

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1945-1946**

MAINE STATE  
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September 4, 1946

To Harrison C. Greenleaf, Commissioner of Institutional Service  
Re: MSP 7617

Receipt is acknowledged of your memo of September 3rd, advising that the above subject is an inmate of the Maine State Prison, serving a sentence of 4 to 8 years on a charge of breaking, entering and larceny, and another sentence of 1 to 2 years on a charge of escaping from the county jail, both of which were imposed on June 8, 1943, by the same court, without any reference as to whether the same were to run consecutively or concurrently.

In the matter of *Breton, Petitioner*, 93 Maine 39 at page 42, our Court declared the rule to be as follows:

"All the authorities agree . . . that in the absence of any statute, if it is not stated in either of two sentences imposed at the same time that one of them shall take effect at the expiration of the other, the two periods of time named will run concurrently, and the two punishments be executed simultaneously. Such Mr. Bishop declares to be the rule of the common law. . . and such has been the unquestioned rule of procedure in this state. It is familiar practice that wherever the court imposing several sentences desires to have one begin on the expiration of another, that fact is expressly stated in the sentence; and whenever the court inadvertently fails to have the sentence recorded in that form, or from leniency intentionally omits to add such a provision, and the convict is committed in pursuance of such sentences, he is either voluntarily released by the jailer, or discharged on habeas corpus at the expiration of the longest term named in either of the sentences."

I therefore advise you that under the rule above stated, the sentences imposed on the subject above named would run concurrently and he would be eligible for parole after having served the minimum of the 4 to 8 year sentence.

ABRAHAM BREITBARD  
Deputy Attorney General

September 9, 1946

To E. E. Roderick, Deputy Commissioner of Education  
Re: Maine Teachers' Pension Law

This department acknowledges receipt of your memo of September 6th requesting to be advised concerning an applicant for a State teacher's pension, who taught 26 years, from 1895 to 1921, in the City of Portland, but thereafter taught in another State.

Under our pension law, Section 212 of Chapter 37, not only must a teacher, in order to qualify for a pension, have been employed for the prescribed number of years, but 20 years of such employment, "including the 15 years immediately preceding retirement, shall have been in this state."