

# MAINE STATE LEGISLATURE

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July 24, 1962

Allen L. Robbins, Warden

Maine State Prison, Thomaston, Maine

Courtland B. Perry, Asst. Atty. Gen'l.

Mental Health and Corrections

**Sentences After Conviction for Escape or Assault on An Officer.**

**QUESTION PRESENTED:** When sentencing a convict to the Maine State Prison after conviction for assault on an officer of such prison, has the sentencing court authority to order that such sentence shall run concurrently with a previous sentence for escape?

Section 1 of Chapter 149 amended by Section 14 of Chapter 334, Section 19 of Chapter 387, and Section 57 of Chapter 429 of the Public Laws of 1957 and Chapter 242 of the Public Laws of 1961 is in part as follows:

"The court shall rule, and in appropriate cases shall endorse, on the mittimus, that the terms of imprisonment shall be served concurrently or consecutively;... In the event the court fails so to rule or endorse, said sentences shall be served concurrently. The provisions of this paragraph shall likewise apply to sentences by payment of a fine and sentences by imprisonment for separate offenses."

Section 42, Chapter 27, Revised Statutes, 1954, as amended by Chapter 309, Public Laws of 1955 and by Chapter 242, Section 6, Public Laws of 1959 with reference to conviction for assault on an officer of or escape from the Maine State Prison is in part as follows:

"If a convict, sentenced to the state prison for life or for a limited term of years, or transferred thereto from the reformatory for men under section 75, or committed thereto for safekeeping under chapter 148, section 35, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may, at the discretion of the court, be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence, except in the case of convict serving a life sentence, to commence at the completion of 30 years of such sentence."...

It is the opinion of this office that the term former sentence as used in section 42 supra refers to the sentence which brought about the original incarceration of an inmate and not to sentences which might be ordered thereafter for escape or assault on an officer.

In instances of multiple violations of the provisions of section 42 supra, the court may exercise its authority found in Section I of Chapter 149 supra, and may order that a term for assault on an officer of the prison, run concurrently with, or commence, after the completion of a previously ordered term for escape.

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Courtland B. Perry  
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CEP/t

cc:Attorney General's Dept.