licient in amount to pay the monthly rentals under this lease for July, August and September, 1938. This is sufficient compliance with the provisions of Section 2288-2, General Code. This lease is accordingly approved by me and the same is herewith returned to you.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

2818.

HOURS OF EMPLOYMENT—FEMALES AND MINORS—SECTION 1008-2, GENERAL CODE, EXEMPTS FROM PROVISIONS OF SECTIONS 1008 ET SEQ., GENERAL CODE, WOMEN EMPLOYED IN SOCIAL WORK, HOUSEMOTHERS, MATRONS, SUPERVISORS, RECREATIONAL CASE AND GROUP WORKERS AND GOVERNESSES EMPLOYED BY INSTITUTIONS LICENSED BY THE DIVISION OF PUBLIC ASSISTANCE OF DEPARTMENT OF PUBLIC WELFARE.

SYLLABUS:

Section 1008-2, *General Code, exempts from the provisions of Sections* 1008, *et seq. regulating the hours of employment of females and minors, women who are employed in social work, which exemption includes housemothers, matrons, supervisors, recreational case and group workers and governesses employed by institutions licensed by the Division of Public Assistance of the Department of Public Welfare.*

COLUMBUS, OHIO, August 15, 1938.

Department of Industrial Relations, State Office Building Columbus, Ohio.

GENTLEMEN: Your letter of recent date is as follows:

> "Recently, there has been in my office, a committee representing institutions of Ohio, licensed by the Division of Public Assistance, department of Public Welfare, in reference to Section 1008-2, Amended Senate Bill No. 287. They expressed the impossibility of compliance with the above named Section, due to the enormous expenses of hir-

ing additional help; and also the inadvisability of placing more people in charge of inmates and children than were absolutely necessary. In other words, the lesser number of people in charge and handling the children and inmates, the more satisfactory results would be obtained.

I am, therefore, asking would it be possible for your department to give us a more liberal interpretation of Section 1008-2, Amended Senate Bill No. 287, governing those employees designated as engaged in social work.

Would it be possible for your department to rule the following named employes as coming under the classification of social workers: Housemothers, Matrons, Supervisors, Recreational Case and Group Workers and Governesses, because of the direct responsibility for the care, training and supervision of the institutional residents? We are asking that all the workers in the classifications just named be classed as Social Workers.

In reference to State Institutions working under the direction of the Department of Public Welfare, we feel the same applies to Attendants, Cottage Matrons, House mothers and Housekeepers. We are, therefore, making the same request with reference to them."

Section 1008-2 of the General Code, to which you refer, is one of the sections contained in Amended Senate Bill 287 of the 92nd General Assembly, being an act to regulate and limit the hours of labor of females and minors. Such section, after setting forth certain restrictions as to the employment of females and minors, excepts specific employments therein set forth in the third paragraph thereof from the provisions of such act. This paragraph reads as follows:

"Nothing in this section or any other provisions of this act shall apply to the employment of females in agricultural field occupations or in domestic service in private homes or to the employment of females by a telephone company during periods of emergency caused by fire, flood, epidemic, or other public disaster or to the work of females over twenty-one years of age earning at least thirty-five dollars a week in bona fide executive positions, where real supervision and managerial authority are exercised with duties and discretion entirely different from that of regular salaried employes or to the employment of women in the professions of medicine, law, teaching and social work or to the

> employment of females over 21 years of age in mercantile establishments and telephone companies except in cities of 5000 population and over; or to the work of professional employes in hospitals, such as graduate and student nurses, anesthetists, technicians, graduate and student dietitians and internes."

In a determination of your first question, it should be observed that all employes of institutions licensed by the Division of Public Assistance of the Department of Public Welfare could not be classified as engaged in social work. This observation would be particularly true, for instance, as to cooks, dishwashers, laundresses and other employes doing similar work about the institutions. In your communication, however, you refer to housemothers, matrons, supervisors, recreational case and group workers and governesses employed by such institutions having direct responsibility for the care, training and supervision of institutional residents. As to this class of employes, the conclusion would seem inescapable that they are engaged in carrying out a most essential function of one of the purposes for which the Division of Public Assistance was established and under such circumstances I have little difficulty in concluding that such employes are engaged in "social work" within the meaning of the term as used in Section 1008-2, supra, exempting from the provisions of the act "the employment of women in the professions of * * social work."

Before concluding the consideration of your first question, it should be noted that the exemption following the semi-colon in the foregoing paragraph is limited in the case of hospitals to "professional employes." It might be contended that since nurses, anesthetists, technicians, dietitians and internes perform duties under the control and supervision of members of the medical profession, therefore, the earlier exemption of the employment of women in the profession of medicine does not include employes of practitioners of medicine, but only those engaged in the practice of this profession. By the same token under such reasoning, it would be necessary to hold that the only women exempt from the provisions of the act are those engaged in the practice of medicine, law and social work, presumably in a professional rather than an employe capacity. Such construction, however, would in my judgment, be entirely reading out of the section the term "employment" wherein it is the employment of women in these professions which is exempt.

Customarily, at least, those engaged in the independent practice of the professions of law and medicine are not employed within the meaning of the term as used in this act. The conclusion would seem

to be inescapable that the General Assembly has seen fit to exempt all female employes in the specified professions, but after having done so, has narrowed the exemption in the case of hospitals to certain professional employes of the classes therein enumerated.

In specific answer to your first question, it is my opinion that Section 1008-2, General Code, exempts from the provisions of Sections 1008, et seq. regulating the hours of employment of females and minors, women who are employed in social work, which exemption includes housemothers, matrons, supervisors, recreational case and group workers and governesses employed by institutions licensed by the Division of Public Assistance of the Department of Public Welfare, because of their direct responsibility for the care, training and supervision of institutional residents.

In your second question you inquire as to whether or not certain employes of state institutions come within the exception of Section 1008-2, General Code, herein above discussed. It is not necessary to redetermine this question in view of my opinion No. 1431 rendered November 4, 1937, the second branch of the syllabus reading as follows:

> "There being no special provision in Sections 1008 to 1008-11, inclusive, and Section 12996, and sections which must be construed in pari materia therewith, relating to the hours of employment of females and minors, making such employees of the State of Ohio amenable to said provisions of law, females and minors so employed are not amenable to said provisions of the Code on the principle that the state is not bound by the terms of a general statute unless it be so expressly provided."

The foregoing opinion is dispositive of your second question and you are accordingly advised that employes of state institutions to which you refer are not included within the provisions of the act here under consideration.

Respectfully,
HERBERT S. DUFFY,
Attorney General.