

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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July 16, 1959

To: Frank S. Carpenter, State Treasurer

Re: Levy on Accrued Salary of State Employee by U. S. Internal Revenue

In reply to your oral request for an opinion as to whether or not you are required to honor a notice of levy of property of a State employee in your possession by the U. S. Internal Revenue Service:

The case of *Sims, Petitioner, v. U.S.A.* (March, 1959) seems to be in point. There the U. S. Supreme Court stated:

“ . . . and it is quite clear, generally, that accrued salaries are property and rights to property subject to levy. In plain terms Section 6331 (26 U.S.C., Supp. V) provides for the collection of assessed and unpaid taxes ‘by levy upon all property and rights to property’ belonging to a delinquent taxpayer. Pursuant to that statute a regulation was promulgated expressly interpreting and declaring section 6331 to authorize levy on the accrued salaries of employees of a state to enforce the collection of any Federal tax.

“ . . . We think that the subject matter, the context, the legislative history, and the executive interpretation, i.e., the legislative environment, of section 6332 make it plain that Congress intended to and did include States within the term “person” as used in section 6332.

“Accordingly we hold that sections 6331 and 6332 authorize levy upon the accrued salaries of state employees for the collection of any federal tax.”

Section 6332 of the Code further reads: “Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand . . . surrender such property or rights, etc.”

It is our opinion that the accrued salary of a State employee may be levied upon and that you as State Treasurer, having that accrued salary in the form of a check in your possession, must honor a levy of the Internal Revenue Service.

FRANK E. HANCOCK
Attorney General

July 24, 1959

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Authority of Credit Union to Purchase Real Estate

We have your request for an opinion regarding the authority of a State chartered credit union to purchase real estate.

Section 20, Chapter 55 of the Revised Statutes of 1954 provides for the investment of funds, and sections 21 through 23, both inclusive, set standards for the making of such loans.