

REPUBLIC OF KIRIBATI

EXTRADITION ACT 1981

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SCHEDULE

REPUBLIC OF KIRIBATI
(No. 7 of 1981)

I assent,

M. Tebori
Beretitenti.
29th Dec, 1981.

AN ACT TO PROVIDE FOR THE EXTRADITION
OF FUGITIVE OFFENDERS: AND FOR
CONNECTED PURPOSES.

Commencement:
29th December, 1981.

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

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Extradition Act 1981.

Interpretation.

2. In this Act, unless the context otherwise requires -

"authority to proceed" means an order of the Minister made
under section 10(1);

"court of committal" means the magistrates' court before
which an arrested person is brought under section
12(1);

"designated Commonwealth country" means a Commonwealth
country designated under section 3 of this Act, and
includes the dependencies of any such country;

"extradition offence" has the meaning assigned to that
expression by section 6 of this Act;

"extradition treaty" means a treaty or an agreement made
by Kiribati with a foreign State relating to
extradition of fugitive offenders, and includes a
treaty or agreement relating to the extradition of
fugitive offenders made before 12 July 1979 which
extends to and is binding on Kiribati;

"foreign State" means any State outside Kiribati other
than a Commonwealth country and includes every
constituent part of such a state and any dependency
of such a State;

"fugitive offender" means a person who is accused or convicted of an extradition offence committed within the jurisdiction of a foreign State or a Commonwealth country and is, or is suspected to be in Kiribati or in a foreign State or Commonwealth country;

"provisional warrant" means a warrant issued by a magistrates' court under the provisions of section 11(1)(b);

"treaty State" means a foreign State with which an extradition treaty is in force.

PART II
EXTRADITION OF FUGITIVE OFFENDERS

Designated
Commonwealth
countries.

3(1) The Minister may by order published in the Gazette, designate any Commonwealth country to be a designated Commonwealth country for the purposes of this Act.

~~(2) The Minister may, by order published in the Gazette, direct that this Act shall have effect for the return of persons to, or in relation to persons returned from, any designated Commonwealth country, subject to any exceptions, adaptations or modifications as are specified in the order.~~

Persons liable
to extradition.

4. Subject to this Act, a person found in Kiribati who is -

- (a) accused or convicted of an extradition offence in any treaty State or designated Commonwealth country; or
- (b) alleged to be unlawfully at large after conviction of such an offence in any such State or country,

may be arrested and returned to that State or country as provided by this Act.

Request for
extradition.

5. Subject to this Act, a request for the extradition from Kiribati of a fugitive offender of a foreign State or Commonwealth country may be made to the Minister -

- (a) by a diplomatic representative of the foreign State or Commonwealth country; or
- (b) by any person approved by the Minister when it is not convenient for a diplomatic representative described in paragraph (a) to make the request.

Extradition
offences.

6(1) For the purposes of this Act, an offence of which a person is accused or has been convicted in a treaty State or in a designated Commonwealth country is an extradition offence if -

- (a) in the case of an offence against the law of a treaty State, it is an offence which is provided for by the extradition treaty; and
- (b) in the case of an offence against the law of a designated Commonwealth country, it is an offence which, however described in that law, falls within any description set out in the Schedule to this Act and is punishable under that law with imprisonment for a term of twelve months or any greater punishment; and
- (c) in any case, the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Kiribati if it took place within Kiribati or, in the case of an extra-territorial offence, in corresponding circumstances outside Kiribati.

Schedule.

(2) In determining for the purposes of this section whether an offence against the law of a designated Commonwealth country falls within the description set out in the Schedule, any special intent, state of mind or special circumstances of aggravation which are necessary to constitute that offence under the law shall be disregarded.

(3) The descriptions set out in the Schedule include in each case offences of attempting or conspiring to commit, of assisting, counselling or procuring, the commission of or being accessory before or after the fact to the offences therein described, and of impeding the apprehension or prosecution of persons guilty of those offences.

(4) References in this Act to the law of any State or country include references to the law of any part of that country.

General
restrictions on
extradition.

7(1) No person shall be extradited under this Act to a treaty State or to a designated Commonwealth country, or committed to or kept in custody for the purposes of such extradition, if it appears to the Minister, or to the court of committal or the High Court on an application for habeas corpus or for review of the order of committal, that -

- (a) the offence of which that person is accused or was convicted is an offence of a political character;

- (b) the request for extradition (though purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or
- (c) he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(2) No person accused of an offence shall be extradited under this Act to any State or country, or committed to or kept in custody for the purpose of his extradition, if it appears that if charged with the offence in Kiribati he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(3) No person shall be extradited under this Act to any State or country or committed or kept in custody for the purposes of such extradition unless provision is made by the law of that State or country, or by an arrangement made between Kiribati and that State or country, for ensuring that the person will not be dealt with in that State or country for or in respect of any offence committed before his extradition under this Act other than -

- (a) the offence for which his extradition under this Act is sought; or
- (b) any lesser offence proved by the facts proved before the court of committal, under section 12 of this Act; or
- (c) any other extradition offence in respect of which the Minister may consent to his being so dealt with,

without being first returned to Kiribati or given a reasonable opportunity of returning himself to Kiribati.

Agreement with
foreign State
and Commonwealth
country:

8(1) For the purposes of section 7(3) an arrangement made between Kiribati and a foreign State or country may be one made for a particular fugitive offender or one of a more general nature.

(2) A certificate issued by the Minister confirming the existence of an arrangement with a foreign State or Commonwealth country as required by section 7(3) stating its terms is conclusive evidence of the matters contained in the certificate.

Offences of
non-political
character.

9(1) For the purpose of this Part, the following are not offences of a political character -

- (a) the murder, manslaughter, kidnapping, unlawful seizure, detention or confinement of an internationally protected person or wilfully causing bodily harm to or assault on or the restriction of the liberty of such person; and
- (b) the use of force or violence against or an attack on his official premises, private accommodation or means of transport of an internationally protected person; and
- (c) any offence described in paragraphs 3, 25 and 26 of the Schedule to this Act; and
- (d) the aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, an offence described in paragraph (a) to (c).

(2) For the purposes of this section "internationally protected person" means -

- (a) a head of State or any Minister of a foreign State or Commonwealth country whenever he is in a State other than the one in which he holds that position or office;
- (b) a member of the family of a person described in paragraph (a) who accompanies him in a State or country other than the one in which he is a head of State or Minister;
- (c) a representative or official of a State or an official or agent of an international organisation who, at a time when and at the place where an offence described in subsection (1) is committed against his person or upon his official premises, private accommodation or means of transport, is entitled under international law to special protection from any attack on his person, freedom or dignity; or
- (d) a member of the family of a representative, official or agent described in paragraph (c) who form part of his household if, at the time when and at the place where an offence mentioned in that paragraph

is committed against the member of his family, or to any property referred to in that paragraph that is used by the member of his family, the representative, official or agent is entitled under international law to special protection from any attack on his person, freedom or dignity.

PART III
PROCEEDINGS FOR EXTRADITION

Authority to proceed.

10(1) Subject to the provisions of this Act relating to provisional warrants, no person shall be dealt with under this Act except in pursuance of an order of the Minister issued in pursuance of a request made to him by or on behalf of the treaty State or the designated Commonwealth country in which the person to be extradited is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section on behalf of any treaty State or ~~designated Commonwealth country~~

- (a) in the case of a person accused of an offence, a warrant for his arrest issued in that State or country; or
- (b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that State or country and a statement of the amount if any of that sentence which has been served,

together, in each case, with particulars of the person whose extradition is requested and of the facts upon which and the law under which he is accused or was convicted, and evidence sufficient to satisfy the issue of a warrant for his arrest under section 11.

(3) On receipt of such a request the Minister may issue an authority to proceed unless it appears to him that an order for extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Act.

Arrest for the purposes of committal.

11(1) A warrant for the arrest of a person accused of an extradition offence, or alleged to be unlawfully at large after conviction of such an offence, may be issued -

- (a) on the receipt of an authority to proceed, by a magistrates' court within the jurisdiction of whom such person is or is believed to be;

(b) without such an authority, by a magistrates' court upon information that the said person is or is believed to be on his way to Kiribati.

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the magistrates' court, authorise the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence, within the jurisdiction of the magistrates' court.

(3) Where a provisional warrant is issued under this section, the authority by whom it is issued shall forthwith give notice to the Minister, and transmit to him the information and evidence, or a certified copy of the information and evidence, upon which it was issued.

(4) On receipt of a notice under subsection (3), the ~~Minister may in any case, and shall if he decides not to issue~~ an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(5) A warrant of arrest issued under this section may be executed in any part of Kiribati by any person to whom it is directed or by any police officer.

(6) Where a warrant is issued under this section for the arrest of a person accused of an offence of larceny or receiving stolen property or any offence in respect of property, any magistrate shall have the like power to issue a warrant to search for the property as if the offence has been committed within the jurisdiction of the magistrates' court to which he is appointed.

Proceedings
for committal.

12(1) A person arrested in pursuance of a warrant under section 11 of this Act shall (unless previously discharged under section 11(3)) be brought as soon as practicable before a magistrates' court.

(2) For the purpose of proceedings under this section, a court of committal shall have the like jurisdiction and powers, as nearly as may be, including power to remand in custody or on bail, as a magistrates' court conducting a preliminary inquiry.

(3) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period (of which the court shall give notice to the Minister) after which he will be discharged from custody unless such an authority has been received.

(4) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the extradition of that person or on behalf of that person, that the offence to which the authority relates is an extradition offence and is further satisfied -

(a) where the person is accused of the offence - that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the court; or

(b) where the person is alleged to be unlawfully at large after conviction of the offence - that he has been so convicted and appears to be so at large,

the court shall, unless his committal is prohibited by any other provision of this Act, commit him to custody to await his extradition under the authority; but if the court is not so satisfied or if the committal of that person is so prohibited, the court shall discharge him from custody.

Actions
concerning
liberty.

13(1) Where a person is committed to custody under section 12, the court shall inform him in ordinary language of his right of action in the High Court for redress of a contravention of his right to personal liberty or for review of the order of committal, and shall forthwith give notice of the committal to the Minister.

(2) No person committed to custody under section 12 shall be extradited under this Act -

(a) in any case - until the expiration of the period of fifteen days beginning with the day on which the order for his committal is made;

(b) if an action has been instituted in the High Court for redress of a contravention of his right to personal liberty or for review of the order of committal - so long as proceedings on that action are pending.

(3) In any such action, the High Court may, without prejudice to any other jurisdiction of the court, order the person committed to be discharged from custody if it appears to the court that -

(a) by reason of the trivial nature of the offence of which he is accused or was convicted; or

(b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or

- (c) because the accusation against him is not made in good faith in the interests of justice,

it would, having regard to all the circumstances, be unjust or oppressive to extradite him.

(4) On any such application the High Court may receive additional evidence relevant to the exercise of its jurisdiction under section 7 or under subsection (3).

(5) For the purposes of this section proceedings in an action for redress of a contravention of a person's right to personal liberty or for review of an order shall be treated as pending until any appeal in those proceedings is disposed of, and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought or, where leave to appeal is required, within which the application for leave may be made, if the appeal is not brought or the application made within that time.

Order for
extradition.

~~14(1) Where a person is committed to await his extradition and is not discharged by order of the High Court, the Minister may by warrant order him to be extradited to the State or country by which the request for the extradition was made unless the extradition of that person is prohibited, or prohibited for the time being, by section 7 or this section, or the Minister decides under this section not to make such an order in his case.~~

(2) No order shall be made under this section in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence, in Kiribati -

- (a) in the case of a person serving such a sentence - until the sentence has been served; or
- (b) in the case of a person charged with such an offence - until the charge is disposed of or withdrawn and, if it results in a sentence of imprisonment (not being a suspended sentence), until the sentence has been served.

(3) No order may be made by the Minister under this section in the case of any person if it appears to the Minister, on a ground referred to in section 13(3), that it would be unjust or oppressive to return that person.

(4) The Minister may decide not to make an order under this section in the case of a person accused or convicted of an extradition offence not punishable with death in Kiribati if that person could be or has been sentenced to death for that offence in the country by which the request for his return is made.

(5) The Minister may decide not to make an order under this section for the return of a person committed in consequence of a request made on behalf of any State or country if another request for his return under this Act has been made on behalf of another State or country and it appears to the Minister, having regard to all the circumstances of the case and in particular to -

- (a) the relative seriousness of the offences in question; and
- (b) the date on which each such request was made; and
- (c) the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to the other request.

(6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be extradited thereunder.

Discharge in
case of delay
in extraditing.

15(1) If any person committed to await his extradition is in custody in Kiribati under this Act after the expiration of -

- (a) in any case - the period of two months beginning with the first day on which, having regard to section 13(2) he could have been extradited; or
- (b) where a warrant for his extradition has been issued under section 14 - the period of one month beginning with the day on which that warrant was issued,

he may apply to the High Court for his discharge.

(2) If upon any such application the court is satisfied that reasonable notice of the proposed application has been given to the Minister, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his extradition has been issued under section 14, quash the warrant.

Evidence.

16(1) In any proceedings under this Act, including proceedings on an application for the review of the order in respect of a person in custody under this Act, a document, duly authenticated -

- (a) which purports to set out evidence given on oath in a treaty State or a designated Commonwealth country in admissible as evidence of the matters stated therein; or

- (b) which purports to have been received in evidence, or to be a copy of a document so received, in any proceedings in any such State or country is admissible in evidence; or
- (c) which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such State or country is admissible as evidence of the fact and date of the conviction.

(2) A document shall be deemed to be duly authenticated for the purposes of this section if -

- (a) in the case of a document referred to in subsection (1)(a) - the document purports to be certified by a judge, or magistrate or officer in or of the State or country in question to be the original document containing or recording that evidence on a true copy of such a document; and
- (b) in the case of a document or a copy of a document referred to in subsection (1)(b) - the document purports to be so certified to have been, or to be a true copy of a document which has been, so received; and
- (c) in the case of a document referred to in subsection (1)(c) - the document purports to be so certified,

and the document is authenticated either by the oath of a witness or by the official seal of a Minister of the treaty State or the designated Commonwealth country, as the case may be.

(3) Nothing in this section prejudices the admission in evidence of any document which is admissible in evidence apart from this section.

Custody.

17(1) Any person remanded or committed to custody under section 12 shall be committed to the same institution as a person charged with an offence before the court of committal.

(2) If any person who is in custody by virtue of a warrant under this Act escapes out of custody, he may be arrested in any part of Kiribati in the same manner as a person escaping from custody under a warrant for his arrest in Kiribati in respect of an offence committed in Kiribati.

(3) Where a person who is in custody in any part of Kiribati (whether under this Act or otherwise) is required to be removed in custody under this Act to another part of Kiribati and is so removed, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.

(4) A warrant under section 14 for the extradition of any person to any State or country is sufficient authority for all persons to whom it is directed and for all police officers to receive a person, keep him in custody and convey him into the jurisdiction of the State or country.

Form of warrants and orders.

18. Any warrant or order to be issued or made by the Minister under any of the foregoing provisions of this Act shall be given under the hand of the Minister and shall be in the prescribed form.

Expenses.

19. All expenses incurred in respect of any fugitive offender whose return is sought must be paid by a treaty State or designated Commonwealth country that requests his return under this Act unless other provisions for payment of expenses have been made by treaty or arrangement applying to that treaty State or Commonwealth country.

PART IV
TREATMENT OF PERSONS EXTRADITED FROM
TREATY STATES AND COMMONWEALTH
COUNTRIES

Application of Part IV.

20. This Part applies to any person accused or convicted of an offence under the law of Kiribati who is returned to Kiribati from any foreign State or designated Commonwealth country, under any law of that country corresponding with this Act.

Restriction upon proceedings for other offences.

21(1) No person to whom this Part applies shall, during the period described in subsection (2), be dealt with in Kiribati for or in respect of any offence committed before he was extradited to Kiribati other than -

- (a) the offence in respect of which he was extradited; or
- (b) any lesser offence proved by the facts proved for the purposes of securing his extradition; or
- (c) any other offence in respect of which the Government of the State or of the country from which he was extradited may consent to his being dealt with.

(2) The period referred to in subsection (1) in relation to a person to whom section applies is the period beginning with the day of his returning to Kiribati and ending forty-five days after the first subsequent day on which he has the opportunity to leave Kiribati.

Restoration of persons not tried, or acquitted.

22. If in the case of a person to whom this Part applies either -

- (a) proceedings against him for the offence for which he was extradited are not begun within the period of six months beginning with the day of his arrival in Kiribati on being extradited; or
- (b) on his trial for that offence, he is acquitted or discharged,

the Minister may, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the country from which he was extradited.

PART V
MISCELLANEOUS

Liability for arrest, etc., of fugitive offenders in respect of extradition offences.

23. Every fugitive offender of a treaty State or designated Commonwealth country shall, subject to the provisions of this Act, be liable to be arrested and dealt with whether the offence in respect of which he is to be dealt with was committed before or after the commencement of this Act.

Property found on fugitive offenders.

24. Everything found in the possession of an offender at the time of his arrest which may be material as evidence in proving the extradition offence may be delivered up with the offender when he is dealt with subject to the rights (if any) of third persons in respect thereto.

Bilateral agreements.

25. The provisions of this Act shall apply mutatis mutandis in a case where a bilateral agreement or bilateral arrangements exist between a foreign State or a Commonwealth country and Kiribati.

Regulations.

26. The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations prescribing anything which is required to be prescribed and generally for the better carrying into effect the provisions of this Act.

Repeals.

27(1) The Extradition Acts, 1870 to 1935 of the United Kingdom and the Fugitive Offenders Act 1967 of the United Kingdom as applied to Kiribati by the Fugitive Offenders (Gilbert Islands) Order 1975 shall cease to be in force in Kiribati.

(2) Nothing contained in this section affects the operation of those Acts in any case where before the coming into operation of this Act a warrant has been issued under those Acts and executed in Kiribati.

SCHEDULE

DESCRIPTION OF EXTRADITION OFFENDERS IN
DESIGNATED COMMONWEALTH COUNTRIES
(Section 6)

1. Murder of any degree.
2. Manslaughter or culpable homicide.
3. Genocide.
4. An offence against the law relating to abortion.
5. Maliciously or wilfully wounding or inflicting grievous bodily harm.
6. Assault occasioning actual bodily harm.
7. Rape.
8. Unlawful sexual intercourse with a female.
9. Indecent assault.
10. Procuring, or trafficking in, women or young persons for immoral purposes, or living on the earnings of prostitution.
11. Bigamy.
12. Kidnapping, abduction or false imprisonment, or dealing in slaves.
13. Stealing, abandoning, exposing or unlawfully detaining a child.
14. Bribery.
15. Perjury or subordination of perjury or conspiring to defeat the course of justice.
16. Arson or fire raising.
17. An offence concerning counterfeit currency.
18. An offence against the law relating to forgery.
19. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property on credit by false pretences, receiving stolen property or any other offence in respect of property involving fraud.
20. Burglary, housebreaking or any similar offence.
21. Robbery.
22. Blackmail or extortion by means of threats or by abuse of authority.
23. An offence against bankruptcy law or company law.
24. Malicious or wilful damage to property.
25. Acts done with the intention of endangering vehicles, vessels or aircraft.
26. Hijacking of aircraft or aircraft sabotage.
27. An offence relating to narcotic drugs, hallucinogenic drugs, cocaine and its derivatives, and other dangerous drugs.
28. Piracy.

29. Revolt against the authority of the master of the ship or commander of an aircraft.
30. Contravention of import or export prohibitions relating to precious stones, gold and other precious metal.
31. Offences against the laws relating to the sale or purchase of securities and commodities or against the laws relating to exchange control.
32. Income Tax evasion.
33. Offences against the laws relating to fire-arms and other weapons, ammunition, explosives, incendiary devices or nuclear materials.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 3rd December 1981, and is found by me to be a true and correctly printed copy of the said Bill.



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

I certify that the above Bill was on 3rd December 1981 passed by the Maneaba ni Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution.



.....
Speaker.

Published by exhibition -

- (a) at the Public Office of the Beretitenti on
1981.

.....
Secretary to the Cabinet.

- (b) at the Maneaba ni Maungatabu on 29th December, 1981.



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

EXTRADITION BILL, 1981

Explanatory Memorandum

Extradition is the process whereby one country obtains the return to it from another country either of a person accused of an offence and wanted for trial, or of a person who has been convicted and sentenced to imprisonment and escaped.

At present, the extradition arrangements for Kiribati depend upon a 2 U.K. Acts -

- (i) The Fugitive Offenders Act, 1967, which provides for extradition between Kiribati and designated Commonwealth countries (see Supplement V in Volume III of the Laws).
- (ii) The Extradition Act, 1970, which provides for extradition between Kiribati and other foreign countries with which the U.K. had an extradition treaty prior to Independence. Those treaties are still applicable until re-negotiated or withdrawn from.

It is desirable to introduce our own legislation to replace the U.K. legislation as part of a continuous process of such replacement, but it is essential that we should do so in order to be able to negotiate new extradition treaties with non-Commonwealth countries. For example, the Federated States of Micronesia has already invited Kiribati to negotiate a treaty.

The attached Bill has been prepared based closely on the post-Independence legislation of Fiji and Barbados.

The following features of the Bill are pointed out -

- (1) The extradition process will apply to both designated Commonwealth countries (almost certainly the ones presently designated, together with any other newly independent ones, but Cabinet will be consulted before designations are made), and to other countries called "treaty States", with which Kiribati either has inherited treaty obligations or negotiates new ones.
- (2) Extradition applies to both persons accused of offences but not yet tried, and persons convicted of offences (section 4).
- (3) The offence for which extradition from Kiribati can be applied for so far as designated Commonwealth countries are concerned are offences against the laws of the applying country which are covered by the Schedule to the Bill.

So far as treaty States are concerned, the relevant offences are listed in the treaty, and so far as new treaties are concerned will be those listed in the Schedule (section 6).

- (4) Section 7 lists the circumstances in which Kiribati will not extradite persons to another country, notably where the alleged offence is of a political character, or where the real motive for seeking extradition is to punish a person by reason of his race, religion, nationality or political opinions.
 - (5) Section 9 sets out offences which will not be accepted as being "of a political character", notably attacks upon heads of State, and other State officials.
 - (6) Extradition proceedings are of a judicial nature once commenced, but they cannot be commenced unless the Minister receives a request from the applying country and makes an order permitting proceedings to take place (section 10).
-
- (7) Section 13 provides a right of appeal to the High Court against an order made by a magistrates' court committing a person to custody to await extradition.
 - (8) The actual extradition order is made by the Minister, who has the final decision whether to make the order or not (section 14).
 - (9) Most of the Bill deals with how another country obtains extradition of a person from Kiribati, because of course the means by which Kiribati obtains extradition of a person from another country depends on that country's laws. Part IV of the Bill, however, deals with the treatment of persons returned to Kiribati by extradition proceedings in another country. Section 21 restricts prosecution in Kiribati to the offence for which extradition was obtained, any lesser offence proved by the facts used to secure extradition, or any other offence to which the other country's government consents. In other words, Kiribati cannot get a person sent from overseas for one offence and then go ahead and try him on another which the other country does not even know about.
 - (10) Section 22 provides that once a person is brought to Kiribati by the extradition process, if proceedings are not commenced within 6 months or he is discharged after trial, the person can ask to be sent back where he came from.

It should be borne in mind that the whole question of extradition depends upon mutuality between Kiribati and any other country. Such mutuality being conferred either by a treaty or by restricting designation to Commonwealth countries which have similar legislation to Kiribati.

Michael Jennings
Attorney General
7 July, 1981.

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.

Roger Lawrence Davey
Attorney General
9 December 1981