

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date February 16, 1962

To William B. Stephenson, Deputy Warden

Dept. Maine State Prison

From Courtland D. Perry, Ass't. Attorney General Dept. Mental Health & Corrections

Subject Breaking, Entering and Larceny, in the night time: Sentence 5 to 7 years

Question presented: Under the laws of the State relative to the sentence imposed after conviction for the offense of breaking, entering and larceny in the night time, is a sentence of 5 to 7 years legal and proper?

Chapter 132, Section 3 of the Revised Statutes of 1954 provides that the sentence to be imposed for the offense of breaking, entering and larceny in the night time shall be not less than 1 nor more than 15 years. Chapter 149, Section 11 of the Revised Statutes provides as to minimum - maximum sentences " . . . the maximum sentence shall not exceed the longest term fixed by law for the offense of which the person sentenced is convicted and the minimum sentence shall not exceed one half of the maximum sentence fixed by statute." In the case of breaking, entering and larceny in the night time, half of the maximum sentence fixed by statute would be $7\frac{1}{2}$ years. Since 5 years minimum is less than half of the maximum fixed by statute and since the maximum of 7 years is substantially less than the longest term fixed by law, it is my opinion that the sentence in question of 5 to 7 years is legal and was properly imposed.

Courtland D. Perry

CDP/slw

Courtland D. Perry
Assistant Attorney General