

OPINION 66-107**Syllabus:**

Pursuant to Section 1901.12, supra, a municipal court judge is entitled to thirty working days annual vacation.

To: Robert G. Rawson, Washington County Pros. Atty., Marietta, Ohio
By: William B. Saxbe, Attorney General, June 16, 1966

Your request for my opinion reads as follows:

"I have been requested by the City Solicitor of Marietta, Ohio to obtain your opinion upon the following question, which request reads as follows:

"'Section 1901.12 of the Ohio Revised Code provides for the vacation period of Judges of the Municipal Courts in Ohio. The first sentence in this Code Section reads as follows:

"'A Municipal Judge is entitled to thirty days vacation in each calendar year."

"'Because of the uncertainty as to whether the thirty day vacation period refers to thirty working days or thirty consecutive days, would you please secure an opinion from the Attorney General of the State of Ohio in regard to the interpretation of this provision.'"

Section 1901.12, Revised Code, prescribes the vacation period for a municipal judge in the following language:

"A municipal judge is entitled to thirty days vacation in each calendar

year. Not less than two hundred forty days of open session of the municipal court shall be held by each judge during the year, unless all business of the court is disposed of sooner.

" * * * * * " * * * * "

Examples of terms that have been used in prescribing vacation time for other positions are "calendar weeks" for county employees in Section 325.19, Revised Code; "hours" for state employees in Section 121.161, Revised Code; and "working day" for state employees in former Section 121.16, Revised Code. While a municipal judge is not an "employee" the terms employed in these other provisions are at least relevant to demonstrate the different terms the legislature has used in describing vacation periods. Your attention is directed to the fact that the same word is used in the prescription of both vacation time and the minimum time a judge may hold a court in open session. "Two hundred forty days of open session" could not be presumed to mean that number of consecutive days. Similarly, "Thirty days" should not be interpreted as meaning thirty consecutive days. The word "days" should have the same meaning in both contexts. Therefore, the "thirty days vacation" refers to thirty days on which the judge might normally have held the court in open session, and these would not necessarily be consecutive days. It is my opinion that in drafting Section 1901.12, supra, the legislature intended to reflect the normal exercise of discretion by municipal judges to not hold open session of municipal court on Saturday afternoons and Sundays except for special circumstances.

Therefore, it is my opinion that pursuant to Section 1901.12, supra, a municipal court judge is entitled to thirty working days annual vacation.