

OPINION 65-217**Syllabus:**

1. The General Assembly has left to the discretion of each state officer the determination whether his office will be closed on the legal holiday designated by Section 5.21, Revised Code, as Columbus Day and during the time designated a legal holiday by Section 5.20, Revised Code.

2. Columbus Day should be observed on the succeeding Monday if it should fall on Sunday and should not be observed on the preceding Friday if it should fall on Saturday.

To: Wayne Ward, Director of State Personnel, Columbus, Ohio
By: William B. Saxbe, Attorney General, December 2, 1965

I have your request for my opinion which reads in part:

"The 106th General Assembly of Ohio enacted legislation which provided uniform holiday benefits for State and County employees. Holidays for State Employees are covered by House Bill No. 937 and those for County employees by House Bill No. 70. Certain questions have arisen concerning the relationship between this legislation and certain previously enacted sections of the Revised Code. Your opinion is respectfully requested in clarifying this relationship.

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"The recently enacted legislation provides that holidays falling on Sunday are to be observed on Monday and those falling on Saturday are to be observed on Friday. Sections 1.14 and 5.21 provide for Monday observance of holidays occurring on Sunday but make no mention of Friday observance for Saturday holidays.

"My questions are as follows:

"1. Are State or County offices required to be closed on Columbus Day or that portion of Election Day cited in Section 5.20?

"2. If the offices are required to be closed, is a State or County employee entitled to be paid for such time?

"3. If Columbus Day is to be observed as a holiday, is it to be observed on Monday when October 12 is Sunday and on Friday if October 12 is Saturday?

"Are State or County offices required to be closed on Friday when any of the holidays enumerated by House Bill No. 937 or House Bill No. 70 occurs on a Saturday?"

I will consider your questions in the order propounded.

1. Amended Substitute House Bill No. 70 and Amended House Bill No. 937, as enacted by the 106th General Assembly, referred to in your request do not provide for the closing of either county or state offices. In Opinion No. 3480, Opinions of the Attorney General for 1954, page 32, the then Attorney General considered the question when county offices are required to be open, wherein he stated at pages 33 and 34:

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"I turn, therefore, to the question of the authority of a separately elected county officer such as the county treasurer to close his office all day Saturday. In this connection, I find no statute directing that a particular county office remain open during certain days or certain hours.

"The obligation to keep public offices open for reasonable periods during each week must be found in the implications that arise from the laws which create such offices, provide for the election or appointment of officers, clerks and other employes, and authorize the erection of office buildings to house the various departments of government. There is in all of these laws a plain legal intent that public business is to be carried on, and that the general public may go to these offices to transact the business which concerns them, and which, in some cases, the law enjoins on them.

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"It would seem, therefore, that the General Assembly has left to the sound discretion of each individually elected county officer the determination of the hours during which his office should be kept open for the transaction of business, recognizing, as must be the case, his duty to keep it open for such reasonable periods of time as would facilitate the complete transaction of business required therein, or to be answerable to the public who will speak by their ballots. * * *

" * * * * * * * *"

I find no law enacted since Opinion No. 3480, supra, which would change the conclusion arrived at therein. The reason advanced in that opinion for allowing a county officer discretion to decide when his office will be open are equally persuasive that a county officer has the same discretion to decide when his office will be closed. See Opinion No. 65-106, Opinions of the Attorney General for 1965. It is my opinion that the General Assembly has left to the discretion of each county officer the determination whether his office will be closed on the legal holiday designated by Section 5.21, Revised Code, as Columbus day and during the time designated a legal holiday by Section 5.20, Revised Code. Opinion No. 3480, supra, is equally persuasive that a state officer has the same discretion to decide when his office will be open and closed. Therefore, it is my opinion that the General Assembly has left to the discretion of each county and state officer the determination whether his office will be closed on the legal holiday designated by Section 5.21, Revised Code, as Columbus Day and during the time designated a legal holiday by Section 5.20, Revised Code.

2. Answer to question number two is obviated by my answer to question number one.

3. Section 5.21, Revised Code, provides, in part:

" * * * * * * * *"

"The twelfth day of October of each year shall be known as 'Columbus day' and is a legal holiday. If said day falls on Sunday, the following Monday shall be the legal Columbus day holiday.

"The eleventh day of November shall be known as 'Veterans' Day' and is a legal holiday. If said day falls on Sunday, the following Monday shall be the legal Veterans' holiday."

The amendments to Sections 143.12 and 325.19, Revised Code, to which you refer in your request, provide that the holidays enumerated therein shall be observed on the preceding Friday if they should fall on Saturday and shall be observed on the succeeding Monday if they should fall on Sunday. I note that the eleventh day of November, which is provided for in Section 5.21, Revised Code, together with Columbus day, is included in the holidays enumerated in Sections 143.12 and 325.19, Revised

Code, as amended, whereas Columbus day is not so enumerated. Inasmuch as Columbus day and the eleventh day of November are both included and treated the same in Section 5.21, Revised Code, and only the eleventh day of November is included in Amended Substitute House Bill No. 70 and Amended House Bill No. 937 for the different treatment provided therein, it is clear that the legislature did not intend that Columbus day be observed on the preceding Friday if it falls on Saturday. Accordingly, it is my opinion that Columbus day should be observed on the succeeding Monday if it should fall on Sunday and should not be observed on the preceding Friday if it should fall on Saturday.

4. My answer to question number one answers question number four.