Honorable John D. Reed, Commissioner
Bureau of Labor Statistics
Austin, Texas

Dear Sir:

Opinion No. O-4911


Your recent letter addressed to this department requesting our opinion reads in part as follows:

"In order that this Department might take proper action on a matter now pending, will you please advise me whether or not female employees of the U. S. Post Offices come within the provisions of Article 1569 through Article 1572, P.O., commonly referred to as our Nine, Fifty-four Hour Law.

"The female employees in question are employed as clerks, and their duties are primarily to separate and route mail.

"..."

In the United States Supreme Court case of Erie Railroad v. New York, 333 U. S. 671, 58 L. Ed. 1149, 34 S. Ct. 756 (1914) the court stated:

"... Indeed, when Congress acts in such a way as to manifest its purpose to exercise its constitutional authority, the regulating power of the state ceases to exist. ..."

Title 39 of the United States Code regulates in detail the employment and hours of service of postal employees. Sections 117, 613 and 629 of said Title 39 regulate specifically the types of employment referred to in your letter.
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Obviously Congress has acted in such a way as to manifest its purpose to exercise its constitutional authority in regulating the hours of service of female employees in the postal service. You are therefore respectfully advised that female employees of the United States Post Offices do not come within the provisions of Article 1569 through Article 1572 of the Penal Code of Texas.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By C. G. Pharr

Assistant

EOP: mp

APPROVED OCT 15, 1942

Gerald C. Moore

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE

BY

CHAIRMAN