

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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I am basing this assumption on the fact that taxi drivers do not receive the major portion of their salary from tips, without the necessity of determining whether the cab drivers are "service employees" as defined by subsection III C.

It is my opinion that taxicab drivers are not exempt from the term "employee" and therefore must be paid the minimum wage of \$1.00 per hour as determined under subsection V, section 132-B. There are distinguishing aspects between driving busses and trucks, and the job of a cab driver. The cab owner has complete control of the operation of his cabs. The municipality generally regulates where cabs may park and discharge passengers. I do not believe a taxi or a taxicab stand is a business or service establishment as set out in subsection III - I. An establishment is defined by Webster as "The place where one is permanently fixed for residence or business; residence including grounds, furniture equipage, retinue, etc., with which one is fitted out; also, an institution or place of business, with its fixtures and organized staff, . . ."

The term "business" has been defined by our courts as that which occupies the time, attention, and labor of men for the purposes of livelihood or profit. *State v. Brown* 135 Me. 39. The statute uses the term *business or service establishment* which has a different meaning than "using a place for business purposes" or "place of business."

In conclusion, I believe the statute must be changed in order to exempt taxicab drivers from the effect of the minimum wage law.

GEORGE A. WATHEN
Assistant Attorney General

December 29, 1959

To: S. F. Dorrance, Assistant Chief Division Animal Industry, Agriculture

Re: Damage to poultry

I have your request concerning the poultry damage which was claimed to have been done by fox.

Section 18 of Chapter 100 provides a procedure for making such claim and also authorizes the Commissioner of Agriculture or his agents to investigate and adjust the claim. Based on the information you have given me, I agree that there is not sufficient legal evidence to determine that these birds were killed by wild animals.

Section 18, Chapter 100 provides that the investigator must have evidence legally establishing the liability of the State. Therefore, I believe this evidence would have to be such that would satisfy your department in paying such a claim. It is difficult to give an opinion since this must be factual determination in which I will not attempt to interpose my thoughts regarding the facts. The facts must establish legal liability of the state, however.

GEORGE A. WATHEN
Assistant Attorney General