

Note from the Attorney General's Office:

1969 Op. Att'y Gen. No. 69-031 was overruled in part by
1995 Op. Att'y Gen. No. 95-013.

OPINION NO. 69-031**Syllabus:**

Under Subsection (C), Section 4, Article IV, Ohio Constitution, the judge who is elected to the office of judge of the court of common pleas shall make appointments pursuant to Section 2301.18, Revised Code, and Section 5901.02, Revised Code.

To: H. Michael Moser, Auglaize County Pros. Atty., Wapakoneta, Ohio
By: Paul W. Brown, Attorney General, March 14, 1969

The letter of your predecessor requesting my opinion states that there is one probate judge and one judge of the court of common pleas in Auglaize County, and that it is your understanding that both of these judges will be court of common pleas judges under Subsection (C), Section 4, Article IV, Ohio Constitution.

You refer to Section 2301.18, Revised Code, which states that the court of common pleas shall appoint a stenographic reporter as official shorthand reporter for such court. You also refer to Section 5901.02, Revised Code, which states that the county soldier's relief commission shall be composed of five persons appointed by a judge of the court of common pleas.

Your question is which one of the judges, the probate judge or the judge of the court of common pleas, is to make appointments under Section 2301.18, supra, and Section 5901.02, supra, in light of the foregoing Constitutional provision.

Your understanding of Subsection (C), Section 4, Article IV, supra, is correct. Unless otherwise provided by law, all judges of the probate courts will become judges of the courts of common pleas under this provision.

However, any appointments heretofore made by a judge of the court of common pleas under Section 2301.18, supra, and Section 5901.02, supra, are to be continued to be made by the judge elected to the office of judge of the court of common pleas. While it is true that judges of the probate courts will become judges of the courts of common pleas, such judges of the probate courts are to be elected specifically to the probate bench, and have the power "to employ and control the clerks, employees, deputies and referees of such probate division of the common pleas courts." Subsection (C), Section 4, Article IV, supra.

It is clear that, under this provision, the probate judge is to make appointments connected with the probate division of the court of common pleas, while the common pleas judge is to make appointments connected with that court.

In conclusion, it is my opinion and you are hereby advised that under Subsection (C), Section 4, Article IV, Ohio Constitution, the judge who is elected to the office of judge of the court of common pleas shall make appointments pursuant to Section 2301.18, Revised Code, and Section 5901.02, Revised Code.