

Notwithstanding this limitation, it is the opinion of this department that the state law, though intended to apply to women only, does so conflict with the intention of congress as manifested through its legislation as to make it impossible for the two to operate together in the same field. This is so because it is clear that congress contemplated all employes both male and female in the scope of its legislation, and because section 8678 of the United States Compiled Statutes not only contains negative language, but also, and by way of exception, certain affirmative and permissive language. The following may be quoted:

"No operator * * * shall be required or permitted to be or remain on duty for a longer period than nine hours in any twenty-four hour period * * * in all * * * places * * * continuously operated night and day, nor for a longer period than thirteen hours in all * * * places * * * operated only during the day time, except in case of emergency, when the employes named in this proviso may be permitted to be and remain on duty for four additional hours in a twenty-four hour period on not exceeding three days in any week."

It is impossible to reconcile this language with section 1008 of the General Code which provides in part that:

"Females over eighteen years of age shall not be employed * * * in connection with any * * * telegraph office, * * * or in the distributing or transmission of messages * * * more than nine hours in any one day except Saturday * * * or more than six days, or more than fifty hours in any one week. * * *"

There is no emergency clause and no permissive language of the kind found in the Federal Act. The conclusion is therefore reached that section 1008 of the General Code and other similar state laws do not apply to the employment of females as telegraph operators on interstate railroads.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3393.

APPROVAL, BONDS OF CITY OF WELLSTON, \$15,000, FOR STREET IMPROVEMENTS.

COLUMBUS, OHIO, July 24, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.