

MAINE STATE LEGISLATURE

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April 2, 1975

Honorable Charles Abbott
Executive Council Chambers
State House
Augusta, Maine

Dear Mr. Abbott:

This is a response to your oral request for advice regarding the following two questions:

1. Whether the Governor and Executive Council have authority to commute a crime as opposed to commutation of sentence. The answer is that the Governor and Executive Council are not authorized to commute a crime; only a sentence. Doyon v. State, 158 Me. 190. 15 M.R.S.A. § 2161, et seq.

2. Whether a pardon may be granted on condition that the person not commit a crime in the future. The answer is yes. Article V, Part First, § 11 of the Maine Constitution provides that the Governor has the power, with the advice and consent of the Executive Council, to grant commutations and pardons "upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law * * *."

In Easton v. Robbins, 153 Me. 128, at 130, the Maine Supreme Judicial Court stated the following:

". . . [T]he authority of the Governor and Council is derived from the Constitution and it may commute the sentence with such restrictions as may be deemed proper. If the restrictions and limitations imposed are in conflict with the provisions of any statute, then such statute does not control and it may be ignored as it was in this case, provided such restrictions or limitations are not illegal, immoral, or impossible to perform."

If you wish further assistance in this matter, please contact me.

Very truly yours,

JOHN W. BENOIT, JR.
Deputy Attorney General

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