

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

The Administrative Code Act language was as follows: "The provisions of this act shall not be construed to apply to the judiciary, the University of Maine, the state normal schools, the Port of Portland Authority, the executive council, nor the legislature, except when expressly specified."

The legislature, in the 1945 Act making the University an instrumentality of the State, did not in any way alter the application of the Administrative Code Act, as it relates to the University of Maine. Therefore, in my opinion, it is not a part of the Department of Finance and does not fall within the provisions of Section 3 of Chapter 16, R. S. 1944, which is also a part of the old Administrative Code as amended by Chapter 206 of the Public Laws of 1937, Chapter 27, P. L. 1941, Chapter 345, P. L. 1943, and Chapters 337 and 378, Section 13, P. L. 1945.

The Judiciary is an agency of the State, and that was specifically excepted by the Administrative Code Act. In my opinion there is no conflict of these statutes and the ruling of former Attorney General Cowan, which would affect the rights, powers and duties of the Department of Audit in this matter.

RALPH W. FARRIS

Attorney General

June 28, 1948

To R. E. Reed, Commissioner, Sea and Shore Fisheries  
Subject: Section 1, Chapter 349, P. L. 1947.

I have your memo of June 25th, calling my attention to the provisions of Section 1 of Chapter 349, P. L. 1947, which provides that eight mills of the tax paid on fuel used in motor boats, which is refunded under the provisions of Section 166, shall be paid to the Treasurer of State, to be made available to the Commissioner of Sea and Shore Fisheries for the purpose of conducting research, development and propagation activities by that department. You state that there is a question as to balances on hand, whether they are to be carried over or should lapse to the general fund under the general statute.

I note in your memo that you will have, at the end of the fiscal year 1947-48, a balance of approximately \$7000 in this fund, and you ask my interpretation of the statute.

It is my opinion that it was the intent of the legislature that this balance should be carried over and not lapsed, because of the fact that it is to be used for research, development and propagation activities of your department; and if it were allowed to lapse, the purpose of the legislation would be defeated.

RALPH W. FARRIS

Attorney General

July 6, 1948

To John C. Burnham, Administrative Assistant  
Re: Amounts due Deceased Employee

Your memo of July 1st received, inquiring as to whether or not you can pay for vacation not used, to the estate of an employee who has recently died.

Vacation is not a matter of right, but a matter of privilege or grant and is not considered pay after the employee has died.