

Bill No. 2 of 1958.

CRIMINAL APPEAL (AMENDMENT) BILL, 1958.
ARRANGEMENT OF SECTIONS.

Section

1. Short title.
2. Repeal and re-enactment of section 17 of Chapter 8.

A BILL

Intituled

AN ORDINANCE TO AMEND THE CRIMINAL APPEAL
ORDINANCE.

Enacted by the Legislature of British Guiana:—

1. This Ordinance may be cited as the Criminal Appeal (Amendment) Ordinance, 1958, and shall be construed and read as one with the Criminal Appeal Ordinance, hereinafter referred to as the Principal Ordinance. Short title.

2. Section 17 of the Principal Ordinance is hereby repealed and the following substituted therefor:— Cap. 8.

“Admission of appellant to bail and computation of sentence. 17. (1) The Court of Criminal Appeal may, if it thinks fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal. Repeal and re-enactment of section 17 of Chapter 8.

(2) Where an appellant is admitted to bail under the provisions of subsection (1) of this section, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.

(3) Subject as hereinafter provided, six weeks of the time during which any appellant, when in custody, is specially treated as such in pursuance of rules made under section 58 of the Prison Ordinance, 1957, or the whole of that time, if it is less than six weeks, shall be disregarded in computing the term of any such sentence as aforesaid :

Provided that—

- (a) the foregoing provisions of this subsection shall not apply where leave to appeal is granted by the Court of Criminal Appeal or a certificate as is mentioned in paragraph (c) of section 5 of this Ordinance has been given for the purposes of the appeal; and
- (b) in any other case, the Court of Criminal Appeal may direct that no part of the said time or such part thereof as the Court thinks fit (whether shorter or longer than six weeks) shall be disregarded as aforesaid.

(4) Subject to the foregoing provisions of this section, the term of any sentence passed by the Court of Criminal Appeal in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings, and references in this section to any sentence to which an appellant is for the time being subject shall be construed accordingly.”

OBJECTS AND REASONS.

Section 17 (3) of the Criminal Appeal Ordinance is based on the corresponding provision in the English Criminal Appeal Act, 1907, and provides that the time during which an appellant is in custody shall not, unless otherwise ordered by the Court of Criminal Appeal, count as part of his sentence if his appeal is dismissed. It sometimes happens that, due to unavoidable delays, as much as three or four months elapse before an appeal is heard and the effect of the present law is that the appellant's sentence ordinarily begins to run from the date of the dismissal of his appeal. The English provision was amended in 1948 to provide that while normally the whole period that an appellant spends in prison shall count as part of his sentence, nevertheless if the appeal is not with leave, a maximum period of six weeks shall be disregarded in computing the sentence when the appeal is dismissed. This is to discourage frivolous appeals. The main object of this Ordinance is to bring the relevant provisions of the Criminal Appeal Ordinance into line with the current English procedure.

2. Whilst appellants are in custody in the United Kingdom, they are subject to normal prison discipline, including the obligation to work, although they receive special privileges as regards visits and letters. This is not so at present in British Guiana where they are treated as untried prisoners and only work if they so elect. Few if any do so and Mr. R. D. Fairn, a United Kingdom Prison Commissioner, in his report on prison administration in British Guiana in 1956, stated that there was nothing to be said for the present system of excusing appellants from work. The opportunity has been taken in re-drafting section 17 of the Criminal Appeal Ordinance to seek the deletion of subsection (1) which provides that appellants while in custody should be treated as untried prisoners.

A. M. I. AUSTIN,
Attorney General.

3rd January, 1958.
(M.P. No. L. 124/12)
(Leg. Bill No. 2/1958).