



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

April 2, 1974

FILE NO. S-730

COUNTIES:

**Obligations to Provide Office
and Secretarial Expenses for
Judges of Circuit Courts**

Honorable Dale A. Allison, Jr.
State's Attorney
Wabash County
120 East Fourth Street
Mt. Carmel, Illinois 62863

Dear Mr. Allison:

I have your letter in which you state in part:

"* * * I was requested by the Board of County Commissioners to inquire of you whether or not Wabash County is responsible for furnishing an office and/or secretarial expenses and supplies to an appointed Associate Circuit Judge who resides in Wabash County but does not hold Court in this County."

Section 7 of article VI of the Illinois Constitution of 1970, which provides for the division of the State into judicial circuits, states in part:

Honorable Dale A. Allison, Jr. - 2.

"(b) Each Judicial Circuit shall have one Circuit Court with such number of Circuit Judges as provided by law. Unless otherwise provided by law, there shall be at least one Circuit Judge from each county."

The circuit judges of each circuit are empowered to appoint associate judges (Ill. Const., art. VI, sec. 8) as provided by Supreme Court Rule (Ill. Rev. Stat. 1973, ch. 110A, par. 39), and select a chief judge who, subject to Supreme Court Rule, has:

"(c) * * * [G]eneral administrative authority over his court, including authority to provide for divisions, general or specialized, and for appropriate times and places of holding court." (Ill. Const., art. VI, sec. 7.)

Supreme Court Rule 21 (Ill. Rev. Stat. 1971, ch. 110A, par. 21) provides in part:

"(b) General Orders. The chief judge of each circuit may enter general orders in the exercise of his general administrative authority, including orders providing for assignment of judges, general or specialized divisions, and times and places of holding court."

Section 26 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1973, ch. 34, par. 432) provides in part:

"§26. It shall be the duty of the county board of each county:

* * *

Honorable Dale A. Allison, Jr. - 3.

Sixth - To provide proper rooms and offices, and for the repair thereof, for the accommodation of the circuit court of the county * * * "

It is my opinion that this provision requires the county to provide office space for a judge of the circuit court only when such judge has been assigned to the county or is otherwise discharging judicial functions in the county which pertain to the local administration of justice of the county.

There are two bases for this conclusion. First, it is a rule of statutory construction that effect must be given to a statute in accordance with the plain and manifest meaning of the language used in the statute. (Louisville & N.R. Co. v. Industrial Board of Illinois, 282 Ill. 136.) The portion of section 26 of said Act quoted above employs the phrase "for * * * the circuit court of the county" (emphasis added) in describing a county's obligation to provide rooms and offices. Requiring a county to maintain enough office space to accommodate every judge of the circuit court would render the words "of the county" surplusage and meaningless.

The second basis for my conclusion lies in an examination of the nature of county government and the purpose behind

Honorable Dale A. Allison, Jr. - 4.

its formation. The Illinois Supreme Court stated in County of Cook v. City of Chicago, 311 Ill. 234, 240:

"County and township organizations are created in this State with a view to aid in carrying out the policy of the State at large for the administration of matters of political government, finance, education, taxing, care of the poor, military organizations, means of travel and the administration of justice."
(emphasis added.)

It is apparent, then, that one purpose and duty of county government is to carry out, within its territorial limits, the at large State policy relating to the administration of justice. This obligation has been cited as the basis for imposing financial burdens upon counties relating to the administration of justice. In Cummings v. Smith, 368 Ill. 94, a mandamus action was brought to compel Cook County to pay the expenses of a judge from another judicial district called in to hold court as a circuit judge. The court stated at pages 102-103:

"In Board of Supervisors v. Beveridge, 16 Ill. 312, the question was whether or not it was the duty of the county to furnish lights and fuel for the office of the circuit clerk. We held that, although there was no statute expressly authorizing the furnishing of those items, it is the duty of each county to pay the expenses of the local administration of justice, arising from our general system of county government, as from express statutes defining the

duties of counties on that subject, of which duties only a part had ever been defined by statute. In Nye v. Foreman, 215 Ill. 285, the right of the county board to appropriate and pay salaries of assistants to the State's attorney was challenged. The appellees contended that a county is an agency of the State for governmental purposes and that among its implied powers and duties is that of providing for the local administration of justice, including the enforcement of the criminal law. We held that in view of the long, uniform and practical construction of section 7 of article 10 of the constitution providing that county affairs shall be managed by the county board, the board had the right to appropriate and pay the salaries. While these cases do not relate to expenses such as are here involved, the principle is the same. The expenses of judges in holding court from outside judicial districts pertain to the local administration of justice as much so as in the cases cited. It follows that it is the duty of county boards to provide for and pay such expenses."

Consequently, to require a county to expend funds in order to provide office space for a judge of the circuit court who is not assigned to the county, or otherwise discharging judicial functions in the county pertaining to the local administration of justice of the county would be contrary to legislative policy as interpreted by the courts.

Similarly, although construing the language in section 26 of "AN ACT to revise the law in relation to counties", supra, to include an obligation to provide office space to a judge

Honorable Dale A. Allison, Jr. - 6.

of the circuit court solely because he resides in the county might eliminate possible inconvenience to said judge, it would, in my opinion, be an incorrect construction for the reason that residency, in this instance, bears no relationship to the State's policy of creating county government to provide for the administration of justice within its territorial limits.

In response to the portion of your question concerning secretarial expenses and supplies, section 26 of "AN ACT to revise the law in relation to counties", supra, provides:

"§26. It shall be the duty of the county board of each county:

* * *

Third - To provide reasonable and necessary expenses for the use of the county board, county clerk, county treasurer, recorder, sheriff, coroner, State's attorney, superintendent of schools, judges and clerks of courts, and supervisor of assessment."

This duty has been described as a mandatory one (People ex rel. Goodman v. Wabash Railroad Co., 395 Ill. 512), and has been interpreted to empower a county board to provide a secretary for a circuit judge if said board determines that such an expense is a reasonable and necessary one. Op. Atty. Gen. UP-796, November 27, 1962.

Honorable Dale A. Allison, Jr. - 7.

However, for the same reasons discussed in answering the portion of your question pertaining to office space, I am of the opinion that a county which has decided that secretarial expenses for judges are reasonable and necessary expenses, need not provide such expenses for a judge not assigned to the county or otherwise discharging judicial functions relating to local administration of justice of the county.

Very truly yours,

A T T O R N E Y G E N E R A L