

6048

TIME, UNIFORM—TO OPEN AND CLOSE VARIOUS COUNTY OFFICES—COUNTY COMMISSIONERS HAVE NO AUTHORITY TO FIX SUCH TIME.

SYLLABUS:

County commissioners of a county have no authority to fix a uniform time for the opening and closing of the various county offices.

Columbus, Ohio, May 1, 1943.

Hon. Charles Varner, Prosecuting Attorney,
Ottawa, Ohio.

Dear Sir:

This will acknowledge receipt of your communication requesting my opinion, reading as follows:

“As there is no uniform hours set for the county officers to open and close their respective offices in Putnam County, may I inquire whether the county commissioners have authority to fix uniform time for the opening and closing of the various county offices?”

The powers and duties of the several county officers, including the county commissioners, are prescribed by the statutes of Ohio. The proposition that the powers of county officers are only those that are expressly provided by statute or necessarily implied therefrom, is so fundamental and well understood that it hardly needs citation of authority.

All county officers are, by the terms of Section 1 of Article XVII, Constitution of Ohio, to be chosen by election. It follows that having been chosen by the same authority, viz., the electors, and having only such powers as the Legislature has granted, none of these county officers could have any control over the conduct of any other officer except to the extent that the Legislature may have provided. Except as so limited, each office is an independent agency of the state government. I find in the statutes of Ohio no authority whatever whereby county commissioners would have the right to fix the time at which other county officers should open or close their offices.

It is true that by virtue of the statute the duty of providing offices for the various county officers is devolved upon the county commissioners.

Section 2419, General Code, reads as follows:

“A court house, jail, public comfort station, offices for county officers and an infirmary shall be provided by the commissioners when in their judgment they or any of them are needed. Such buildings and offices shall be of such style, dimensions and expense as the commissioners determine. They shall also provide all the equipment, stationery and postage, as the county commissioners may deem necessary for the proper and convenient conduct of such offices, and such facilities as will result in expeditious and economical administration of the said county offices. They shall provide all rooms, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein.”

Generally speaking, the county commissioners have full control over the court house and other public buildings of the county including their maintenance and repair. In the case of *Dittrick v. Barr*, 22 O. L. R. 289, decided by the Court of Appeals of Cuyahoga County, it was held:

“While the county commissioners have by law the general control and custody of the court house, their authority does not extend to interference with the occupation by the courts of rooms originally designated for the administration of justice by the building commission which erected the court house, when it is manifest that the occupation of said rooms is necessary to enable the courts to properly function and administer justice in an efficient manner; and where the county commissioners undertake to deprive the courts of rooms so located and required for the proper conduct of their work, and designate such rooms for the use and occupancy of a state bureau, injunction lies against such interference.”

The court in its opinion said:

“That the board of county commissioners, under the law, have control and custody of the court house itself as well as other public buildings of the county, there can be no question, because by virtue of their office the care and maintenance of public property within its jurisdiction is lodged in that body; but in order to grant the relief prayed for by plaintiffs, it must appear by the authority of law, express or implied, that the board has the authority to prohibit the common pleas courts from the use of the aforesaid rooms, when it is conceded that there is a necessity for the use and occupancy of said rooms, in order that the court may properly function, and that public justice may be efficiently administered.”

A like exception in favor of the courts was recognized in *State ex rel. v. Babst*, 97 O. S. 64, and *Zangerle v. Common Pleas Court*, 141 O. S. 70.

Conceding, however, that the county commissioners have full control and custody of the court house with the exception above indicated, it does not at all follow that they have control over the conduct of the various officers whom the people have elected to perform the functions prescribed by the law.

In connection herewith, however, your attention is called to the recent amendment by the General Assembly of Section 5979, General Code, providing a standard time for the state of Ohio. Said section, as so amended, became effective February 17, 1943, and reads as follows:

“The standard time throughout this state shall be the mean astronomical time of the seventy-fifth degree of longitude west from Greenwich. Courts, public offices and official legal proceedings subject to the laws of this state shall be regulated thereby. Whenever the time of performance of any act, or the time of accrual or determination of any rights, is fixed or governed by the statutes of this state or by any resolutions, rules, regulations or orders in effect under the authority thereof, such time shall be the standard time provided in this act.

All clocks maintained in or upon public buildings, existing as such under the laws of this state, shall be set and run according to the provisions of this act.”

Since the above section in express terms provides that courts and public offices shall be regulated by the standard of time fixed therein, it would follow that all official acts of county officers must be performed in accordance therewith, and inasmuch as the custody of the court house is placed by law in the county commissioners, it is their duty to see that all clocks in the court house are set and run in accordance with the standard of time prescribed by the above section. From this it does not follow, however, that the various county officers are without discretion with respect to the time of opening and closing their respective offices so long as the standard of time adopted by them is in conformity with the above statute.

Specifically answering your question, it is my opinion that the county commissioners have no authority to fix a uniform time for the opening and closing of the various county offices.

Respectfully,

THOMAS J. HERBERT,
Attorney General.