

which now appear in the Code, the Penitentiary Act, and the Prisons and Reformatories Act.

Hon. Mr. Aseltine: Does not section 1 of 1054B change the law?

Hon. Mr. Hayden: I do not think so.

Hon. Mr. Aseltine: It states that "all sentences shall commence from the date of sentence."

Hon. Mr. Hayden: I am sorry I have missed the honourable senator's point. What is it?

Hon. Mr. Aseltine: I thought that that section made a change in the law, because in many sentences the time served while waiting for trial is taken off.

Hon. Mr. Hayden: As I understand it, when a man is detained in custody before trial because he is unable to get bail, or because the offence is such that bail is not granted, or for whatever reason, it is a matter for the trial judge in passing sentence to order whether the time spent in custody prior to conviction shall be deducted from the prison term.

Hon. Mr. Haig: What about section 2?

Hon. Mr. Hayden: This subsection reads:

The time during which a person convicted is admitted to bail pending the determination of any appeal . . .

It deals only with the commencement of sentence. Now, then, we have the conviction and the sentence. If the man appeals and is detained in jail pending the determination of his appeal, the time so spent does not count unless the court of appeal, in dealing with the matter of sentence, decides that it shall count.

Hon. Mr. Farris: That is all right, but I do not understand why it is different in section 4.

Hon. Mr. Hayden: Well, let us have a look at it. It reads:

Where a person is sentenced to imprisonment in a penitentiary, no time spent in gaol or other place of confinement prior to the expiration of the time limited for appeal, shall count as part of any term of imprisonment under his sentence, but if he gives to the committing magistrate or other proper officer a written notice of his election not to appeal, any time spent in custody thereafter shall count as part of the term of imprisonment under his sentence.

This is not new; it seems to me that it has been in the Code for some time. I think its purpose was to have the person, who was convicted and sentenced, hasten his decision to either appeal or to sign what is called a consent, or a statement to the effect that he is not going to appeal.

Hon. Mr. Farris: Why should there be a difference between section 2 and section 4?

Hon. Mr. Hayden: Under section 2 this remains at the discretion of the judge.

Hon. Mr. Farris: Yes, but it is not found in section 4.

Hon. Mr. Hayden: No, because under section 4 the judge has no discretionary powers and it is that period, which might be called interregnum, when the man has been convicted and sentenced and there are no further processes of law except to put him in jail until such time as his period for making an appeal runs out. As I understand it, the purpose of section 4 is to hasten his decision to appeal or to do otherwise.

Hon. Mr. Aseltine: I presume this bill will be sent to committee, where a more detailed explanation may be given this section and the one to which I have objected.

Hon. Mr. Hayden: I certainly intend to move to refer this bill to committee, but I do not know whether a more detailed explanation of these sections is available. I have been wondering whether I have not been giving a too-detailed explanation at this time. The provisions themselves are perfectly clear and, as I understand it, the question raised by my honourable friend from Vancouver South (Hon. Mr. Farris) is not as to whether the sections are clear but as to why there should be differences between one section and another.

Hon. Mr. Reid: Does section 4 apply only to a person sentenced to a penitentiary and not to a county jail for, say, one year?

Hon. Mr. Hayden: That is right, because first of all he is taken from the court to the local jail and is then transferred to the penitentiary; but he is not transferred to the penitentiary until his time for appeal has expired.

Hon. Mr. Reid: Then it would not apply to a person sentenced to less than two years?

Hon. Mr. Hayden: No. Section 4 only applies to a person sentenced to penitentiary.

Honourable senators, it is intended that these amendments shall come into force on the 1st day of May, 1950. I trust that my explanations have not been too lengthy, and I hope you will not think I have taken advantage of the situation to attempt a lecture on criminal law, because there are others here who could do that in a most capable manner. I have merely attempted to outline what may result if these amendments are put into force; I have even refrained from incorporating any of my own opinions about the subject matter.

Some Hon. Senators: Hear, hear.

The motion was agreed to, and the bill was read the second time.