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COUNTY COURTS—LOCATION WHERE JUDGE SHALL HOLD COURT NOT PROVIDED FOR IN §1907.071 RC—AREA OF JURISDICTION; NO REQUIREMENT TO HOLD COURT IN THIS AREA.

SYLLABUS:

There is no requirement under the provisions of Section 1907.071, Revised Code, that the location where a county court judge shall hold court be designated by the court of common pleas at a place within the area of jurisdiction designated by the court for such county court judge.

Columbus, Ohio, September 11, 1957

Hon. Philip D. Brumbaugh, Prosecuting Attorney
Darke County, Greenville, Ohio

Dear Sir :

Your request for my opinion reads as follows :

“Several questions involving interpretation of Amended House Bill No. 914 (establishment of county courts) have been presented to me. All but one of these questions were satisfactorily answered by your Opinion No. 812, dated July 17, 1957.

“The Hon. Robert E. Riegel, Judge of the Common Pleas Court of this county, has requested me to obtain your opinion as to *whether or not a county court may be located outside the area of its jurisdiction*. The applicable section is 1907.071, Revised Code, which provides, in part, “In counties having more than one county court judge, the court of common pleas of such county shall divide the county court district into areas of separate jurisdiction and shall designate the area in which each judge shall have jurisdiction to the exclusion of any other judge of such district . . . and the location where each judge shall hold court. . .

“Darke County must have two county court judges under the provisions of this Act. I should like to set forth, for your information, the following paragraph from Judge Riegel’s letter to me :

“‘It was the general belief of the members of the Bar that it would be more equitable and less expensive for Darke County to have both judges sit in Greenville, although Greenville Township could of course be included in only one district. The population of Greenville Township comprises over one-fourth of the total population in Darke County, and to divide the townships on a population basis would mean that townships in the extreme north and south of the county would be included in the area jurisdiction of one court. It was therefore the general opinion of the Bar that justice could be better served by having both Judges sit in the County seat.’”

Section 1907.071, Revised Code, mentioned in your inquire, reads in part :

“In counties having more than one county court judge, the court of common pleas of such county shall divide the county court district into areas of separate jurisdiction and shall designate the area in which each judge shall have jurisdiction to the ex-

clusion of any other judge of such district, except as provided in section 1907.061 and the location where each judge shall hold court. Each such area shall be made up of one or more townships. In assigning areas, the court of common pleas shall make each area as equal in population to others in the district as is possible under existing conditions. * * *

I see nothing in this language suggestive of an intent to require that the location where each judge shall hold court shall be within the area of jurisdiction. Certainly there is here no express provision to that effect, and the implication that the place of holding court be so located, if it is found here, is far from being a *necessary* implication. A search of the other provisions in Amended House Bill No. 914, in which Section 1907.071, *supra*, was enacted, and which enactment created the office of county court judge, discloses none which is here pertinent.

Your attention is invited, however, to Amended House Bill No. 937, a companion bill to Amended House Bill No. 914, *supra*, in which numerous sections of the code in some way relating to the office of justice of the peace were amended to delete that reference and in many cases, substituting the county court, or county court judge, therefor.

Prior to this enactment Section 1909.01, Revised Code, provided:

“Unless otherwise directed by law, the jurisdiction of justices of the peace in civil cases is limited to the justice court district in which such justices were elected and in which they reside. No justice shall hold court outside the limits of the district for which he was elected.”

This section will be repealed on January 1, 1958, as provided in Section 2 of Amended House Bill No. 937, *supra*. Moreover, this section was *not* revised in this act so as to provide a comparable limitation on the place of holding court, and this omission, considering the scheme of draftsmanship of Amended House Bill No. 937, is clearly indicative of a legislative intent not to provide such comparable limitation.

In this situation I conclude, in specific answer to your inquiry that there is no requirement under the provisions of Section 1907.071, Revised Code, that the location where a county court judge shall hold court be designated by the court of common pleas at a place within the area of jurisdiction designated by the court for such county court judge.

Respectfully,
WILLIAM SAXBE
Attorney General