

IN THE MATTER of the  
Criminal Procedure Code

AND IN THE MATTER of Criminal  
Case No. 21 of 1981 before  
the Magistrate's Court at  
Lomaloma, Lau

Between:

REGINAM

Complainant

and

WILISONI FOIAKAU

Respondent

ORDER ON REVISION

On 17th March 1981 the respondent was convicted in the Lomaloma Magistrate's Court of the offence of burglary contrary to section 332(a) of the Penal Code. Following his aforesaid conviction the learned Magistrate made an order in terms that respondent be "committed until the age of eighteen years to an institute established under the Children and Young Persons Act and the Juveniles Act". The said order was made undoubtedly because respondent was at the time a young person as he still is i.e. he is aged between fourteen years and seventeen years.

The order as worded is not clear in its intent but on the face of it, it was clearly one the learned Magistrate was not empowered to make. The proper order which was presumably intended by the learned Magistrate in the circumstances of this case was that the respondent be placed in the care of the Director of Social Welfare. Such order would be effective only until the respondent attains the age of seventeen years. This is prescribed under the provisions of section 50(1) of the Juveniles Act (Cap.56).

Accordingly the order which the learned Magistrate purported to have made on 17th March 1981 at Lomaloma in relation to the respondent is set aside and it is ordered

that the respondent be placed in the care of the Director of Social Welfare until he attains the age of seventeen.

(T.U. Tuivaga)  
Chief Justice

Suva,  
10th February 1982.