

**OPINION NO. 65-127****Syllabus:**

A county court judge is not entitled to compensation for the appointment of a trustee under Section 2329.70 of the Ohio Revised Code. Opinion No. 2375, Opinions of the Attorney General for 1958, page 440, is no longer applicable under the current statute.

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**To: John D. Sears, Jr., Crawford County Pros. Atty., Bucyrus, Ohio**  
**By: William B. Saxbe, Attorney General, July 13, 1965**

I have before me your request for my opinion which reads as follows:

"I have been requested to obtain your opinion to the following question:

"Under Section 2329.70 of the Revised Code before it was revised in October, 1961, the Justice of the Peace (sic) was entitled, in a proceedings (sic) for the appointment of a trustee under said section, to receive as full compensation for his services 2 per cent of the total amount of the debtor's payments on claims as provided by said section. Under Section 2329.70 as amended, the effective date being October 5, 1961, there is no mention that the Judge of the County Court or Judge of a Municipal Court shall receive this 2 per cent of the debtor's payments.

"I respectfully request your opinion as to whether or not the County Judge is entitled to 2 per cent of the total amount of the debtor's payments the same as was allowed a Justice of the Peace prior to the amending of Section 2329.70 of the Revised Code."

Section 11728-1, General Code, effective June 30, 1933, provided in part for the compensation of a justice of the peace when appointing a trustee for a debtor, 115 Ohio Laws, at page 433. The pertinent part of that section read as follows:

"\* \* \* If applications for a trustee be made to a justice of the peace, such justice may receive as full compensation for his services as justice of the peace therein, two per cent of the total amount of the debtor's payment on claims \* \* \*"

Section 11728-1, General Code, became Section 2329.70, Revised Code, in the code revision of 1953, without alteration of the above-quoted language until 1957. Section 2329.70, Revised Code, was amended effective September 17, 1957, substituting the words "judge of a county court" and "county court judge" for the words "justice of the peace," 127 Ohio Laws, at page 1091. This section then read in part as follows:

"\* \* \* If application for a trustee is made to a judge of a county court, such judge may receive as full compensation for his services as judge of a county court therein, two per cent of the total amount of the debtor's payment on claims as provided in this section \* \* \*"

This section, as amended effective September 17, 1957, and the provisions of Chapter 1907, Revised Code, concerning compensation for county court judges, were the subject of Opinion No. 2375, Opinions of the Attorney General for 1958, page 440. In Opinion No. 2375, supra, I stated that the special provision for compensation in Section 2329.70, Revised Code, effective September 17, 1957, was not repealed by any of the general provisions of the statutes set out in Chapter 1907, Revised Code, relative to compensation of the county court judges.

Section 2329.70, Revised Code, was again amended effective October 5, 1961, 129 Ohio Laws, page 554, and that section now reads in part as follows:

"\* \* \* If application for a trustee is made to a judge of a county court, such judge may appoint any suitable person to act as trustee \* \* \*"

The obvious deletion of the words relating to the compensation of county court judges under this last amendment clearly indicates the legislative intent to eliminate these fees. From this it follows that Opinion No. 2375, supra, which dealt with

Section 2329.70, Revised Code, as it existed prior to October 5, 1961, is not applicable under the current statute.

Accordingly, it is my opinion and you are advised that a county court judge is not entitled to compensation for the appointment of a trustee under Section 2329.70 of the Revised Code.