

the Lincoln Highway, that fact operates to exclude it from being treated as part of the Jennings road; for there is nothing in the statutes to indicate that the same municipal street may not be treated for improvement purposes as a continuation of two different roads.

You are therefore advised in specific answer to your inquiry that your county commissioners by virtue of section 6954 G. C. may, upon obtaining the consent of the municipal council, make repairs on Main street and pay for them out of the county road repair fund.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

3391.

COUNTY TREASURER—POWER TO DETERMINE WHEN HE IS OBLIGED TO WITHDRAW PORTION OR ALL OF DEPOSITS IN INACTIVE DEPOSITARIES AND PLACE SAME IN ACTIVE DEPOSITARIES.

*The county treasurer has the power of determining in the first instance when he is obliged to withdraw a portion or all of the deposits in the inactive depositaries and place them in the active depositaries for the purpose of meeting the current expenses of the county, and in the absence of fraud or bad faith his decision will not be disturbed.*

COLUMBUS, OHIO, July 24, 1922.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date relating to the county depositary law (sections 2715 et seq. G. C.), was duly received.

The question, as I understand it, is whether or not the county commissioners, after having designated the active and inactive depositaries of county funds and awarded to them the use of county funds, may place a limitation on the amount of funds which the county treasurer may withdraw from the inactive depositaries and place in the active depositaries for current use? The answer to this question, it seems to me, is to be found in section 2715-1 G. C., which, among other things, provides that

“The deposits in active depositaries, as provided for in the next preceding section, shall at all times be subject to draft for the purpose of meeting the current expenses of the county. The deposits in inactive depositaries shall remain until such time as the county treasurer is obliged to withdraw a portion or all of same and place it in the active depositary or depositaries for current use.”

The provision of the section just quoted, in my opinion, vests in the county treasurer the power of determining in the first instance when he is obliged to withdraw a portion or all of the deposits in the inactive depositaries and place them in the active depositaries for current use, and in the absence of fraud or bad faith, his decision in the matter will not be disturbed.

While it is true the county commissioners, under the county depositary act, are clothed with the power of designating the active and inactive depositaries, yet the power of determining in the first instance the necessity, from time to time, of withdrawing funds from the inactive depositaries and placing them in the active depos-

itaries, so as to be at all times subject to draft for the purpose of meeting the current expenses of the county, has not been confided in the commissioners, but rather in the county treasurer.

The only statutory limitation in the depository act upon the amount that may be deposited in any depository, is that to be found in the last sentence of section 2715 G. C., but since it does not appear in your letter that the amount which the treasurer wishes to transfer to the active depository is in excess of the prescribed limitation, it will be assumed that the limitation prescribed by section 2715 G. C. is not involved.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

3392.

WORK HOURS OF FEMALES—SECTION 1008 G. C. DOES NOT APPLY  
TO EMPLOYMENT OF FEMALES AS TELEGRAPH OPERATORS  
ON INTERSTATE RAILROAD.

*Section 1008 of the General Code and other similar state laws do not apply to the employment of females as telegraph operators on interstate railroad.*

COLUMBUS, OHIO, July 24, 1922.

HON. PERCY TETLOW, *Director, Department of Industrial Relations, Columbus, Ohio.*

GENTLEMEN:—This department acknowledges receipt of your letter transmitting correspondence between the General Superintendent of the Southwest District of the Baltimore and Ohio Railroad Company and the Chief of the Division of Factory Inspection of the Department of Industrial Relations in which the question is raised as to the application of the law of the State of Ohio relative to the hours of labor of females in industry to female employes of an interstate railroad company engaged in the transmission and receipt of telegraphic messages in connection with the movement of trains.

It will not be necessary to quote any statutes, but is sufficient to state that the Ohio legislation in question limits the hours of labor per day and per week respectively of females employed on work of this character; and that the congress of the United States has passed a law which has been in effect for several years regulating the hours of labor of employes of interstate railroads engaged in this same work. See sections 8677 and 8678 Compiled Statutes of the United States which make it plain that telegraph operators are included within the scope of the Federal Act. The hours mentioned in the Federal Act are more liberal from the standpoint of an employer than those mentioned in the State Act, so that if it is possible for both laws to be in effect at the same time, the employment of a person for a given number of hours might be a violation of the state law without being in violation of the federal law. It should also be stated that while the federal law does not directly regulate the hours of labor per week as does the state law, there is a provision in section 8678 of the Compiled Statutes of the United States regulating the number of days overtime service in any one week.

There is also in another federal law, section 8688 Compiled Statutes of the United States, a provision fixing eight hours as the standard day's work for the purpose of interpretation of contracts of labor and for the purpose of reckoning the compensation for service of employes of common carriers by railroads in interstate commerce.