

IN THE SUPREME COURT OF FIJI

PRACTICE DIRECTION No.2 OF 1982

SUPPLEMENTATION OF RECORD OF PROCEEDINGS IN
THE MAGISTRATE'S COURT FOR PURPOSES OF
APPEAL TO THE SUPREME COURT

TUIVAGA, C.J.: Where on appeal from a Magistrate's Court to the Supreme Court in a criminal matter it is desired to supplement or enlarge the record of proceedings in the Magistrate's Court, leave of the Supreme Court to supplement such record must be obtained.

 An application for leave to supplement the record of the Magistrate's Court (which will be considered on its merits) must be made on motion supported by an affidavit. The motion must set out the evidence or other matters alleged to have been omitted from the record and must identify the part of the record by stating the page and line in which the alleged omitted evidence or other matters in proceedings had occurred and should appear in the record. The affidavit in support of the motion must be sworn by someone who was present during the proceedings in the Magistrate's Court and who could speak from his own knowledge and recollection of the matters contained in the motion.

 Upon filing the motion and affidavit as aforesaid in the Supreme Court the appellant must serve copies thereof on the respondent and also on the Officer-in-

Charge of the Magistrate's Court concerned. The Officer-in-Charge will then seek the comments in writing of the Magistrate whose record of proceedings it is sought to supplement. The comments received from the Magistrate will be despatched to the Chief Registrar who will place same before the Judge hearing the appeal.

It is necessary to point out that where a Magistrate is unable to accept the correctness of the alleged omitted evidence or other matters in proceedings or any part thereof, the matter will normally rest there and will not be allowed to be pursued further.

At Suva
March, 1982