STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

If you will consult Section 8 of Chapter 37, R. S., which provides for the location of any school legally established prior to the 17th day of March, 1893, to continue unchanged, notwithstanding the district is abolished; but any town at its annual meeting, or at a meeting called for the purpose, may determine the number and location of its schools, you will find a provision that such discontinuance or change of location shall be made only on the written recommendation of the superintending school committee on conditions proper to preserve the rights and privileges of the inhabitants for whose benefit such schools were established; provided, however, that in case any school shall hereafter have too few scholars for its profitable maintenance, the superintending school committee may suspend the operation of such school for not more than 1 year, but shall not close such school for a longer period nor again thereafter suspend operation of such school unless so instructed by the town, etc., etc.

So, after the superintending school committee has suspended the operation of any school for more than one year, it cannot suspend operation again, unless instructed by the town at town meeting; and after the school has been suspended definitely by the superintending school committee, the responsibility for the closed school and the transfer of the property devolves upon the municipal officers of the town that owns the school building and land.

RALPH W FARRIS
Attorney General

August 11, 1949

To Marion E. Martin, Commissioner of Labor and Industry
Re: Reconciliation of Inconsistencies in Chapter 290, P. L. 1949

I received your memo of August 8th, stating that Section 7 of Chapter 290, P. L. 1949, provides a 50-hour week for production workers in certain establishments and that Section 6 which you describe as a limitation on the number of hours per day which women may work in the enumerated establishments, in the last sentence thereof states, ". . in no case shall the hours of labor exceed 10 hours in any 1 day or 54 hours in any 1 week." The contradiction, you state, is between the 54 and the 50 hour limitations on the hours which women may work, and on the foregoing statement of facts you ask the following questions:

"Are we justified in interpreting Section 6 in the light of Section 7 by saying that the 54-hour statement in Section 6 would not take precedence over Section 7?"

You then ask me to note that this section is more or less explanatory, and in answer I will say that I do not know what you mean by saying that Section 6 is more or less an explanatory note and not a major portion.

Section 22 of Chapter 25, R. S., permitted the 54 hours in any one week, and the amendment in Section 6, Chapter 290, P. L. 1949, does not change the old law which permits 9 hours in any one day and in no case shall the hours of labor exceed 10 hours in any one day or 54 hours in any one week.

Section 7 of Chapter 290, P. L. 1949, repeals Section 23 of Chapter 25, R. S., which regulated the hours of labor of children under 16 years of age and enacted in place thereof 50 hours a week in certain establishments for females. The new section reads as follows:

> "No female shall be employed as a production worker in any workshop, factory, manufacturing or mechanical establishment more than 50 hours in any 1 week."

That enactment does not nullify Section 22 of Chapter 25, R. S., as amended by Section 6 of Chapter 290, P. L. 1949. It is my opinion that it is incumbent upon the Commissioner of Labor to interpret the new Section 23 of Chapter 25, R. S., as to who are production workers in any workshop, factory, etc. It surely was not the intent of the legislature to change Section 22 in this regard and it did not do so. To further follow out the intent of the legislature, Section 8 repeals Section 24 of Chapter 25, R. S., and enacts the following in its place:

> "No female shall be employed in any mercantile establishment, beauty parlor, hotel, restaurant, dairy, bakery, laundry, dry cleaning establishment, telegraph office, in any telephone exchange employing more than 3 operators or by any express or transportation company in the state more than 54 hours in any 1 week." Etc., etc.

Then again in Section 9 of Chapter 290, P. L. 1949, two new sections are added, to be numbered 24-A and 24-B of Chapter 25, R. S. Section 24-B provides for the application of Sections 22-24 as follows:

> "A relaxation of the application of sections 22 to 24, inclusive, shall be made under the following conditions. Such relaxation shall be by written agreement between an employer and employee or her authorized representative, subject to the approval of such agreement by the commissioner; and provided further, that the relaxation shall be for not more than 15 days, singularly or consecutively, during the calendar year. The commissioner shall not approve such relaxation except on proof of necessity, extraordinary requirements or emergencies."

When you talked with me in my office, I had not had an opportunity to study the entire amendments made in Chapter 290, P. L. 1949, and did not realize, and you did not call my attention to the fact, that Section 24 had re-established a limitation of 54 hours a week for females in the places designated in said new Section 24, which is about the same as Section 22 authorizing females to be employed 54 hours in any one week. Therefore I shall have to rule that under Section 22 and Section 24 of Chapter 25, as amended, females can be employed up to 54 hours in any one week, and Section 23, as amended, relates to females employed as production workers, but it is my opinion that it was not the intention of the legislature to change the 54-hour limitation provided in said Sections 22 and 24 of Chapter 25, R. S., as amended, as this one section is repugnant to two other sections along the same line limiting the employment of females to 54 hours in any one week.

RALPH W. FARRIS
Attorney General