

3250

1. MUNICIPAL COURT—JURISDICTION WITHIN LIMITS OF COUNTY OR COUNTIES IN WHICH ITS TERRITORY IS SITUATED—CRIMES AND OFFENSES WITHIN COUNTY-WIDE JURISDICTION OF JUSTICES OF PEACE—SECTION 1901.20 RC, 1598 GC HAS EFFECT OF DEPRIVING JUSTICES OF PEACE OF COUNTY-WIDE CRIMINAL JURISDICTION IN COUNTY WHERE MUNICIPAL COURT ESTABLISHED—EXCEPTION, CASES LISTED IN PARAGRAPHS A TO R INCLUSIVE, SECTION 2931.02 RC, 13422-2 GC.
2. COUNTY-WIDE JURISDICTION GIVEN BY NAMED STATUTES, NOT ABRIDGED OR DESTROYED BY PROVISION OF SECTION 1901.20 RC—COUNTY-WIDE JURISDICTION OF MUNICIPAL COURTS.

## SYLLABUS:

1. The provision of Section 1901.20, Revised Code, 1598 G.C., giving to each municipal court jurisdiction within the limits of the county or counties in which its territory is situated, of those crimes and offenses which are within the county-wide jurisdiction of justices of the peace, has the effect of depriving justices of the peace of county-wide criminal jurisdiction in each county wherein a municipal court has been established, except as to those cases listed in paragraphs "A" to "R" inclusive, of the concluding portion of Section 2931.02 Revised Code, 13422-2 G.C.

2. The county-wide jurisdiction specifically conferred upon justices of the peace in paragraphs "A" to "R" inclusive, of the concluding provision of Section 2931.02 Revised Code, 13422-2 G.C., is not abridged or destroyed by the provision of Section 1901.20 Revised Code, 1598 G.C., relating to the county-wide jurisdiction of municipal courts.

Columbus, Ohio, November 16, 1953

Hon. J. L. MacDonald, Prosecuting Attorney  
Columbiana County, Lisbon, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

"Your opinion is respectfully requested concerning the jurisdiction of justices of the peace in criminal matters in counties wherein there is established a municipal court.

"In such cases, is not the jurisdiction of the justice of the peace limited to criminal matters which have arisen in his township?"

"Section 2931.02 of the Revised Code provides, in part:

'A justice of the peace . . . has jurisdiction in criminal cases throughout the township in which he is elected and where he resides, and county wide jurisdiction in all criminal matters only upon affidavit or complaint filed by the prosecuting attorney or upon affidavit or complaint made by the sheriff, the party injured, or any authorized representative of a state or federal department, *in the event there is no other court of concurrent jurisdiction other than the court of common pleas, police court or mayors court, . . .*'

"Section 1901.20 of the Revised Code, defining criminal jurisdiction of municipal courts, reads in part:

'The court also has jurisdiction within the limits of the county or counties in which its territory is situated of those crimes and offenses which are within the county-wide jurisdiction of justices of the peace.'

"It would seem to me that the effect of the above sections, at least for counties wherein a municipal court is established, would be to limit the jurisdiction of justices of the peace in criminal matters to those matters arising within their townships.

"Kindly advise me whether or not this conclusion is correct."

The effect of that portion which you have quoted from Section 2931.02, Revised Code, 13422-2 G. C., on the jurisdiction of justices of the peace, was stated in Opinion No. 2182, Opinions of the Attorney General for 1952, page 779. It was there held:

"Under the provisions of Section 13422-2, General Code, any of the persons named therein may file an affidavit or complaint charging a person with the commission of a felony or misdemeanor and may file the same with a justice of the peace in any township, unless there has been established within the county a court other than the common pleas court, police court or mayors court, which has jurisdiction of such offense. (Opinion No. 1791, Opinions of the Attorney General for 1938, approved.)"

In my later opinion No. 2881, released July 28, 1953, I had under consideration the above quoted portion of what is now Section 2931.02, Revised Code, and also the concluding provision of the same section which reads in part as follows:

“Justices of the peace have jurisdiction within their respective counties in all cases of violation of any law relating to:

“(A) Adulteration or deception in the sale of dairy products and other food, drink, drugs, and medicines; \* \* \*

“(R) Offenses arising from or growing out of the violation of conservation laws.”

In its former wording that sentence began with the words: “Provided further, however, that” \* \* \*. These words appear to make it clear that the latter portion of the section was wholly independent of the first sentence.

In the opinion last mentioned, it was held, in effect, that the county-wide jurisdiction given to justices of the peace in the specific cases mentioned was in no way limited by the provisions of the first portion of the section.

Neither of those opinions mentioned the provision of Section 1598, General Code, now found in Section 1201.20 Revised Code, and reading as follows:

“The court also has jurisdiction within the limits of the county or counties in which its territory is situated of those crimes and offenses which are within the county wide jurisdiction of justices of the peace.”

That provision relates to each and every municipal court established by the new Municipal Court Act passed by the 99th General Assembly. As is well known, municipal courts have been established in approximately half of the counties of the state.

The establishment of these courts in those counties has the effect of supplying the condition mentioned in the first portion of Section 2931.02 supra, and accordingly the justices of the peace in those counties lose their county-wide jurisdiction in *criminal cases generally*.

But the provision giving such municipal courts criminal jurisdiction co-extensive with that of justices of the peace, can certainly not have the effect of curtailing or destroying the county-wide jurisdiction which the law confers upon them in the eighteen classes of cases specifically set forth in Section 2931.02, Revised Code.

Accordingly, it is my opinion and you are advised:

1. The provision of Section 1901.20, Revised Code, 1598 G. C.,

giving to each municipal court jurisdiction within the limits of the county or counties in which its territory is situated, of those crimes and offenses which are within the county-wide jurisdiction of justices of the peace, has the effect of depriving justices of the peace of county-wide criminal jurisdiction in each county wherein a municipal court has been established, except as to those cases listed in paragraphs "A" to "R" inclusive, of the concluding portion of Section 2931.02 Revised Code, 13422-2 G. C.

2. The county-wide jurisdiction specifically conferred upon justices of the peace in paragraphs "A" to "R" inclusive of the concluding provision of Section 2931.02 Revised Code, 13422-2 G. C., is not abridged or destroyed by the provision of Section 1901.20 Revised Code, 1598 G. C., relating to the county-wide jurisdiction of municipal courts.

Respectfully,

C. WILLIAM O'NEILL

Attorney General