2. Docket fees of all Justices of the Peace shall be uniform at the end of 1958, at which time the terms of office of the incumbent Justices of the Peace shall expire.

Until that time, in all townships having a population according to the last preceding United States census of not more than twenty thousand, docket fees as provided in Burns’ (1957 Supp.), Sections 5-1721 and 5-1722, supra, are now in full force and effect, except in any township where there are now serving more than two duly elected or appointed Justices of the Peace, and duly elected or appointed Constables serving such Justices of the Peace. In those townships, the system of fees remains the same as it was prior to the passage of this Act.

OFFICIAL OPINION NO. 35
September 5, 1957

The Honorable Kenneth J. Brown, Jr.
State Senator for Delaware County
1517 North Tillotson Avenue
Muncie, Indiana

Dear Senator Brown:

In your letter of August 2, 1957, you request an Official Opinion on the following question:

"Does the Board of County Commissioners have the authority to legally enter into a contract with a private ambulance service to furnish emergency ambulance service for the residents of Delaware County outside the City of Muncie, Indiana?"

Both the Indiana Supreme Court and the Indiana Appellate Court have held that the Board of County Commissioners can exercise only statutory powers and cannot make any contract or impose any obligation without statutory authority expressed or implied.

State v. Goldthait (1909), 172 Ind. 210, 87 N. E. 133;
Wallace v. Board of Comrs. of Shelby County (1909), 46 Ind. App. 695, 92 N. E. 230;
Any contract made by the Board of County Commissioners without the authority of law would be void. A search of the statutes fails to reveal any express or implied authority for the County Commissioners to maintain or purchase ambulance service for the residents of the County, other than the Acts of 1955, Ch. 79, Secs. 1 and 2, as found in Burns' (1957 Supp.), Sections 26-648 and 26-649, which Sections read as follows:

“For the purpose of this act the following term shall have the following meaning: A ‘mobile first-aid unit’ shall mean any unit, mounted on wheels and propelled by motive power of any kind, which unit is designed and equipped with facilities to furnish first-aid treatment to persons who are ill or who have been injured, and which may also be used for the transportation of such persons.”

“The board of county commissioners of any county is hereby authorized to furnish financial assistance to any city, located in such county, for the purpose of defraying part of the cost of the maintenance and operation of a mobile first-aid unit which is owned and operated by such city: Provided, however, That the amount of the financial assistance shall not be more than fifty [50] percent of the total cost of the operation and maintenance of such unit per year. The amount of the financial assistance allowed by the board of county commissioners shall be appropriated by the county council of such county from the general fund of the county.”

Our conclusion is, therefore, that your question should be answered in the negative as the statutory language does not provide for or imply that the County Commissioners would have authority to contract for ambulance service with a private concern.