

This rule is recognized by all courts and all authorities as being the guiding star in the interpretation of statutes. Applying that rule to the question before us, we find the definite language of the Legislature that the Industrial Commission has the sole power to select the employees necessary to assist it in the administration of the Workmen's Compensation Law, and that this power shall be exercised "when this act takes effect, and from time to time thereafter".

At no place in the Act, as contained in House Bill No. 110, do we find language which would tend to indicate that the Legislature intended that any of the present employees of the Department of Industrial Relations should be transferred to and become employees of the Industrial Commission of Ohio. As above stated, when the Industrial Commission is making the appointments provided for, they must be made in compliance with the provisions of the Civil Service Law of Ohio because nowhere in said Act can we find any language indicating that the Civil Service Law may be ignored, nor is any intent expressed therein that any provision of said law would be repealed.

The present employees of the Department of Industrial Relations will remain in the employ of that department so long as their services are required to carry out the remaining duties of that department.

Therefore, in specific answer to your inquiry, it is my opinion that

1. On May 16th, 1934, the Industrial Commission of Ohio will have power to appoint all the necessary employees as provided for in House Bill No. 110 of the Second Special Session of the 90th General Assembly, subject to the provisions of the Civil Service Law of the State of Ohio, as it may find necessary to carry on the work of administering the Workmen's Compensation Law.

2. The employees now in the employ of the Department of Industrial Relations will remain employees of that department so long as it has use for their services.

3. There is no provision in said House Bill No. 110 whereby any of the present employees of the Department of Industrial Relations are to be transferred to the Industrial Commission of Ohio.

Very truly yours,

JOHN W. BRICKER,

Attorney General.

2654.

COUNTY HOME—SUPERINTENDENT AUTHORIZED TO EMPLOY OR DISCHARGE EMPLOYEES—COUNTY COMMISSIONERS MAY FIX WAGES.

SYLLABUS:

1. *It is not within the power of the board of county commissioners to provide by rule that the superintendent of the county home shall not employ or discharge the employes without the consent of the county commissioners. The statute reposes in the superintendent of the county home power to employ such labor from time to time as may be needed.*

2. *A board of county commissioners is empowered by statute to fix the rate of wages to be paid to employes in and about the county home and this may be done by resolution of the board of commissioners even though the board had previously appropriated a lump sum for the payment of such employes without designating at the time of the appropriation the rate to be paid the different classes of employes.*

COLUMBUS, OHIO, May 12, 1934.

HON. NORMAN L. McLEAN, *Prosecuting Attorney, Fayette County, Washington C. H., Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“The Board of County Commissioners of Fayette County, Ohio, has requested that I obtain your opinion upon the following:

Under Section 2522 of the General Code the Board of Commissioners have adopted rules and regulations for the county infirmary. One of the rules provides as follows: ‘The Superintendent shall be instructed by the Board of County Commissioners, from time to time, as to the manner in which the affairs of the County Home and the county farm are to be conducted, and all employees and inmates at the said institution shall obey the commands of the Superintendent in such matters and shall be under his control. No one shall be employed or discharged except by consent and the approval of the County Commissioners and their salaries shall be fixed by the County Commissioners. Also, no contracts of any kind shall be made without their approval and consent.’

The Board appropriated a lump sum for salaries of employees in the budget for this year without designating the salary that any one class of help should receive.

Can the Board of County Commissioners provide as given in the above rule that the Superintendent shall not employ or discharge employes without the consent of the County Commissioners? Can the Board of County Commissioners now provide what salary each class of employees shall receive by resolution?”

Section 2522, General Code, which relates to the powers and duties of county commissioners relative to the county home, provides inter alia:

“The superintendent may employ a matron and such labor from time to time, at rates of wages to be fixed by the county commissioners, as may not be found available on the part of the inmates of the institution.”

The above provision is the only provision of law, to my knowledge, touching upon the question involved in your inquiry. The language of the statute is clear and subject to but one interpretation. It clearly states that the superintendent of the county home shall employ the labor and that the rates of wages shall be fixed by the county commissioners. What the legislature has provided in clear and explicit language such as in this statute, the county commissioners can not change by rule.

The fact that the commissioners appropriated a lump sum for salaries of employees without designating in this appropriation the salary of any particular class of employes in the county home does not prevent the commissioners from later providing by resolution the rate of pay of different classes of employes within the appropriation.

I am therefore of the opinion in specific answer to your questions that:

1. It is not within the power of the board of county commissioners to provide by rule that the superintendent of the county home shall not employ or discharge the employes without the consent of the county commissioners. The statute reposes in the superintendent of the county home power to employ such labor from time to time as may be needed.

2. A board of county commissioners is empowered by statute to fix the rate of wages to be paid to employes in and about the county home and this may be done by resolution of the board of commissioners even though the board had previously appropriated a lump sum for the payment of such employes without designating at the time of the appropriation the rate to be paid the different classes of employes. •

Respectfully,

JOHN W. BRICKER,
Attorney General.

2655.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED, CONTRACT ENCUMBRANCE RECORD NO. 14, CONTROLLING BOARD CERTIFICATE AND CERTIFIED COPY OF CONSERVATION COUNCIL PROCEEDINGS RELATING TO THE PROPOSED PURCHASE OF A PARCEL OF LAND IN ST. MARYS TOWNSHIP, AUGLAIZE COUNTY, OHIO.

COLUMBUS, OHIO, May 12, 1934.

HON. WILLIAM H. REINHART, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, contract encumbrance record No. 14, Controlling Board certificate and a certified copy of certain proceedings of the Conservation Council, all relating to the proposed purchase by the State of Ohio for the use of your Department of a parcel of land situated in St. Marys Township, Auglaize County, Ohio, and being a part of the northeast quarter of section 17, town 6 south, range 4 east. This parcel of land is more particularly described by metes and bounds as follows:

Beginning at an iron post in the northwest corner of lands of said Priscilla and Belva Marshall in said Section, thence easterly along the northerly line thereof, Twenty and six tenths (20.6) feet to an iron stake; thence southerly parallel with and twenty (20) feet distant easterly from the westerly line of said lands about Four Hundred and Fifty (450) feet, more or less to the water line of the Canal Feeder, so-called: thence