

27th August, 1958.

JOINT COURT OF THE NEW HEBRIDES

Civil Jurisdiction

In Chambers at the Court House at Vila, before Their Honours:

C.F.C. MACASKIE, British Judge,

G. GUESDON, French Judge,

presiding over the Joint Court of the New Hebrides.

IN THE MATTER of an application by Burns Philp (New Hebrides) Limited, Santo, for the recovery of the sum of £A.458 from René Polinelli of Santo, and

IN THE MATTER of Article 20 - 2B of the Anglo-French Protocol of 6th August, 1914.

D E C I S I O N

Whereas by decisions dated 6th and 8th August, 1958, respectively, both the French and the British Courts have declared themselves incompetent to take cognizance of an application for execution by way of attachment of debt, made by Burns Philp (New Hebrides) Limited (a company incorporated under English law) against René Polinelli, French citizen, officer of the Joint Administration living at Santo, the garnishee being the Customs Agent in his capacity of Condominium Sub-cashier at Santo, and the Joint Administration being indebted to René Polinelli for the amount of salary due to him,

And whereas, the course of justice being suspended, it is the duty of the President of the Joint Court to decide, under the terms of Article 20 - 2B of the Protocol, the question of jurisdiction arising from the disclaimer of competence expressed in the aforesaid decisions dated 6th and 8th August, 1958,


And whereas the garnishee order does not affect the garnishee in the same way as it does the judgment debtor, since the latter is the principal defendant in the case, the garnishee merely holding and distributing the money; jurisdiction should therefore be decided according to the status of the judgment debtor and should be accorded to the Court of the nation of which the judgment debtor is a dependant, the garnishee being moreover bound, whatever his capacity, by the decisions of such Court, in so far as they may concern him, according to the law applied.

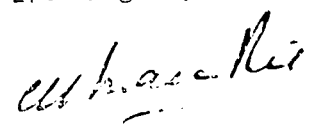
On these grounds,

We, the Judges, presiding over the Joint Court of the New Hebrides, decide that the French Court in the New Hebrides has jurisdiction, with regard to any party or interested person, in the matter of the application by Burns Philp (New Hebrides) Limited for a garnishee order with a view to the recovery of the sum of £A.458 from René Polinelli.

Costs to be borne by the applicant.

Done in Chambers at the Court House at Vila, 27th August, 1958.


French Judge.


British Judge.