

tinuously, where eight hours fall in one day, measured from midnight to midnight, and the succeeding eight hours come within the next calendar day from midnight to midnight.

Section 3079 provides that "a period of eight hours shall constitute a day's work in all works, and undertaking carried on or aided by any municipal, county, or state government, etc." The legislature did not define "a day" as used in this section, that is whether it meant a day defined by Section 4281 as "the period of time between any midnight and the midnight following," being the so-called calendar day or a period of time consisting of any twenty-four hours.

In Section 3078, relating to the working of females, the legislature used the phrase "any day of twenty-four hours." In Section 3081, relating to railway employees the phrase "in any twenty-four hour" period is mentioned in Section 3068, relating to the hours of employment of hoisting engineers; in Sections 3069.1 and 3069.2, relating to the hours of work for drivers and attendants of motor-busses; in Section 3070, relating to the hours of employment of telephone operators.

In the absence of any language in the statute indicating that the legislature intended a day to be a calendar day, such construction should be given to the statute which is in harmony with other statutes and with the purpose and spirit of laws limiting the hours of work of employees. The purpose of such laws is related to the health, morals or welfare of the public (39 C. J. 56). This is no doubt one of the main objects of the law even where the state apart from considerations of the police power, acting in its inherent power, determines the number of hours which will constitute a day's labor for all those employed by or in behalf of the state or by contractors who contract with the state.

It is my opinion therefore that "a day" as used in Section 3079 means a period of time consisting of any twenty-fours and not calendar day from midnight to midnight and that such employment of a man continuously for sixteen hours, eight hours being in one calendar day and ending at midnight and eight hours in the next calendar day, is in violation of the law.

### Opinion No. 13

#### Labor, Hours of—Statutes, Construction.

HELD: The word "day" as used in Section 3079 does not mean calendar day, but any period of twenty-four hours.

Employment by contractor, holding contract with the State for highway construction, of man for sixteen hours continuously, eight hours falling in one calendar day and eight in the next calendar day is in violation of Section 3079.

January 7, 1937.

Mr. J. H. McAlear  
County Attorney  
Chester, Montana

Dear Mr. McAlear:

You have requested an opinion from this office on the question whether a contractor holding a contract for highway construction with the State of Montana may legally work a man for sixteen hours con-

You ask further if there would be a violation if the contractor laid the man off from twelve o'clock midnight to one o'clock A. M., and then worked him from one o'clock A. M., to nine o'clock A. M., on the second day. For the reasons given herein it is my opinion that such interval of one hour between shifts would not exonerate the employing contractor.