LABOR: ) The word "day" as used in Section 7815, Laws of 1913,
DAY: ) includes the 24-hour period from the time employee
WOMEN: ) starts to work.

July 13, 1944

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Honorable Orville S. Traylor
Commissioner
Labor and Industrial Inspection Department
Jefferson City, Missouri

Dear Mr. Traylor:

This is to acknowledge receipt of your letter of June 26, 1944, requesting the opinion of this Department. Your letter of request reads as follows:

> "The question has arisen in connection with the construction of the word 'day' as it appears in Section 10171, R. S. 1939. The following data has been submitted for consideration:
>
> "'The Company has recently hired a number of female employees in its operating departments which are operating on a rotating shift basis seven days per week. These employees normally work six eight-hour shifts per week, but once every six weeks it becomes necessary for an employee working the last shift in the work-day and also the last shift in the work-week to continue on and work the succeeding shift which is the first shift in the next work-day, also the first shift in the next work-week. The shift changes are arranged so that sixteen hours consecutive work is periodically necessary in order to carry out the rotating shift schedule. The question which we present is, therefore, whether the word 'day' used in Section 10171, means any 24 hour period or whether it means the regular work-day.

> "'Under the specific example pointed out above, the employees would work 16 consecutive hours but those hours would be divided equally between two different work-days. The first eight hours would be on the third shift of one day and the succeeding eight hours would be on the first shift of the next day. Each work-day commences at 7 A.M. and continues for 24 hours.'"

We have heretofore under date of October 19, 1943, and November 3, 1943, rendered you opinions as to the constitutionality of Section 10171, R. S. Mo. 1939, wherein we pointed out that said section is unconstitutional and that Section 7815, Laws of Missouri, 1913, page 400, now applies. We enclose herewith copies of these opinions.

No attempt will be made to inquire into the mechanics of the system of shifts outlined in your letter but reliance will be placed on the statement made that the female employees periodically work consecutive eight-hour shifts; the first falling at the end of the work day and work week; the second starting the first day of the new work week.

It is a well established principle of statutory construction that the primary rule is to ascertain and give effect to the lawmakers' intent and that this should be done from the words used, if possible, considering the language honestly and faithfully. City of St. Louis v. Senter Commission Company, 337 Mo. 238, 85 S. W. (2d) 21; Graves v. Purcell, 337 Mo. 574, 85 S. W. (2d) 543. We stated in the enclosed opinion dated November 3, 1943, that the obvious intention of the Legislature in enacting Section 7815, page 400, Laws of Missouri, 1913, was for the protection of the health of employed women; that employment in excess of nine hours during any one day, or 54 hours during any one week, would be injurious to their health, and so was declared by this statute to be unlawful. This statute must be construed to carry out the obvious intention of the Legislature.

The word "day" has been defined many times and in its ordinary sense includes a 24-hour period between midnight of one

day and the following midnight. C. J., page 976, paragraph 26, reads as follows:

> "While, as appears from the definition of the term 'day' elsewhere given, there are distinctions, according to the sense in which the term may be used, between natural, artificial, civil, solar, and astronomical days, it may be stated generally that, in the computation of the period of time measured in days and in the construction of the word 'day' as used in a contract, judicial proceeding, or statute, the law, as a general rule, adopts as the unit of measurement the calendar or natural day, that is, the period of 24 hours extending from midnight to midnight, and not a judicial day."

State v. Meagher, 101 S. W. 634, l. c. 635, 124 Mo. App. 333, defines the word in the following manner:

> "* * * Our statute does not define the day, but we must take it to mean what the term ordinarily signifies (Section 4160, R. S. 1899), that is, that it consists of 24 hours commencing and terminating at midnight."

In Williams v. Williams, 30 S. W. (2d) 69, l. c. 71, the Supreme Court said:

> "The natural or solar day consists of 24 hours , the space of time which elapses while the earth makes a complete revolution on its axis; as ordinarily construed, it is the space of time which elapses between two successive midnights."

The question presented in the opinion request is whether the day as used in Section 7815, supra, means 24 hours from midnight or whether it includes any 24-hour period. We believe that the only interpretation which could be placed upon this word, in order to carry out the Legislative intent, would

be that employment of a female longer than nine hours in any 24-hour period, starting from the hour of her employment, or for more than 54 hours during any one week, is prohibited, and a violation of said statute.

Respectfully submitted,

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Encs.