

MAINE STATE LEGISLATURE

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No

November 25, 1953

To Perry D. Hayden, Superintendent, Reformatory for Men
Re: Violation of Parole from Previous Sentence

This is in response to your letter re Irving J. Austin.

It would appear that Irving Austin, at the June term, 1953, of the Superior Court of Kennebec County, was sentenced to 1-2 years for having committed a crime, that said sentence was suspended and that he was placed on probation. Subsequently, in October, 1953, he was committed to your institution from the Somerset Superior Court to serve an indeterminate sentence of 1-3 years, his offense having been a felony. Still later, on October 16, 1953, he was recalled by the Kennebec County Superior Court, and was committed to the Maine State Prison.

You ask what authority, if any, the Superior Court has to "call off" a sentence to the Reformatory.

We would say that under Chapter 136, Section 31, upon violation of probation, the Court has the right to order the probation ended and to order the respondent to comply with the original sentence. It would appear that in this instance the Somerset County Court sentenced Austin to the Reformatory without realizing that he had violated his probation. Upon learning of such violation, it appears that the Kennebec Court simply complied with the law in ordering the respondent committed to the State Prison in conformity with the initial sentence of the June term.

James Glynn Frost
Deputy Attorney General

jgf/c