

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

MAINE STATE
LIBRARY

I may add that I do not find anything in the standard policy or in the statutes which does more than require the insured to file the written statement under oath above referred to. There would therefore be no obligation to file another statement on either an adjustment of the loss or the award by referees, although this is presumably done in the case of an adjustment.

ABRAHAM BREITBARD
Deputy Attorney General

November 20, 1946

To E. E. Roderick, Deputy Commissioner of Education

I have your memo of November 14th concerning a teacher who had served 29 and 13/18ths years and retired on a pension, which service lacked 45 days of teaching to entitle her to a 30-year pension. You advise me that she afterward made up these 45 days by substituting a day or two at a time upon the "urgent request" of the superintendent of schools. You state that while rendering this substitute service, she was at the same time receiving the pension.

I do not think that that would in and of itself preclude her from having these extra days of service tacked on to her previous service. The question is not free from doubt, but I think that in all fairness this doubt should be resolved in her favor, and thus I advise you that you could properly allow her a pension based on 30 full years of service credit.

ABRAHAM BREITBARD
Deputy Attorney General

November 27, 1946

To Homer E. Robinson, Bank Commissioner
Re: Federal Employees' Credit Union—Examination Fee

The question has been raised whether the above named credit union is subject to the payment of the examination fee to be paid to the bank commissioner under the provisions of Section 3 of Chapter 273 of the Public Laws of 1945, which enacted a new Chapter 51 for the same Chapter in the Revision of 1944, which is repealed by this new amendment.

The Federal Employees' Credit Union was organized in 1931 under a Private and Special Law and is Chapter 11. In Section 8 of that act the corporation is subject to examination, supervision and control by the bank commissioner, and the provisions of Sections 47 to 55 inclusive of Chapter 57 of the Revised Statutes of 1930 are made applicable to this corporation. These sections are found in the chapter dealing with the management of savings banks and the annual examinations by the bank commissioner of their books and records. We thus have here a provision for supervision and examination by the bank commissioner; and the performance of that duty is in accordance with the sections of the savings bank law. It is unlike the provisions contained in the enactment of the

new Chapter 51 aforesaid, which authorizes the organization of credit unions under the general law, thus dispensing with the necessity of having the same created by private and special laws. This new enactment, by Section 30, provides:

“No part of this chapter shall be construed as repealing, modifying, or amending the provisions of any private and special acts authorizing the organization and defining the purposes of corporations of similar nature.”

This limitation placed by the legislature upon the provisions of this new act would make the same inapplicable to this Employees' Credit Union. Any attempt to charge them with an examination fee under this new enactment could result only from a declaration that the provisions of Section 3 are incorporated in the special act creating the Federal Employees' Credit Union. This is contrary to Section 30 and the limitation thereon by the legislature, which by its express terms provides that no part thereof shall be so construed. Furthermore, Section 3 of Chapter 273 is in direct conflict with Section 8 of the special act creating the Federal Employees' Credit Union.

I therefore advise you that they are not subject to Section 3 aforesaid.

ABRAHAM BREITBARD
Deputy Attorney General

December 4, 1946

To A. W. Perkins, Insurance Commissioner
Re: Company Examinations

I have considered your memorandum of November 27th and I am thoroughly in accord with the view expressed by you that payment to outside firms employed to make the biennial examination of domestic insurance companies, under Section 9 of Chapter 56, should be made by the Insurance Department, direct.

You inform me that in the past the insurance company paid the examining firm employed by the State, and the amount so paid was then refunded to the company. I agree with you that the proper practice would be to have the insurance department billed directly by the examining firm and payment thereof made to it by the State Treasurer.

As to your inquiry whether a council order is necessary to make such payment, I have taken this question up with the Bureau of Accounts and Control, and they feel that, where in the past such has been the practice, it would be better to continue such procedure.

It is not quite clear from the statute (Chapter 118, P. L. 1945, Section 6) whether the Controller would be authorized to draw the warrant without specific direction from the Governor and Council. This statute, so far as here pertinent, provides that all the fees collected by the commissioner