthelemyTelukluk, Tony Nari, Serge Vohor, John Amos, Arnold Prasad, Steven Kalsakau, Anthony Wright, Sebastian**





**Harry, Thomas Laken, Marcellino Pipite, Jonas James and Jean Yves Chabod**, you all appear before me today for sentence.

[10] After your conviction you were released on bail for two weeks to enable Correctional Services to prepare a pre-sentence report on each of you and also for the prosecution and defence counsel to file sentencing submissions to assist the Court.

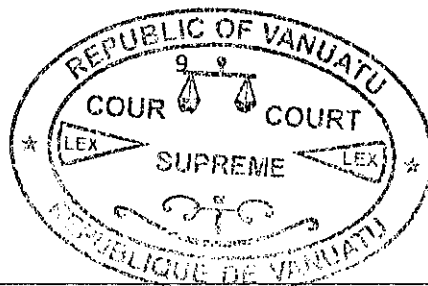
### **Sentencing Principles**

[11] When sentencing any offender, the Court must juggle various principles, purposes and considerations. One of the purposes of punishment is to ensure that an offender is adequately punished. A further purpose of punishment is to denounce the conduct of the offender. See the New Zealand Criminal Court of Appeal decision of *R v Radich* [1954] NZLR 86 at 87:

*"... one of the main purposes of punishment ... is to protect the public from the commission of such crimes by making it clear to the offender and to other persons with similar impulses that, if they yield to them, they will meet with severe punishment."*

[12] In *Veen v The Queen (No.2)* (1988) 164 CLR 465, Mason CJ, Brennan, Dawson and Toohey JJ said at 476:

*"..... sentencing is not a purely logical exercise, and the troublesome nature of the sentencing discretion arises in large measure from unavoidable difficulty in giving weight to each of the purposes of punishment. The purposes of criminal punishment are various: protection of society, deterrence of the offender and others who might be tempted to offend, retribution and reform. The purposes overlap and none of them can be considered in isolation from the others when determining what an*



*appropriate sentence is in a particular case. They are guideposts to the appropriate sentence but sometimes they point in different directions."*

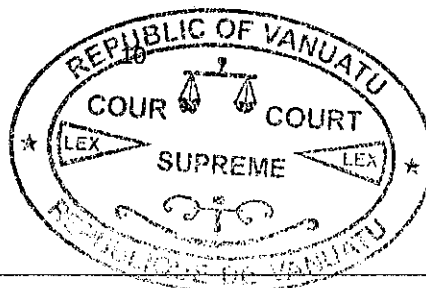
[13] In *R v Engert* (1995) 84 A Crim R 67 Gleeson CJ said at 68 after discussing *Veen v The Queen* (No 2):

*"A moment's consideration will show that the interplay of the considerations relevant to sentencing may be complex and on occasion even intricate. ...*

*It is therefore erroneous in principle to approach the law of sentencing as though automatic consequences follow from the presence or absence of particular factual circumstances. In every case, what is called for is the making of a discretionary decision in the light of the circumstances of the individual case, and in the light of the purposes to be served by the sentencing exercise."*

[14] Another principle to be taken into consideration is the common law principle of proportionality which operates to guard against the imposition of unduly lenient or unduly harsh sentences. This principle arose under the common law which has long recognised that the punishment must fit the crime: See *R v Geddes* (1936) SR (NSW)554. The principle requires that a sentence should neither exceed nor be less than the gravity of the crime having regard to the objective circumstances: See *Veen v The Queen* (No 2) (supra) at 477; *Hoare v The Queen* (1989) 167 CLR348 at 354; *R v Dodd* (1991) 57 A Crim R 349 at 354 and *R v Whyte* (2002) 55 NSWLR252 at [156]-[158].

[15] In *R v Dodd* the Court explained that the process of applying the principle of proportionality involves assessing the relative seriousness of the crime. The Court said at 354:

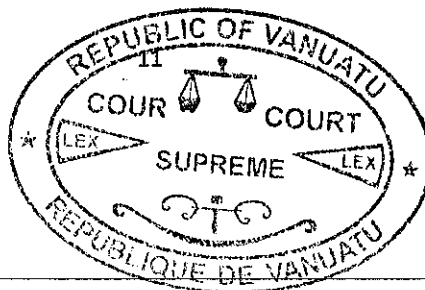


*"As Jordan CJ pointed out in Geddes at 556, making due allowance for all relevant considerations, there ought to be a reasonable proportionality between a sentence and the circumstances of the crime, and we consider that it is always important in seeking to determine the sentence appropriate to a particular crime to have regard to the gravity of the offence viewed objectively, for without this assessment the other factors requiring consideration in order to arrive at the proper sentence to be imposed cannot properly be given their place. Each crime, as Veen (No 2) .....stresses, has its own objective gravity meriting at the most a sentence proportionate to that gravity, the maximum sentence fixed by the legislature defining the limits of sentence for cases in the most grave category."*

[16] It is noteworthy that these New Zealand and Australian cases have been applied in this jurisdiction: See *Public Prosecutor v Jack Nalau* [2010] VUSC 183; *Morris Ben v Public Prosecutor* [1993] VUCA 3 and by the Chief Justice in the case of *Public Prosecutor v Urinmal* [2013] VUSC 95.

[17] **Moana Carcasses Kalosil, Silas YatanRouard, Paul BarthelemyTelukluk, Tony Nari, Serge Vohor, John Amos, Arnold Prasad, Steven Kalsakau, Anthony Wright, Sebastian Harry, Thomas Laken, Marcellino Pipite, Jonas James, Jean Yves Chabod and Willy Jimmy**, as Members of Parliament, you fall squarely within the definition of leaders as spelt out in Article 67 of the Constitution. Your offending constitutes a serious breach of public trust where you abused your power and position as leaders.

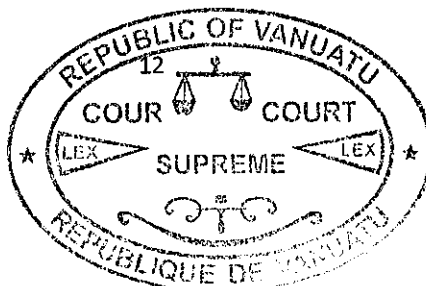
[18] In Chapter 10 of the Constitution, Article 66 provides:



## **"Conduct of leaders**

- (1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to:
- (a) *Place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;*
  - (b) *demean his office or position;*
  - (c) *allow his integrity to be called into question;*  
*or*
  - (d) *endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.*
- (2) Article 66 also provides that, *in particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub-article (1)"*

[19] Undoubtedly, you have demeaned your office and position as Parliamentarians and allowed your integrity to be called into question. Your offending clearly demonstrates that you have entered into transactions and engaged in activities that have now given rise to doubt in the public mind as to whether you are carrying out or



have carried out the duty imposed on you by sub-article (1) of article 66 of the Constitution.

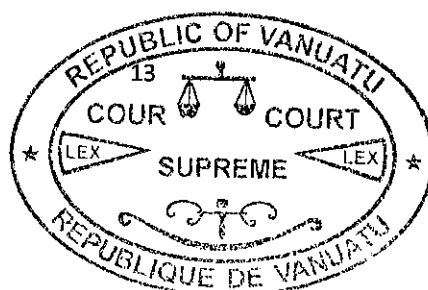
[20] Furthermore, you have clearly breached Section 3 of the Leadership Code Act which provides as follows:

"3. Leader's behaviour

*A leader holds a position of influence and authority in the community. A leader must behave fairly and honestly in all his or her official dealings with colleagues and other people, avoid personal gain, and avoid behaviour that is likely to bring his or her office into disrepute. A leader must ensure that he or she is familiar with and understands the laws that affect the area or role of his or her leadership."*

[21] The offence of corruption and bribery cannot and must not be condoned and should instead be treated with the utmost and indeed absolute disgust it warrants. The public, Ni-Vans and foreigners alike, must understand that offences of this nature, if allowed to take root, will quickly become endemic and be extremely difficult to bring under control, if not eradicated. Invariably, corruption offences, if left unchecked, can quickly erode and eventually undo the work ethic of public officers in any nation. Needless to say that a Government cannot survive, no matter how good its aims and intentions are, if corruption exists within its ranks.

[22] The maximum penalty for an offence of **Corruption and Bribery of Officials**, under section 73 subsections (1) and 2 of the Penal Code Act [CAP 135] is **10 years imprisonment**. This is symbolic as it indicates the seriousness the Parliament of Vanuatu attaches to the



offence. Of equal significance is the fact that Parliament enacts the laws and the Courts only implement them. For me, it is imperative that I remind myself of this fundamental fact.

### **Submissions of Counsel**

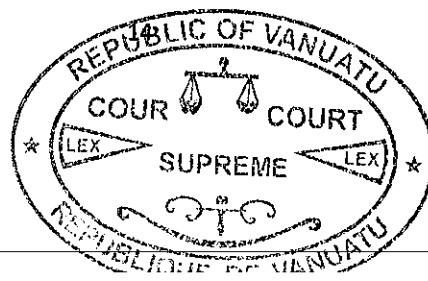
[23] The State Prosecutor and defence counsel have made detailed written as well as oral submissions which I have found very helpful. I record my gratitude for these submissions and case authorities which counsel have referred me to and I have taken them into consideration in this sentencing decision.

### **Pre-sentence Reports**

[24] The Court's Order for pre-sentence reports was complied with promptly in relation to eight of you, namely, Moana Carcasses Kalosil, Silas YatanRouard, Paul BarthelemyTelukluk, John Amos, Arnold Prasad, Steven Kalsakau, Thomas Laken and Willy Jimmy. I am grateful to the Correctional Services for its assistance in this regard.

However, I have received a sworn statement dated 13<sup>th</sup> October 2015 from Probation Officer Jask Carlo in which he has deposed to the fact that the Correctional Services did not get any co-operation from seven of you, namely, Serge Vohor, Anthony Wright, Jean Yves Chabod, Jonas James, Sebastian Harry, Tony Nari and MarcellinoPipite and therefore no pre-sentence reports have been filed on your behalf.

[25] I note from the pre-sentence reports that most of you have stated that you had refused the money when it was first offered to you by Moana Carcasses Kalosil and that you would never have accepted the payment had you known that "it would turn out to be an offence



against Corruption and Bribery.” In my view, the fact that some of you now assert that you did not realise that the payment which was made into your private bank account on 30<sup>th</sup> October 2014 was illegal is certainly not a relevant mitigating consideration. In fact, to now keep harping on the fact that the payment was a loan for use in your constituencies is, to my mind, an exercise in futility since you elected to keep silent during the trial and chose not to give evidence in your defence.

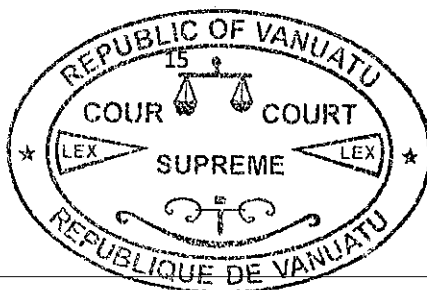
### **Sentencing Guidelines**

[26] As regards the offence of **Corruption and Bribery of Officials contrary to section 73 (1) and (2)** of the Penal Code Act, there is no direct precedent there in Vanuatu to which I can turn for guidance as this case appears to be unprecedented in the history of Vanuatu.

[27] However, there is some guidance to be obtained from two analogous Supreme Court decisions involving Bribery. In *Public Prosecutor v Zheng Quan Cai* [2002] VUSC 81, the accused was charged with an offence of Bribing a Custom Officer contrary to *Section 59 (1) of the Custom Act No. 15 of 1999*. After convicting the accused, Coventry J. said:

*"Anyone who bribes or attempts to bribe a customs officer or public officer must expect prison. Bribery and corruption cannot be accepted in any shape or form."*

[28] In *Public Prosecutor v Chen Jian Lin* [2013] VUSC 189, where the accused was charged with Bribery contrary to section 51 (1) (r) (i) of the Value Added Tax Act [CAP. 247], the sentencing remarks of Fatiaki J. is equally forceful. His Lordship said:



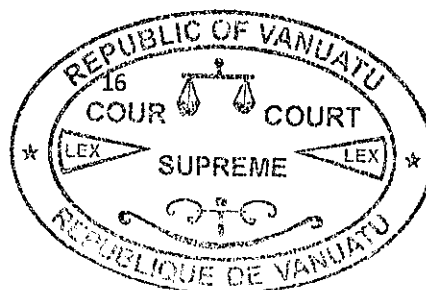
*"Bribery is a serious offence. It is difficult to establish as it relies on the honesty and integrity of the person who is offered the bribe. It is rarely committed openly or witnessed by independent observers. Whatsmore bribery is commonly perceived as a "victim-less" crime causing injury to no-one. For those reasons, when a case has been successfully proved the Court has a duty to treat it seriously by imposing a deterrent penalty....."*

*I am satisfied that in all cases involving the bribery of public officials the overriding sentencing consideration must be punishment and deterrence. The court has a duty to send a strong and consistent message that bribery will not be tolerated and anyone caught offering a bribe to a public official can expect a prison sentence whatever the nature and value of the bribe offered."*

[29] I have sought sentencing guidelines from some overseas cases in order to arrive at the appropriate sentence to be given to these convicted persons. I note that Singapore Courts have consistently taken a firm, no-nonsense approach in the sentencing of such type of offences. For example, in *Meeran bin Mydin v PP* [1998] 2 SLR 522, the appellant bribed an immigration officer at Woodlands Checkpoint by giving him money to procure social visit passes to enable various Indonesian nationals to enter Singapore via the checkpoint. In the words of the trial judge at paragraph [18] of the judgment:

"Acts of corruption must be effectively and decisively dealt with. Otherwise the very foundation of our country will be seriously undermined."

[30] In *Robert Yabara v The State* [1984] PNGLR 378, the PNG Court commented on official corruption when speaking of the offence of bribery. Pratt J. said:





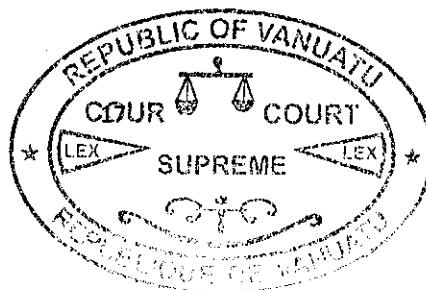
*"If such occurrences (bribery) became anything more than an extreme rarity they would destroy utterly the very structure of Government and the Rule of Law. As the Clifford Report says at 69 of Vol. 1 (Law and Order in Papua New Guinea (1983) Clifford, Morauta and Stuart): 'Once started, corruption is hard to stop. Honest businessmen cannot remain competitive if other businessmen acquire competitive advantages through corruption. The easy money floating about in a corrupt society intoxicates many honest men tempted by the easy access to wealth. Imperceptibly corruption spreads through society like a cancer. By the time the State mobilizes to deal with it, the action is often too little and comes too late.'"*

[31] In **State v Sorovakatini**[2007]FJHC 32; HAC018 2005 (26 September 2007), Winter J. said:

*"We all know that public corruption betrays the public trust and erodes public confidence in our Government institutions. These are serious crimes and it is important that potential offenders and the public at large understand that these crimes will be met with stiff penalties."*

His Lordship then went on to state as follows:

*"The offence of official corruption is a serious one. It is difficult to prove as it relies on the honesty of the person who is offered the bribe or encouraged to engage in corrupt practices. There are rarely independent witnesses to the event. For these reasons when a case has been successfully proved this Court has a duty to treat the matter seriously. Once detected, tried and proved the need to impose a punitive and deterrent sentence to deter others, becomes crucial."*

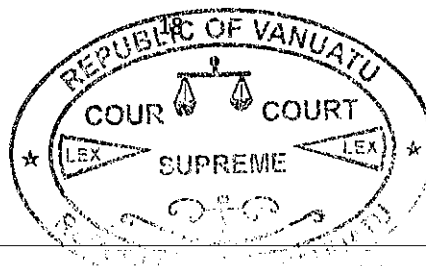


[32] In a recent judgment of the Fiji High Court in *State v Blake* [2014] FJHC375; Criminal Review Case 005.2013 (29 May 2014) the Court had this to say:

*"In an age where commercial intercourse is paramount and where the nation's economy depends on honesty and propriety of commercial transactions, **bribery** is a canker that undermines economic growth and discourages investment. **Bribery** of public officials is of course more serious. It attacks the integrity of Government; it injures the moral fiber of Government Officials and if it succeeds it serves to disadvantage the underprivileged and the poor. Sentences must be passed by the Courts that would do everything to discourage the practice by sending a message that it will be punished severely." (Underlining mine)*

[33] In the UK, the Serious Fraud Office (SFO) obtained its first convictions under the Bribery Act 2010 on 5th December 2014 at Southwark Crown Court in the *Sustainable AgroEnergy plc ("SAE")* case. Two of those accused were convicted of offences under the Bribery Act 2010. Gary West was convicted of two counts under s.2 of the Bribery Act 2010 – the offence of being bribed and he was sentenced to a total of 13 years in respect of all the offences of which he was convicted. Stuart Stone was convicted of two counts under s.1 of the Act – the offence of offering or giving bribes. He was sentenced to a total of 6 years in prison for all the offences that he faced. West was also disqualified from being a director for 15 years (the maximum permitted) whilst Stone was disqualified for 10 years.

Justice Martin Beddoe said in his sentencing remarks that the scheme was a *"thickening quagmire of dishonesty....There were more than 250*

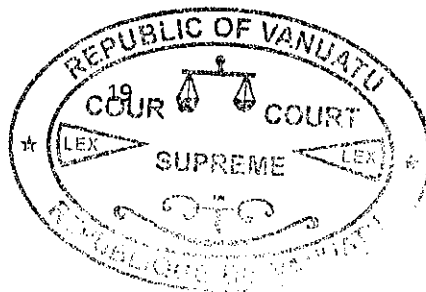


*victims of relatively modest means, some of whom lost all of their life savings and their homes.*”The judge added that the bribery was an aggravating feature.

Legal pundits have commented that the most striking features of this case are:

- The fact that both the bribe payer and the bribe receiver were prosecuted – under the Bribery Act 2010, it is no longer better to give than to receive.
- The fact that this prosecution was successful. Bribery and corruption cases have been hitherto notoriously difficult to prosecute in the UK and abroad.
- The Court in this case did not shy away from handing out strict sentences. This may signal an era of tough sanctions for bribery offences.

[34] Another case in point in the UK is that of *Bruce Hall*, an Australian national who was extradited from his home country to face charges of conspiracy to corrupt in relation to contracts for the supply of goods and services to a Bahraini smelting company, Aluminium Bahrain B.S.C. (“Alba”). Mr. Hall served as CEO of Alba from September 2001 to June 2005. The Court heard how he received £2.9 million in corrupt payments between 2002 and 2005. The payments were made in exchange for him agreeing to and allowing corrupt arrangements to continue dating back to 1998 that Alba’s Chairman (a member of the Bahrain royal family and Minister of Finance at the time) had been involved in before Mr. Hall’s appointment as CEO.



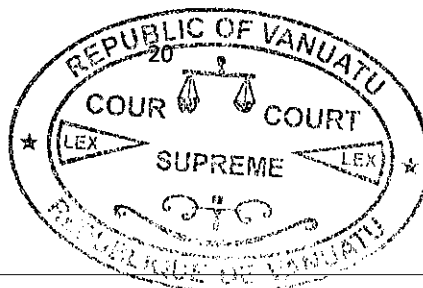
[35] In July 2014, Mr. Hall was found guilty and during his sentencing Judge Loraine-Smith commented as follows: "

*"Corruption has been described as an insidious plague that has corrosive effects across communities...In any view, this was an extremely serious use of corruption... You breached the trust that was placed in you as the CEO of Alba... there was a reluctance by you to accept that what was done by you was as corrupt as it obviously was."*

[36] Mr. Hall was sentenced to 16 months in prison for the offences of corruption and conspiracy to corrupt (contrary to Section 1 of the Criminal Law Act 1977 and Section 1 of the Prevention of Corruption Act 1906). Commenting on Mr. Hall's actions, the judge noted that he had cooperated with numerous authorities throughout the investigation. If he had not been so cooperative, he could have faced around six years in prison, close to the maximum sentence for conspiracy to corrupt. He was also entitled to a further reduction due to entering a guilty plea.

[37] I also find the sentencing remarks of Justice Higgins in the "Chickengate case" involving Christopher J. Smith and Nicholas C. Smith, the former directors of Smith & Ouzman Limited, quite significant. During their sentencing at Southwark Crown Court on 12<sup>th</sup> February 2015, His Lordship said:

*"The euphemism 'chicken' was used and you sought to channel bribes through agents. I am wholly satisfied that these were premeditated, pre-planned, sophisticated, sustained and very*



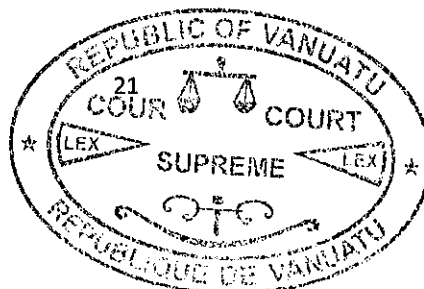
*serious routinely and repeatedly committed crimes. They were cynical, deplorable and deeply anti-social, suggesting moral turpitude. You must accept the consequences."*

[38] The Sentencing Notes of Rodney Hansen J. in the New Zealand case of *The Queen v Phillip Hans Field* (Auckland Registry CRI 2007-092-18132) is also quite telling. Before imposing concurrent sentences of four years imprisonment on the accused, *on the eleven counts of bribery and corruption*, His Lordship said at paragraphs [44] and [45]:

*"[44] The third and important factor is to denounce your conduct [s 7(1)(e)]. This is a particularly important purpose in sentencing on both categories of offending. Bribery and corruption and attempts to pervert the course of justice threaten institutions that are at the foundation of our democracy. One is Parliament and the other is our system of justice. The public should be able to have complete trust and confidence in the integrity and proper functioning of these institutions. Any actions which tend to undermine them – particularly when they are perpetrated by those whose duty it is to uphold them – are deserving of particular condemnation.*

*[45] For much the same reasons, deterrence is a highly relevant goal in sentencing on these offences. I accept there is no risk of your reoffending but a high priority must be placed on the need for general deterrence and for issuing a message that conduct of this kind is intolerable in our society."*

[39] The following are passages from cases which have been referred to me by counsel in their written submissions:



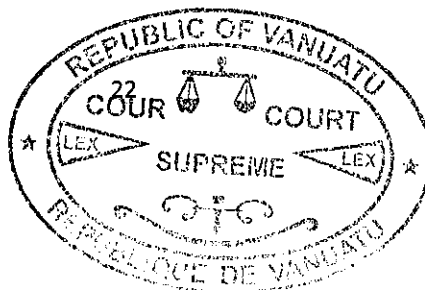
"The imposition of deterrent sentences on those who are convicted of bribery is an important factor in the community's efforts to eradicate corruption": per CJ Sir Denys Roberts in *Lai Yuk Kui v The Queen* [1981] 1 HKLR 691;

"Bribery and corruption have been for ages regarded as crimes which are intolerable in a civilized society": per Chief Judge Patrick Chan in *Secretary for Justice v Li Cheukming* [1999] 1 HKLRD 63;

"The dominant consideration in cases of this kind is the impact of the corruption, particularly on the public interest": per Vice President of the Court of Appeal Mr Justice Michael Stuart-Moore in *HKSAR v Chan Kau Tai* [2008] 3 HKC 78.

"The sentence should denounce your conduct and deter others. I accept there is no risk of reoffending but a high priority must be placed on the need for general deterrence and for issuing a message that conduct of this kind is inexcusable in our society": per Judge Daniel Gounder in *Fiji Independent Commission Against Corruption v Inoke Devo* [2010] FJHC 107; HAC177 2007 (8 April 2010).

- [40] In *R v Jackson and Hakim* (1988) 33 A Crim R 413), the Minister for Corrective Services of NSW was sentenced to a term of imprisonment of 7 years 6 months, with a non-parole period of 3 years 9 months, for the common law offence of conspiracy. He had conspired to receive money corruptly in exchange for the early release of prisoners on administrative licence. A Crown appeal asserting that the sentence was manifestly inadequate was upheld (unreported NSWCCA, 23/6/88). The NSW Court of Criminal Appeal resented Jackson to 10 years imprisonment, with a non-parole period of 5 years. Lee J. observed at p 1:

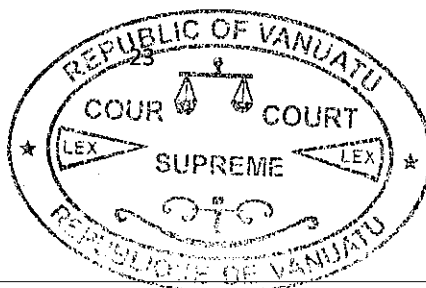


*"We live, and are fortunate to live, in a democracy in which members of Parliament decide the laws under which we shall live and cabinet ministers hold positions of great power in regard to the execution of those laws. A cabinet minister is under an onerous responsibility to hold his office and discharge his function without fear or favour to anyone, for if he does not and is led into corruption the very institution of democracy itself is assailed and at the very height of the apex."*

[41] Now, judging from the various cases I have looked at, it seems clear to me that there is indeed a settled sentencing practice for corruption and bribery offences of this nature and ordinarily the Courts will impose a custodial sentence as deterrence. Suffice to say that the consensus in all these cases is that "this is an area of sentencing where the Courts should unremittingly adopt a firm, no-nonsense approach." (Emphasis added).

[42] **Moana Carcasses Kalosil, Silas YatanRouard, Paul BarthelemyTelukluk, Tony Nari, Serge Vohor, John Amos, Arnold Prasad, Steven Kalsakau, Anthony Wright, Sebastian Harry, Thomas Laken, Marcellino Pipite, Jonas James, Jean Yves Chabod and Willy Jimmy**, the unsavory acts of corruption and bribery need to be weeded out in Vanuatu and this can effectively be done by the Courts by simply implementing the Laws which you as Parliamentarians have legislated.

[43] This Court, on behalf of the community, denounces the commission of the offences of corruption and bribery and condemns in the strongest terms your offending which warrants a sentence of imprisonment to



punish you and to deter other like-minded leaders in positions of authority from committing similar offences.

### **Sentencing Approach**

[44] The process I am required to follow is clearly set out by the Vanuatu Court of Appeal in *Public Prosecutor v Andy* [2011] VUCA 14; *Criminal Appeal 09 of 2010 (8 April 2011)* in the following terms:

*"At a sentencing hearing, a court will always have regard to the maximum sentence that has been prescribed by Parliament as a critical reference point. That being the maximum penalty imposed by Parliament for the most serious offending, it provides a standard against which a sentence for offending of lesser culpability can be assessed.*

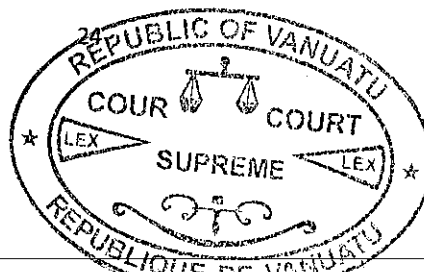
*The first task of the Court is to set the starting point bearing in mind the maximum penalty for offending of the most serious culpability.*

#### **First Step: The Starting Point**

*The starting point can be defined as the sentence of imprisonment that reflects the seriousness of the offence and the culpability of the actual offending; that is, the specific actions of the offender and their effect in the context of the specific charge and its maximum sentence. In this first step, there is no consideration of circumstances which are personal to the offender. The calculation has regard only to the seriousness of the offending.*

#### **Second Step: Assessment of factors personal to the offender**

*Once the starting point has been reached the Court, then embarks on the second step which is the assessment of the aggravating and mitigating factors relating to the offender personally. It is under this head that aggravating matters such as the past history of the offender will be considered. If there are*





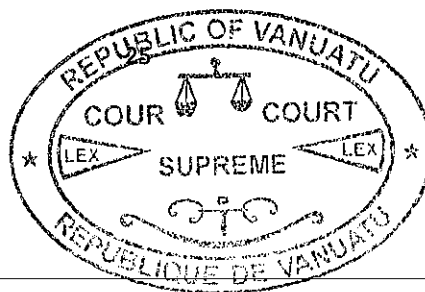
*previous convictions, particularly for a similar type of offence, this may result in the starting point being increased. Under this head, mitigating factors such as a lack of previous relevant convictions, good character and remorse will be assessed and may result in a reduction of the starting point to reach a second stage end sentence.*

**Third Step: Deduction for Guilty Plea**

*Once this process has been completed, as a third step, the trial judge will then consider what discount from the second stage end sentence should be applied for a guilty plea. The greatest discount allowed under this head will be a discount of one third where the guilty plea has been entered at the first reasonable opportunity. A later guilty plea will result in a smaller discount. No discount is available under this head if the charges have been defended through a trial.*

By this two or three stage approach, an end sentence is reached."

- [45] I turn now to consider your appropriate sentence. In their sentencing submissions, some of the defence counsel have submitted that the sentence to be imposed should be at a starting point of 3 years which should then be reduced by 2 years on the basis of your huge contribution as MPs of this nation. Furthermore, that a suspended sentence should be imposed in respect to the remaining 1 year sentence. In the alternative, one of the defence counsel has invited the Court to consider imposing community based sentences or to order all the convicted persons to perform 400 hours of community work under the supervision of a probation officer.

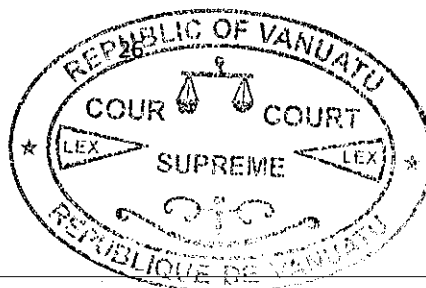


I remind myself that you are the first in Vanuatu to be prosecuted for this offence in your capacity as Members of Parliament at the time of the offending. You were given power and authority. With power and authority comes an obligation of trust. You betrayed that trust and, in the course of doing that, you undermined the very institution that it was your duty to uphold. For that reason, as I have previously said, a fitting custodial sentence is required that fully reflects the need for denunciation and deterrence. Furthermore, where an offence involves a breach of trust, the Court regards it as a significant aggravating factor. Generally, persons who occupy a position of trust or authority can expect to be treated severely by the criminal law: *R v Overall* (1993) 71 A Crim R 170; *R v Hoerler* (2004) 147 A Crim R 520; *R v Martin* [2005] NSWCCA 190.

**Mr. Moana Carcasses Kalosil**

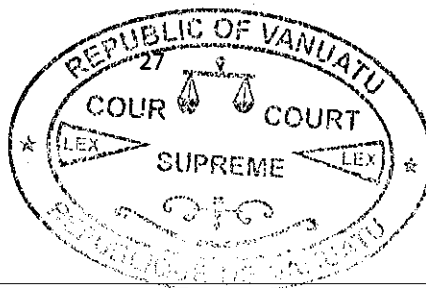
[46] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Counts 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 & 25** - a total of 18 Counts as charged. For each count, I adopt a starting point of 4 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[47] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. The aggravating features of your offending, including the high level of your Office as Deputy Prime Minister and the gross breach of trust as a leader, must mean an increase of 1 year to



that starting point of 4 years leaving aggravated sentences of 5 years imprisonment on each count.

[48] In mitigation, I note from the pre-sentence report that you are 52 years of age and you are from Erakor Village on the southern part of Efate Island. You completed your Year Nine (9) class at Lycee Louis Antoine de Bougainville in 1974. You have skills in politics, mechanical engineering, entrepreneur, and consulting skills in the field of tourism. You began your political career in 2000 and you have been an MP for the last 15 years and you are now the Deputy Prime Minister. Your counsel submitted to the Court a letter dated 18<sup>th</sup> October 2015 in which you have detailed mitigating factors relating to you as the offender personally. You have asked for leniency during sentencing and you have stated that you have two very young babies and a wife who will be very much impacted by whatever sentence is imposed on you. You have brought to my attention the kind of environment in which you have had to navigate during your many years as a Member of Parliament in your Country. You have told me that Vanuatu has been plagued with a very long history of Political instability which started long before you began your political career. You stated that it has become common knowledge and, unfortunately, accepted practice, that many of your MPs negotiate changing sides for some Position, whether it is a Ministry or a Parliamentary Post. You love your country and you believe you have served well in all of your capacities. You strongly reaffirm that your real underlying intentions were not for personal gains, but a dream of creating a strong and stable government which would benefit your developing nation and its people. You told the probation officer that your ambition is to create a new economic policy for the Vanuatu Government and its people and to allow the country to achieve its political economic independence.

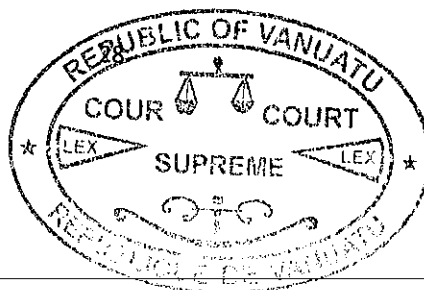


You have a stable and satisfactory family life at home and you also have a good relationship with your Chief, Mr. Collen Tomaki, and with the members of your community at Fresh Water One area. You are a good leader and a Christian by faith and you are a simple person as well and you always support people in their needs such as paying school fees, organising burial ceremonies and offering other assistance as well. You are a first time offender according to the Correctional Services Department records.

[49] Against that total of 5 years imprisonment on each Count, I take into account your mitigating features which are impressive and only tempered by the fact that, for a man of such outstanding qualities, your abuse of the trust placed in your high office makes your offending that much more culpable. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 4 years imprisonment on each count to run concurrently. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, Mr. Moana Carcasses Kalosil, I sentence you on the 18 Counts of corruption and bribery to concurrent sentences of four years imprisonment with immediate effect.**

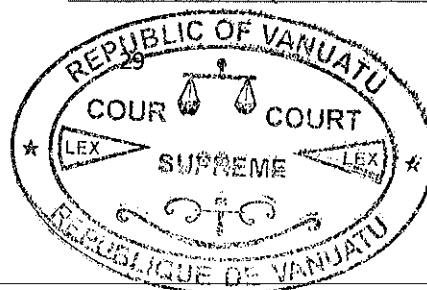
**Mr. Tony Nari**

[50] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) and (1) of the Penal Code Act relating to **Count 6** and **Count 30** as charged. For each Count, I adopt a starting point of 4 years



imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

- [51] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as a Member of Parliament and the gross breach of trust as a leader, must mean an increase of 6 months to that starting point of 4 years leaving aggravated sentences of 4 years 6 months imprisonment on each Count.
- [52] No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services. Nonetheless, I note from your counsel's submissions that you have no previous convictions. You have 3 daughters and your wife is unemployed. Your daughters attend school and you are responsible for their school fees for which you pay VT76,000 per year. Your wife is Asthmatic and requires your support. You have obtained a loan from Agriculture bank and Bred bank and you have continued to make your loan repayments.
- [53] Against that total of 4 years 6 months imprisonment on each Count, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years 6 months imprisonment on each of **Count 6** and **Count 30** to run concurrently. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF

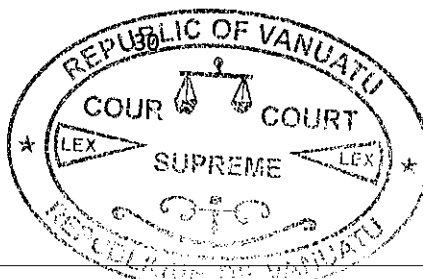


2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Tony Nari, are to serve a term of 3 years 6 months imprisonment on Count 6 and Count 30 to run concurrently with immediate effect.**

**Mr. Marcellino Pipite**

[54] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 46** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[55] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Speaker of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services. Nonetheless, I note from your counsel's submissions that you are 44 years of age and from Santo. You are a Member of Parliament of the Santo constituency. You are a father of five children and have also adopted other children in your home and you care and look after them. You attended school in your home Island and then went for further study in Noumea. Prior to joining Politics, you have been teaching and

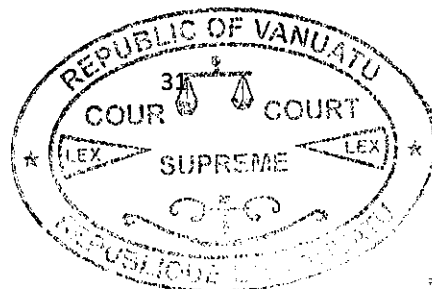


you were a deputy principal at Lycee School and INTV. You were also the director to the Technical and Vocational department within the Republic of Vanuatu. Your service to the nation as a teacher and an employee of the Government of Vanuatu were outstanding and consequently, the people of Santo decided to elect you as their representative to Parliament in 2004 and you have remained in Parliament to date. Currently, you are the Speaker of Parliament of the Republic of Vanuatu.

[56] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel and, although there is no question of any discount for guilty plea or remorse, a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years imprisonment. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Marcellino Pipite, are to serve a term of 3 years imprisonment on Count 46 with immediate effect.**

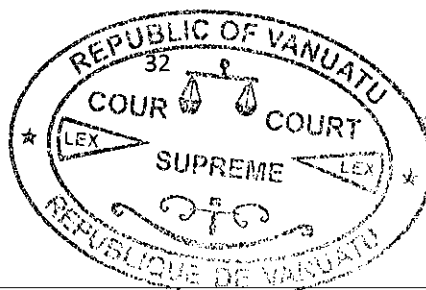
**Mr. Paul BerthelemyTelukluk**

[57] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 46** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.



The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as a Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[58] I note from your counsel's submissions and the pre-sentence report that you are 70 years of age and you originate from Vao Island, North East of Malekula. You are a father of four children who are now grown up and are married with their own children. You began your primary education in Vila at the Montmartre Primary School in 1957 and later moved back to your home village on Vao Island to complete your primary education in 1960. In 1964 you enrolled at the Saint Michael Secondary school in Santo and then went to Noumea to attend a Secondary school in 1965. In 1966 you returned to Vanuatu and continued your Secondary Education at the Lycee Louis de Bougainville in Vila. You then moved on to France in 1980 to undertake a Survey course at the French National University. This is where you acquired your skills in land issues and land management. Upon returning from France, you started working in the Lands Department as a surveyor until you began your political career in 1979 but you lost the election. In 1983 you contested the election again and won and you were appointed as the Minister of the Lands Department back then. Since then you have never lost an election and you confirmed to the probation officer that you have worked as Minister for other various



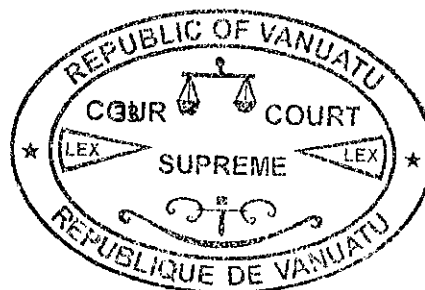


Ministries as well. You are a member of the Catholic Church and you have no previous convictions. With regards to your health issues, you stated that as an elderly person now, you have been diagnosed with diabetes and a heart problem for which you receive regular checkups in Sydney, Australia.

[59] Against that total sentence of 4 years imprisonment, a discount of 1 year properly recognises your previous good character and other mitigating features leaving an end sentence of 3 years imprisonment. There is no question of any discount for guilty plea or remorse.

[60] I have considered your age and I have adverted my mind to the dictum of Lord Lane in the case of *R v Bibi* [1980] 1 WLR 1193. His Lordship said: "*what the Court can and should do is to ask itself whether there is any compelling reason why a short sentence cannot be passed. That is not to aim at uniformity of sentence which would be impossible; rather it is to aim at uniformity of approach.*" Suffice to say that I have asked myself this question but I am unable to find any compelling reason why a short sentence of imprisonment cannot be passed.

[61] I have also considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) ACT NO. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Paul Berthelemy Telukluk, are to serve a term of 3 years imprisonment on Count 28 with immediate effect.**

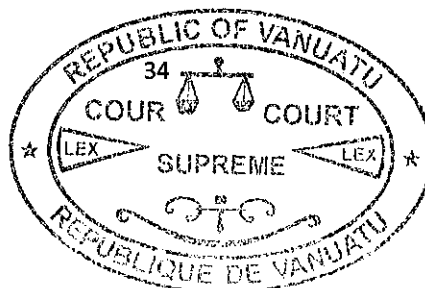


**Mr. Sebastien Harry**

[62] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 42** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[63] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services.

[64] In mitigation, I note from your counsel's submissions that you have no previous convictions. You are 29 years of age. You have 7 children with three wives. Three of your children are currently attending kindergarten school. You are responsible to pay school fees which amount to VT130,000 for your three children. You have a loan repayment with NBV and Bred Bank and you are currently responsible for paying both loans. You are the sole bread winner for your family. You also look after two of your brothers and two of your sisters. Both of your parents passed away and you are the eldest in the family. You are responsible to pay for your land rent every year after you were granted probate of the estate of your parents.

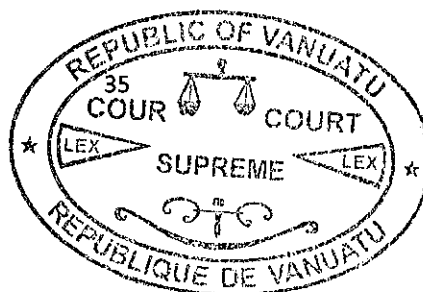


[65] Against that total of 4 years, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years imprisonment. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Sebastien Harry, are to serve a term of 3 years imprisonment on Count 42 with immediate effect.**

**Mr. Serge Vohor**

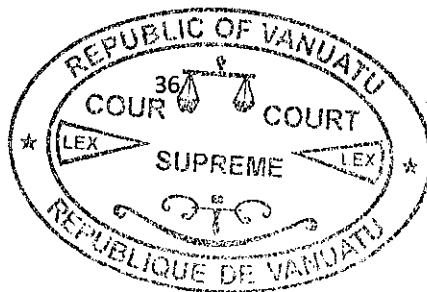
[66] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 32** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[67] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services.



[68] Nonetheless, I note from your counsel's submissions that you are have no previous conviction. You are 60 years of age and you are a medical personnel by Profession. You are married and have 5 children. You are sponsoring your son who is studying law at the School of Law in Vila. You obtained the highest ranking chief title of "VisterRialuth" and you are one of the highest custom chiefs of East Santo, Sanma Province, Republic of Vanuatu. You have financial obligations and loans at the National Bank of Vanuatu (NBV), ANZ and the Agriculture Bank. You look after some of your political supporters' children, around 20 of them who are studying at USP, INTV and Lycee school and you accommodate them at your private residence in Port Vila. In 2011, you had surgery in Australia and you have difficulties in your mobility. You have attached a copy of your medical report marked "SV1" outlining your medical condition, which I have looked at. You entered Parliament in 1983 and you are the longest serving MP.

[69] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Serge Vohor, are to serve a term of 3 years imprisonment on Count 32 with immediate effect.**

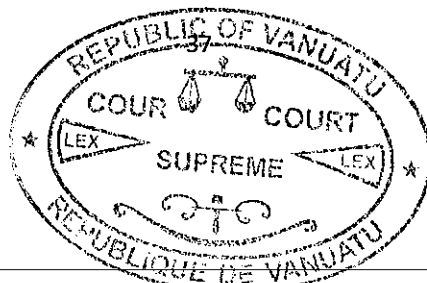


**Mr. Anthony Wright**

[70] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 40** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[71] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services.

[72] I note from your counsel's submissions that you are have no previous convictions. You are 50 years of age and you are medical personnel by Profession. You are married and you have two daughters who you pay school fees for. You have financial obligations and loans at the Bred Bank, ANZ Bank, VNPF and Agriculture Bank. You pay for water and Electricity bills and you are the bread winner of your family. You suffer from high blood pressure and kidney stones. You have attached a copy of your medical report marked as "**AW1**", outlining your medical condition, which I have looked at. You entered politics in 1991. Since 2005 to 2012, you have occupied the position of Counselor of Port Vila Municipality. You have served as Minister of Youth and Sports for two and half years. You have occupied the position of the Third Speaker of



Parliament. You are the head of the family and member of Wallis and Futuna Community.

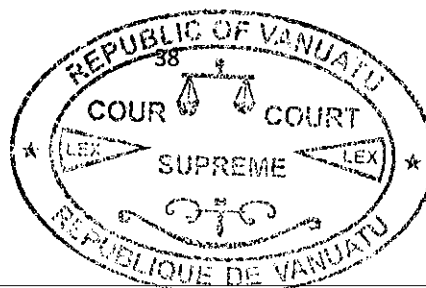
[73] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment.

[74] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Anthony Wright, are to serve a term of 3 years imprisonment on Count 40 with immediate effect.**

**Mr. Jonas James**

[75] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 48** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

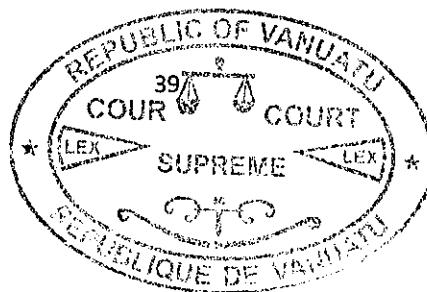
[76] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of



trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services.

[77] Nonetheless, I note from your counsel's submissions that you are have no previous convictions. You are 49 years of age, married and have 4 children. You are responsible for your children's school fees. One of them is in year 9 and the other in year 10. You are a Member of Parliament for Paama Constituency. You are a custom chief of your clan at Paama Island. You have financial obligations and loans at the National Bank of Vanuatu (NBV), ANZ and the Agriculture Bank. You spend personal money on Paama Constituency to help voters, help widows on the island and help in financing church projects. You suffer from high blood pressure. You have attached a copy of your medical report marked as "JJ1" outlining your medical condition, which I have looked at. You entered into Politics in 2012 and you were the Minister of Justice. You served as the Acting Minister of Climate Change and you also served as the First Deputy Speaker. You now serve as the Government Representative at ACPU. I have received testimonials stating that you are an Elder in your church and a long term resident of Freshwota.

[78] Against that total of 4 years, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years imprisonment.



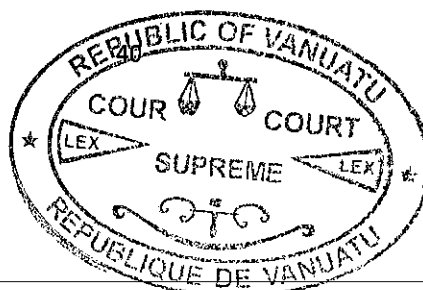
[79] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Jonas James, are to serve a term of 3 years imprisonment on Count 48 with immediate effect.**

**Mr. John Amos**

[80] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 34** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

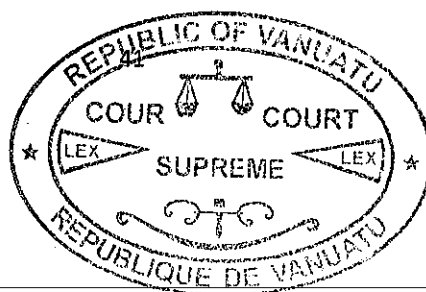
[81] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[82] In mitigation, I note from your counsel's submissions and the pre-sentence report that you have no previous convictions. You are 40 years of age and you originate from Pele Village on the Island of Tongoa. You are married to your wife Mrs. Cynthia Amos with whom you have three children, the eldest is 10 while the youngest is two





years old. You are paying school fees for two of your children at a cost of 160,000 per year. You completed your Primary education at Saint Jean-D'Arc (1-6) and were selected to attend the Lycee Louis Antoine Bougainville but you were not able to attend due to your young age. You were then transferred to the Lemporo Primary school then back to Lycee school again. You were not able to complete your studies due to financial difficulties. However despite your short coming with regards to your schooling, you were able to find a job. You told the writer of the report that your first job was at the Aluminium Ports, where you worked as a helper, then to welding for two years. You then later found work at the Le Lagon Resort for 12 years where you began working as a Waiter, Bartender, Assistant Manager for the front Office then to the Night Auditor. You later worked at the Le Meridian Hotel as a Duty Manager then you quit as you were not able to rest or have day offs and it was tiring. After you decided to stop working at the Le Meridien Hotel, you bought a plot of land at the Ohlen Fresh Wind area where you built your first rental apartment then you bought another plot at the Stade area where you established your second rental apartment. You are also the owner of the Marine vessel LC Urata and Urata Rikki Shipping Agency. You are currently a Member of Parliament (MP) for the Tongoa constituency. Your main ambition in life is to help people and also to develop your home island as it was one of your peoples wish to vote you into the Parliament. You have loan repayments with Credit Cooperation, ANZ bank and Agriculture bank and you usually repay approximately VT1, 600,000 per month as your loan repayments. During an Interview with Mr Kalo George (Offender's Brother), he told the writer that you are a very hard working person in your community and that you support your people both in Vila and also in Tongoa by assisting in the rebuilding of a



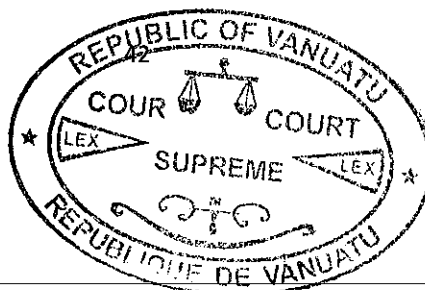
Church house, Nakamals and also providing free shipping services for Tongoa farmers to sell their crops in Vila. Mrs Cynthia Amos told the writer during a telephone interview that you are a very loving and caring husband and that you put your family first as the main priority then your business and lastly politics. Chief Willie Tariliu told the writer that you are a very respected and humble person and that after the devastating Cyclone Pam that struck Vanuatu, you were the first person to send supplies to your people back in Tongoa Island and you still assist the Tongoa community.

[83] Against that total of 4 years, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment.

[84] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. John Amos, are to serve a term of 3 years imprisonment on Count 34 with immediate effect.**

**Mr. Thomas Laken**

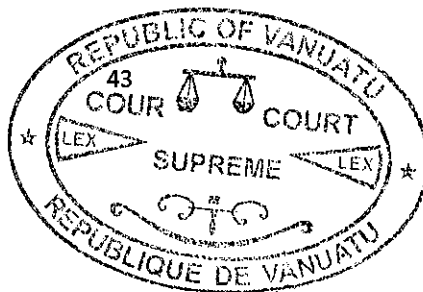
[85] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 44** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point



that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[86] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[87] In mitigation, I note from your counsel's submissions and the pre-sentence report that you have no previous convictions. You are 48 years of age and you are originally from Loun village on the western part of the Island of Tanna. You completed your grade six at the Lenakel primary school and then went on to complete your year 10 studies at the Aore Adventist Secondary school. You stated that you have additional skills in managing a retail shop such as wholesale and shipping industry and that you own two ships, namely Touraken 1 and Touraken 2. Your ambition in life is to focus on building your business so that you could provide service delivery to the people's doorstep especially for your supporters and the people of Tanna Island. In addition, with regard to your political career, you would like to have subsidy from the Government so that you could drive resources to benefit people from your home Island of Tanna. You pointed out that you have good relationship with your family, the members of your community and your Chief. You originate from a family of the Paramount Chief and this is officially recognised by the Nicolatan

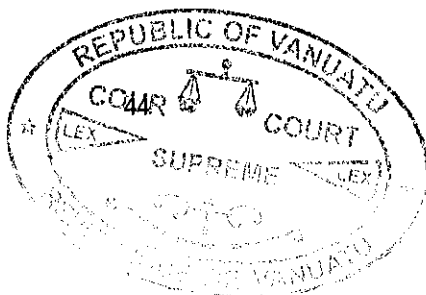


Counsel of Chief's on Tanna Island. You have a daughter and a son with your wife Mrs. Kalolinefifita Laken. Your daughter is currently undertaking her foundation studies at the University of the South Pacific Emalus Campus and your son who is 10 years old attends primary school. You are paying VT100, 000 for your daughter's tuition at the University of the South Pacific. You are a member of the Presbyterian Church and you are the leader in your community as well as at Loun village on Tanna Island. You are reported to be in a good health with no major issues.

[88] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment. I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Thomas Laken, are to serve a term of 3 years imprisonment on Count 44 with immediate effect.**

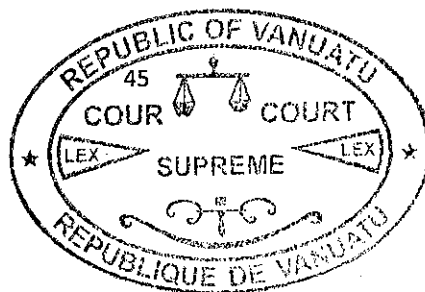
**Mr. Steven Kalsakau**

[89] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 38** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.



[90] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

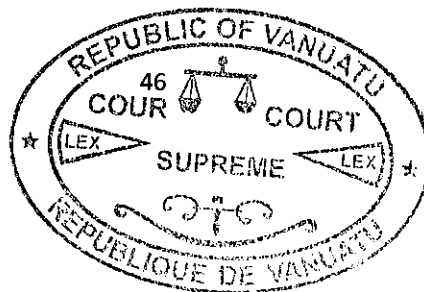
[91] I note from your counsel's submissions and the pre-sentence report that you have no previous convictions. You are 54 years of age and from Ifira Island. You are a father of five children - three daughters and two sons. Your eldest son works with you in your private family owned business in Town. You have a daughter studying in Noumea, New Caledonia and your younger son and daughter are currently studying in New Zealand while the youngest daughter is at home with her mother. In 1964 you began your Primary education in Vila at the Ecole Public Primary school and later moved on to the Lycee Louis Antoine de Bougainville to complete your Secondary education in 1974. In 1978, you enrolled at an Agriculture College in the French Polynesian Territory, in Tahiti. You went on to state that in 1982, you attended another Agriculture College in Iledela Re-union, Madagascar. From 1986 to 1987 you went for further study at the Paris University and completed your study as an Agronomist. In 1987 after completing your education in France at the Paris University, you returned to Vanuatu and worked as a Teacher at the Tagabe Agriculture College. In 1984, the Vanuatu Government established the Vanuatu Development Bank and you were appointed to look after the loan section of the Bank.



[92] In 2002 you began your political career and contested the election. You were always successful in every election you contested and had managed different Ministerial Portfolios through different Governments. You were successful in your political career and you maintained your status as an Efate Rural Member of Parliament until today. You state that your ambition is to continue maintaining a close relationship with your people in your constituency and to meet their personal needs and community development and projects. Currently, you are residing with your families at Tamaunu village, on Ifira Island. In addition you hail from a Chiefly blood line at Ifira Island and you are a Member of Parliament as well as an executive Director of the Ifira Trustees' Board. With regards to health issues, you stated that you have been battling with diabetes and high blood pressure for the last two years and that you are on a regular medical check- up with your private Doctor Jean-Phillipe King in Port Vila.

[93] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment.

[94] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Steven Kalsakau, are to serve a term of 3 years imprisonment on Count 38 with immediate effect.**

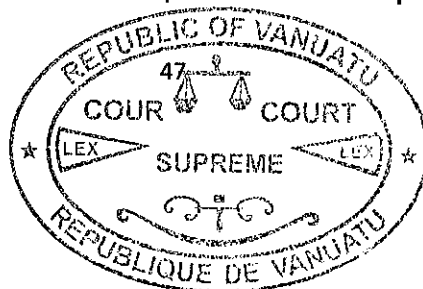


**Mr. Silas Rouard Yatan**

[95] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 26** as charged I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[96] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as a Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[97] I note from your counsel's submissions and the pre-sentence report that you are 43 years of age and you originate from Sulphur Bay on the Southern part of Tanna Island. You are a married man and a father of five children - the eldest is 19 years and the youngest is 2 years. You completed your Primary Education at White Sand Primary School on Tanna Island. In 1987 you joined Lycee Louis Antoine de Bougainville College for Secondary Education and you completed in 1994. You started teaching at Monmartre College from 1995-2004, where you contributed on upgrading Academic standards. In 2005, you were transferred to the Ecole Saint Jean-D'Arc where you contributed towards the establishment of Secondary and primary level. You hold a Diploma in Science, Maths and Sports. You began your



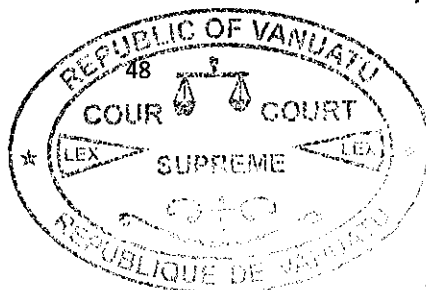
political carrier in 2012. You have submitted a medical certificate to show that you have been treated by Dr. Jean-Philippe King for chronic depression. Against that total sentence of 4 years, I take into account the mitigating features referred to by your counsel, and a discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years imprisonment. There is no question of any discount for guilty plea or remorse.

[98] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Silas Yatan Rouard, are to serve a term of 3 years imprisonment on Count 26 with immediate effect.**

**Mr. Arnold Prasad**

[99] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 36** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[100] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as a Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting

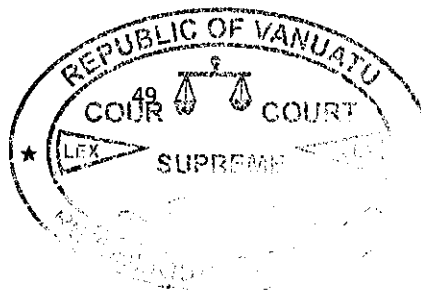




point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[101] I note from your counsel's submissions and the pre-sentence report that you are a first time offender. You are 53 years old and you come from Matantas village on the Island of Santo. You attended Saint Therese Primary School and completed grade six there. Then you went on to complete your qualification training as General Mechanic in 1979 at the Ecole Publique Practical School. In 1973 you worked as a teacher and in 1986 you went to France to continue your study in the area of Pedagogic Mechanic. You pointed out to the probation officer that you have skills in general mechanic, maintenance and Marine mechanic engineering and politics. And that you had been working as the Chief Engineer for the ship call Atchinsta. Your ambition in politics is to assist your people in Santo Island so that they can have access to roads to their respective residential areas. You have a good home environment and a good relationship with your family, community members and your chief as well. You pointed out that your home belongs to all people and that it is a place where they can have access to food and all the needs they require. You have 3 children, two boys and one girl. You said that your first born son will be 18 years soon, your daughter is 15 years and the last born is 9 years old. Your wife is unemployed and you are the only breadwinner for your family. You are a Christian and you are the Paramount Chief of your community at Matantas village Big Bay. You stated that you are healthy and you do not have any health issues.

[102] Against that total sentence of 4 years imprisonment, I take into account the mitigating features referred to by your counsel, and a



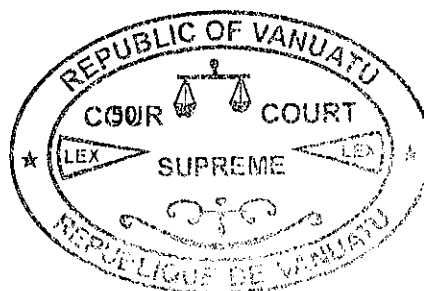
discount of 1 year properly recognises your previous good character, which leaves an end sentence of 3 years imprisonment. There is no question of any discount for guilty plea or remorse.

[103] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Arnold Prasad, are to serve a term of 3 years imprisonment on Count 36 with immediate effect.**

**Mr. Jean Yves Chabod**

[104] You are to be sentenced today in respect of your conviction for the offence of **Corruption & Bribery of Officials** contrary to S.73 (2) of the Penal Code Act relating to **Count 50** as charged. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[105] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment. No pre-sentence report has been submitted on your behalf since you refused to co-operate with the Correctional Services.



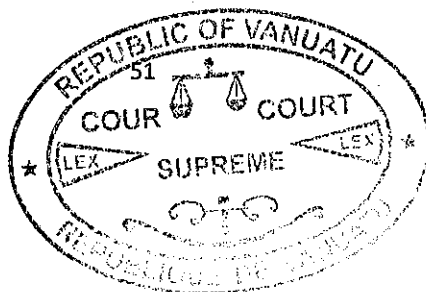
[106] I note from your counsel's submissions that you have no previous convictions. You have six children. You have three children with your former wife and another three with your current wife. You operate a poultry farm for the purpose of earning an income. Your wife is employed. Your pregnant daughter is under your care as her boyfriend is in Australia. You are the main breadwinner for your family. Your mother is in Epi so at times you send money and food to assist your mother. You look after your 1965 voters who voted you as Member of Parliament.

[107] Against that total of 4 years imprisonment, I take into account the mitigating features referred to by your counsel. There is no question of any discount for guilty plea or remorse but a discount of 1 year properly recognizes your previous good character, which leaves an end sentence of 3 years imprisonment.

[108] I have considered whether or not I should suspend all or part of the sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. However, I am satisfied that suspension is not justified in your case. **Accordingly, I order that you, Mr. Jean Yves Chabod, are to serve a term of 3 years imprisonment on Count 50 with immediate effect.**

**Mr. Willie Jimmy Tapangararua**

[109] You pleaded guilty to the offence of **Corruption & Bribery of Officials** contrary to S.73 (1) of the Penal Code Act in respect of **Count 52** and you were convicted accordingly. I adopt a starting point of 3 years imprisonment as the least restrictive starting point that is

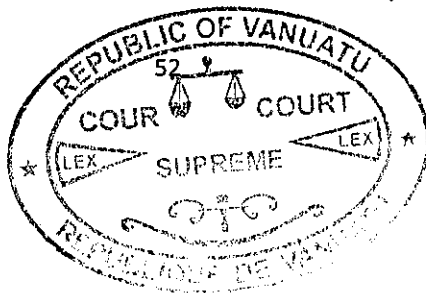


appropriate in your case taking into account the statutory maximum penalty of 10 years imprisonment available.

[110] The second step of the sentence assessment process is the assessment of the aggravating and mitigating factors relating to you as the offender personally. This was offending that you well knew was wrong. The aggravating features of your offending, including the high level of your Office as a Member of Parliament and the gross breach of trust as a leader, must mean an increase of 1 year to that starting point of 3 years leaving an aggravated sentence of 4 years imprisonment.

[111] I note from your counsel's submissions and the pre-sentence report that you are 64 years of age and you originate from Burao village on the island of Tongoa. You are married to Mrs. Alfin Jimmy and you both reside together at the Tebakor Area. You have served the Country of Vanuatu for over 32 years as a Member of Parliament for Port Vila including holding Ministerial Posts, Acting Prime Minister and you also held the Post of Ambassador Extraordinary and Plenipotentiary of the Republic of Vanuatu to the Peoples Republic of China for a period of 3 years. With regards to your health, I note that you have serious medical conditions which require a permanent pace maker which was implanted in your body in 2007. The pace maker is to be checked every 9 months and your next visit is in 2016 following your recent visit in May 2015.

[112] You are a well-respected leader in your constituency and community and I have received various letters of support provided by your community leaders, including Church leaders and business houses in Port Vila and the Port Vila-Efate Land Transport Association. I have

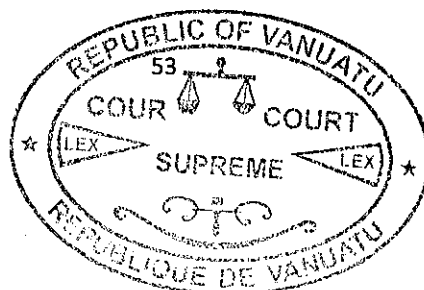


also received testimonials from the President of the Seventh Day Adventist Church of Vanuatu acknowledging your contribution to the SDA church. Also testimonials describing your qualities as a good leader have been placed before me, from a group of 15 signatories consisting of Chiefs, Bishop, Pastor and Women and Youth representatives. There are additional testimonials from Simil Johnson Youse (Government Statistician), from the Paramount Chief of Eratap, Chief Andrew Bakoa Kalpoilep, from Maraki Timbining John Lee Solomon and Matokaikokona Thomson Pakoa who are the Chairman and Secretary respectively of Maraki Vanua Ariki Council of Paramount Chiefs.

[113] These testimonials are all very detailed and impressive. If I may borrow the words of His Lordship, Daniel Goundar, in his sentencing remarks in the case of *Fiji Independent Commission Against Corruption v Inoke Devo* (supra) I must say that "*as a matter of sentencing principle, I accept recognizing a fall from grace is punishment itself, and recognizing the greater potential for rehabilitation where community involvement and good character bear witness to a reduced probability of reoffending.*"

[114] Standing back and reflecting on your offending, you told the probation officer that you have regretted it and you have accepted your lack of insight in not realising that you were actually committing this offence. Suffice to say that I have taken into account the foregoing mitigating features in your circumstances. I accept that this is your first conviction and you told the probation officer that you felt guilty and sorry.

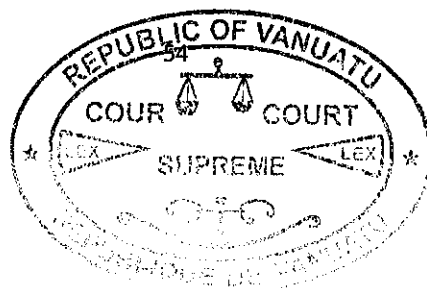
[115] Against that total sentence of 4 years (48 months) imprisonment, I take into account all the mitigating features referred to by your



counsel, and a discount of 1 year 6 months (18 months) properly recognises your previous good character, which leaves an end sentence of 2 years 6 months (30 months) imprisonment.

[116] **Mr. Willy Jimmy Tapangararua**, you pleaded guilty at the first reasonable opportunity and you have not wasted the Court's time. This brings me to the third step in the sentencing approach set out by the Vanuatu Court of Appeal in *Public Prosecutor v Andy* (supra). I am now required to consider what discount from the second stage end sentence of 2 years 6 months (30 months) imprisonment should be applied for a guilty plea. The greatest discount allowed under this head will be a discount of one third where the guilty plea has been entered at the first reasonable opportunity. I therefore give you full one third credit for your early guilty plea which = a discount of 10 months **leaving you with an end sentence of 20 months imprisonment.**

[117] I turn now to consider whether or not I should suspend all or part of your sentence pursuant to sections 57 and 58 of the Penal Code (Amendment) Act No. 25 OF 2006. I am satisfied that, in all the circumstances, I am able to suspend your sentence of imprisonment for a period of 2 years. However, let this be a lesson and a reminder. You are hereby warned that you are not going to jail today but any re-offending in the next 2 years will immediately result in your having to serve this sentence of **20 months imprisonment**, in addition to any other penalty that may be imposed for your re-offending. Whether that happens or not, is a matter entirely within your control, but, if you re-offend within the next 2 years then you can expect no further leniency from the Court.



[118] You have 14 days to lodge an appeal to the Court of Appeal if you do not agree with your conviction or this sentence.

**DATED at Port Vila, this 22<sup>nd</sup> day of October, 2015.**

**BY THE COURT**

  
**M.M. SEY**

**Judge**

