

# MAINE STATE LEGISLATURE

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November 28, 1962

Allan L. Robbins, Warden

Maine State Prison, Thomaston, Maine

Courtland D. Perry, Asst. Atty. General

Mental Health and Corrections

Sentences for Escape from County Jail--Henry L. Poulin; Richard E. Simmons

On November 26, 1962 this office was asked whether a sentence to the Maine State Prison for escape from the Androscoggin County Jail imposed upon Henry L. Poulin on December 22, 1960, should run concurrently with or consecutively to concurrent sentences to the Maine State Prison for breaking, entering and larceny imposed on September 29, 1960, when the sentences for breaking, entering and larceny and for escape were all ordered to commence upon the expiration of a sentence to the Reformatory for Men imposed under docket #5304, September Term A.S., 1960 by the Androscoggin County Superior Court.

This office was also asked whether a sentence to the Maine State Prison for escape, from the Androscoggin County Jail, imposed upon Richard E. Simmons on January 16, 1961, should run concurrently with or consecutively to concurrent sentences to the Maine State Prison for breaking, entering and larceny imposed on the same date.

As to Henry L. Poulin, the language of Section 26 of Chapter 135 of the Revised Statutes is controlling:

"Whoever, being lawfully detained in any jail or other place of confinement, except the state prison, breaks or escapes therefrom, or attempts to do so, shall be punished by imprisonment for not more than 7 years; the sentence to such imprisonment shall not be concurrent with any other sentence then being served or thereafter to be imposed upon such escape."

The Court in sentencing for escape did not order that such sentence run concurrently with the county jail sentence then being served, nor did it in effect order that the escape sentence run concurrently with a sentence to be thereafter imposed. The sentence for escape appears to run concurrently with concurrent sentences for breaking, entering and larceny imposed 3 months earlier. In this peculiar situation, to follow

the language of the December 22, 1960 order results in a sentence for escape running concurrently with another sentence, without violating the language of the controlling Statute since the escape sentence does not run concurrently with a sentence then being served or thereafter imposed.

It is, therefore, the opinion of this office that no error was committed by the Court in this case, and that Henry L. Paulin should properly serve the December 22, 1960 sentence for escape concurrently with the September 19, 1960 concurrent sentences for breaking, entering and larceny.

It is the further opinion of this office, that the sentence for escape from the Androscoggin County Jail imposed upon Richard E. Simmons should be served consecutively to concurrent sentences imposed for breaking, entering and larceny as ordered by the Court.

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Courtland E. Perry  
Assistant Attorney General

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cc: Attorney General's Department  
cc: John Shea, Director, Division of  
Probation and Parole  
cc: Horton Johnson, Superintendent  
Maine Reformatory