

REPUBLIC OF KIRIBATI
(No. 19 of 1983)

I assent,

N. Tabai
Beretitenti,

23rd December, 1983.

AN ACT TO AMEND THE CRIMINAL
PROCEDURE CODE (Cap 17)

Commencement:

23rd December, 1983

MADE by the Maneaba ni Maungatabu and assented to by the
Beretitenti

Short title.

1. This Act may be cited as the Criminal Procedure Code
(Amendment) Act 1983.

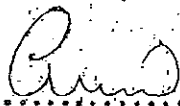
Amends
Section 254 of
Cap. 17.

2. Section 254 of the Criminal Procedure Code is amended
by -

- (a) repealing the words "in the presence of the
accused person", and substituting the words
"and the deposition of a witness made before
a magistrate or a commissioner for oaths in
a foreign country";
- (b) repealing the words "with the consent of the
accused person or his advocate" and substituting
the words "at the discretion of the court" and
- (c) adding to the end of the proviso the following:

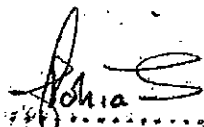
"but if this cannot be done without
unreasonable expense or delay, then
the court shall give such weight to
the deposition as it thinks appropriate".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 20th December, 1983, and it is found by me to be a true and correctly printed copy of the said Bill.

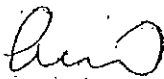

.....
Clerk to the Maneaba ni
Maungatabu

Published by exhibition -

(a) at the Public Office of the Beretitenti
this 23rd day of December 1983;


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 23rd day
of December, 1983.


.....
Clerk to the Maneaba ni
Maungatabu.

CRIMINAL PROCEDURE CODE (AMENDMENT) ACT 1983

EXPLANATORY MEMORANDUM

1. This Act amends section 254 of the Criminal Procedure Code (Cap. 17) which deals with deposition of expert witnesses i.e. a statement on oath of a witness in a judicial proceeding; the evidence of witnesses before a magistrate or justice taken down in writing which may be used at the trial without calling the witness himself. Recent developments with regard to the calling of expert witnesses from overseas had necessitated this amendment.

2. Section 254 of the Criminal Procedure Code as it now stands does not allow the courts to use or read as evidence such deposition unless made before a magistrate in the presence of the accused and he (the accused) also gives his consent. This is very restrictive and can also be very expensive especially when an expert witness from overseas is involved as we had found in one of the recent murder trials.

3. Section 2 of this Act therefore seeks to remove that prohibition by allowing the court to use or read as evidence the deposition of an expert witness made before a magistrate or commissioner for oaths in a foreign country. It further empowers the court not to summon a deponent if the expenses or the delay to be involved were to be unreasonable but in so doing the court shall then give such weight to the deposition as it thinks appropriate.

Michael N. Takabwebwe
Attorney General

LEGAL REPORT

I hereby certify my opinion that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael N. Takabwebwe
21 October 1983