

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

Legislature to decide to reimburse or not. No extra funds should be allocated from the present legislative fund.

Very truly yours,

FRANK E. HANCOCK

Attorney General

March 13, 1962

To: Irl E. Withee, Deputy Commissioner, Banks and Banking

Re: Legal Requirements Concerning Savings Passbooks

"A mutual savings bank is considering a payroll savings plan whereby an enrollment card will be signed by the depositor authorizing the employer to deduct a certain amount from the pay each week."

"With the exception of the issuance of a passbook, the savings transactions will be the same as used in the bank's regular savings accounts. The bank will provide quarterly statements to the depositors under the Payroll Savings Plan which will itemize all of the transactions on the account for the quarter. These will be mailed to them at their homes."

The question asked is whether a savings bank must issue a formal passbook to each savings depositor in which to record all transactions on a savings account.

There is no specific provision in the law requiring banks to issue passbooks for savings accounts.

There are several references to passbooks in Chapter 59. Chronologically they are as follows:

1. Sec. 19-G, VII, provides a method for issuing a new passbook when the original is lost. The only significant wording in this section is the following:

" . . . the delivery of such duplicate book relieves said savings bank or trust company from all liability on account of the missing original book of deposit."

Probably the liability is that stated in *Sullivan v. Lewiston Institution for Savings*, 56 Me. 507 at 511. Bank officers must use reasonable care and diligence to ascertain that person presenting passbook is the same person named thereon.

2. Sec. 19-H, II, 2, provides that a savings deposit book issued by any savings bank may be used as collateral for a loan.

3. Sec. 19-L, I, provides:

"The Bank Commissioner, at least once in every 3 years, shall cause the books of the saving depositors in savings banks and in every trust company to be verified by such methods and under such rules as he may prescribe."

4. Sec. 82 is a part of the law relating to liquidation procedures and provides that the treasurer of a savings bank shall enter certain reductions on individual passbooks as they are presented.

These sections of the banking law assume by implication that individual passbooks are issued by all savings banks. Our court in *White v. Cushing*, 88 Me. 339 at 345 said:

"The order in question was drawn upon a savings bank, and it is common knowledge that all banks in this State have a by-law which all

depositors are required to subscribe to, that 'no money shall be paid to any person without the production of the original book that such payment may be entered therein'."

In the absence of statutes requiring individual passbooks for savings accounts in which each and every transaction is recorded, their issuance is a matter of bank by-laws. Being a matter determined by the by-laws of each bank it follows that a bank may amend its by-laws to provide for the type of statement or passbook suggested for use in the payroll savings plan. Sections 19-D, II, D and 19-E, II, H, provide the methods for amending by-laws.

GEORGE C. WEST

Deputy Attorney General

March 13, 1962

To: Public Utilities Commission

Re: Limestone Electric Company

*Attention: Vernon C. Morrison, Engineer*

You have asked this office if the town of Limestone may purchase the Limestone Electric Company and provide the service now provided by the Electric Company to towns other than Limestone.

The town of Limestone may not purchase the Limestone Electric Co. without specific authorization from the legislature.

There is no provision in the present charter of the town of Limestone nor in the general law of municipalities that authorizes such an act by a town. Therefore, it is necessary to have a special act of the legislature.

GEORGE C. WEST

Deputy Attorney General

March 14, 1962

To: Henry L. Cranshaw, Controller, Accounts and Control

Re: Deduction of Union Dues

We have your request for an opinion as to whether or not a State employee can authorize your office to deduct Union dues with a request that you forward these dues to his Union officials.

The Governor of the State of Maine is the supreme executive power of the State (Constitution of Maine, Article V, Part First). "Everything pertaining to the executive department of the state is at all times pending before the Governor in his official capacity." *State v. Simon*, 149 Me. 256. The executive council functions to aid the Governor in ordering and directing the affairs of state according to law. (Constitution of Maine, Article V, Part Second, Section 1.) For this reason your office may not unilaterally adopt a policy of permitting the above deductions even when authorized by the individual employee. The decision to grant this authority must rest with the head of the executive department, that is, the Governor and Council.