

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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of armories comes back to the Adjutant General's Department for the operation thereof through legislative appropriations.

Therefore it is my opinion that it was the intent of the legislature not to mingle other moneys with the War Bond Fund. . .

RALPH W. FARRIS
Attorney General

May 2, 1946

To Harrison C. Greenleaf, Commissioner of Institutional Service

I have your memo of May 1st, dealing with the case of Anthony J. Bourgeois, who is now serving a sentence in the Maine State Prison of not less than 5, nor more than 8 years, imposed on March 21, 1942. Your inquiry is whether or not this sentence should have been for a fixed period, rather than an indeterminate sentence, and the Parole Board is in doubt as to the prisoner's being subject to the provisions dealing with parole which are applicable only to indeterminate sentences.

The papers which you have attached to your memo show that the prisoner was indicted by indictment which contained four counts. The first count was for incest; the third and fourth counts for rape, and the second count for a minor offense arising out of the same criminal act. It would appear, although it is not quite clear from the papers submitted, that the prisoner was convicted of the counts charging incest and rape. While the Court might have imposed sentences for each of these crimes, apparently it did not do so, but imposed one sentence.

The crime of incest is punishable under the statute by imprisonment for one to ten years. It is not excluded from the indeterminate sentence provisions. Thus, for that crime an indeterminate sentence may be imposed.

Where, as here, a single sentence was imposed, the same may be applied to any count in the indictment which is good. This sentence, then, could be applied to the count in the indictment which charged the crime of incest.

The prisoner would thus be entitled to the benefits of the provisions of the parole law, and the Parole Board may consider his application.

ABRAHAM BREITBARD
Deputy Attorney General

May 3, 1946

To Hon. A. K. Gardner, Commissioner of Agriculture

Your letter of May 1st at hand, concerning your problem which relates to the administration of Section 127-F of Chapter 153, P. L. 1945, and you ask for a ruling from this office.