

accused with the commission of an offense prescribed by the ordinances of the city or the statutes of the state and a warrant has been issued in pursuance of the filing of said complaint.

In specific answer to your third inquiry, you are advised that it is essential than an affidavit be filed making a complaint against a person in a criminal case before a mayor is authorized to hear or determine the same.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

1035.

PROBATE JUDGE—BUREAU OF WAR RISK INSURANCE—CERTIFICATE  
 OF BIRTHS, DEATHS OR MARRIAGES FURNISHED FREE FOR  
 SUCH PURPOSES.

*Under the provisions of section 1604 G. C. it is not only permissible for probate judges to furnish free of charge certificates of births, deaths or marriages in the matter of the procurement of compensation or insurance, due a soldier of the world war under the federal war risk insurance act, but under said section probate judges are prohibited from making any charge for such services.*

COLUMBUS, OHIO, February 27, 1920.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Acknowledgment is made of the receipt of your letter requesting my opinion upon the following question:

“Section 1604, General Code, provides that probate judges shall administer oaths and make certificates in pension and bounty cases without compensation. Would this section permit the probate judges to furnish free certificates of births, deaths or marriage in the matter of the procurement of compensation or insurance due a soldier of the world war under the recent federal enactments? We ask this question because of the requirements of the county salary law which provides that officers named therein shall tax and collect the fees allowed by law for the benefit of the fee funds of their offices.”

Section 1604 G. C. provides:

“The probate judge shall administer oaths, and make certificates in pensions and bounty cases, without compensation.”

It is also noted in this connection that section 2905 G. C., in reference to the clerk of the court of common pleas, provides as follows:

“The clerk of courts shall make no charge whatever for certificates made for pensioners of the United States government, or any oath administered in pension and bounty cases, or on pension vouchers, applications, or affidavits.”

The material question presented for determination by your inquiry is whether or not the compensation or insurance to be paid under the present laws relating to

the federal war risk insurance is a "pension" or "bounty," within the meaning of section 1604, supra. The following definition for "pension" is found in 30 Cyc. 1368:

"A pension may be defined as a periodical allowance of money granted by the government for services rendered, in particular to a soldier or sailor in connection with a war or with military operations."

"Bounty" in 9 C. J. 300 is defined as follows:

" 'Bounty' is defined to be an unusual or additional benefit conferred on, or a compensation paid to, a class or persons; money paid or a premium offered to encourage or promote an object, or to procure a particular act or thing to be done; a sum of money or other things given, generally by the government, to certain persons for some service they have done, or are about to do, the public.

As used in statutes relative to the enlistment of soldiers, bounty means a payment made to procure or induce soldiers to enlist. It is distinguished in some cases from a gratuity for services already rendered, while in others it is said that bounty need not be promised before the performance of the service, but that it may come after as a gratuity for services already performed."

Under the war risk insurance act there are various provisions for the payment of periodical allowances to those who have properly been in the service of the government in connection with its military operation in the world war, or to their dependents. While it is true that there are certain provisions of said act that create contracts of insurance between the government and those in the service, when taken advantage of by those in the service, yet these provisions are not compulsory and those in the service may receive certain compensation or periodical allowances irrespective of whether they have taken advantage of said insurance provisions or not. It was the intent of this act to supersede the pension laws and it is evident that any compensation or allowances provided, other than those arising by reason of the contracts of insurance, is clearly within the meaning of the definitions and statutes relating to pensions and bounties.

While, as above stated, the provisions enabling soldiers to obtain further protection by complying with certain conditions of the war risk insurance law, when taken advantage of by those in the service, create obligations in the nature of contracts of insurance, it is believed that a careful analysis of said law will disclose that this contract comes within the definition of pension and bounty. In the beginning there was a period in which under the provisions of said act all were regarded as having been insured, regardless of whether they had taken any steps to obtain further protection. Again, no further physical examination was required of those seeking to take advantage of said insurance and the advantages of said insurance are limited to those in the military service or to those who have performed such service, all of which tends to establish the proposition that insurance paid under the provisions of said act is a gratuity or allowance made by the government as a reward to soldiers for services rendered by them in the defense of their country. It has long been the policy of this state to subject those who have served in the United States army to as little expense and inconvenience as possible in the recovery of any pension or bounty to which they may be entitled on account of said service.

It is believed that the recent federal enactments relative to compensation or insurance to be paid to soldiers or their dependents in effect provides for a "pension" or "bounty" within the meaning of section 1604, supra, and it is not only permissible for probate judges to furnish free of charge certificates of births, deaths and marriages

in the matter of the procurement of said compensation or insurance, but said probate judges under the provisions of said section 1604 are prohibited from making any charge for such services.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

1036.

**COURT STENOGRAPHER—CANNOT CHARGE FOR SERVICES RENDERED TO COURT FOR PREPARATION OF PRELIMINARY OPINION.**

*A court stenographer can not legally make a charge for services rendered to a court in the preparation of its opinion preliminary to its being rendered, and such a charge can not be properly taxed as costs.*

COLUMBUS, OHIO, February 27, 1920.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date is as follows:

“Where a court renders a written opinion in either a criminal or civil case and dictates the same to the official stenographer, can the stenographer make a charge for the services the same as any transcript, and may this charge be taxed in the regular costs in the case?”

Section 1546 G. C. provides for the appointment of an official stenographer by the court of common pleas.

Further sections of the General Code pertinent to your inquiry are as follows:

“Sec. 1548. Upon the trial of a case in any of such courts, if either party to the suit, or his attorney requests the services of a stenographer, the trial judge shall grant the request, or such judge may order a full report of the testimony or other proceedings, in which case such stenographer shall cause accurate shorthand notes of the oral testimony or other oral proceedings to be taken, which notes shall be filed in the office of the official stenographer and carefully preserved.

Sec. 1549. In every case so reported, there shall be taxed for each day's service of the official or assistant stenographers a fee of four dollars, to be collected as other costs in the case. The fees so collected shall be paid quarterly by the clerk of the court in which such case was tried, into the treasury of such county, and credited to the general fund.

“Sec. 1550. Each such stenographer shall receive such compensation as the court making the appointment shall fix, not exceeding twenty-four hundred dollars each year in counties where more than three judges of the court of common pleas hold court regularly, and in all other counties not exceeding eighteen hundred dollars per annum. Such compensation shall be in place of all per diem compensation in such courts. Provided, however, that in case such appointment shall be for a term of less than one year, such court may allow a per diem compensation not to exceed the sum of ten dollars per