

I am herewith returning to you said abstract of title, deed form and encumbrance estimate No. 5626.

Respectfully,
GILBERT BETTMAN,
Attorney General.

832.

SHORTHAND REPORTERS—COMPENSATED ON BASIS OF NUMBER OF WORDS USED IN TRANSCRIPTS—PUNCTUATION MARKS NOT WORDS.

SYLLABUS:

Under the terms of Section 1552 of the General Code, providing that the compensation of shorthand reporters for making transcripts and copies shall not be more than twelve cents per folio of one hundred words, in counting the number of words, punctuation marks are not to be included.

COLUMBUS, OHIO, September 5, 1929.

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

GENTLEMEN:—I am in receipt of your letter of recent date, which is as follows:

“You are respectfully requested to render this Department your written opinion upon the following:

Sec. 1552 of the General Code, provides the compensation of shorthand reporters for making transcripts, etc., shall be not more than 12c per folio of 100 words, to be fixed by the common pleas judges of the sub-division.

Question 1. When the compensation of shorthand reporters is fixed, as provided by this Section, at 12c per folio of 100 words, etc., in counting the number of words in a transcript, may punctuation marks, such as periods, commas, etc., be counted in determining the number of words in the manuscript?”

Section 1548 of the General Code, provides as follows:

“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 shorthand reporter, 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 shorthand reporter 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 shorthand reporter and carefully preserved.”

Section 1551 of the General Code, provides as follows:

“When shorthand notes have been taken in a case as herein provided, if the court, either party to the suit, or his attorney, requests transcripts of all or any portion of such notes in longhand, the shorthand reporter reporting the case shall cause full and accurate transcripts thereof to be made for the use of such court or party. The court may direct the official shorthand reporter to furnish to the court and parties copies of decisions rendered and charges delivered by the court in pending cases.”

Section 1552, General Code, which part is pertinent to your inquiry, is as follows :

“The compensation of shorthand reporters for making such transcripts and copies shall be not more than twelve cents per folio of one hundred words, to be fixed by the common pleas judges of the subdivision. * * * ”

You will observe, from a reading of Section 1552, of the General Code, that the compensation of shorthand reporters for making a transcript and copy shall be not more than twelve cents per folio of one hundred *words*. “Word” is defined in Webster’s New International Dictionary, as follows :

“Talk, discourse, speech, language.”

From a reading of the sections quoted, herein, it appears that a stenographer is to receive compensation for transcribing accurate shorthand notes of oral testimony or other oral proceedings. When a stenographer takes shorthand notes of testimony or other oral proceedings, he takes the words uttered by the witness or other persons connected with the proceeding. He does not make a note of punctuation marks. He receives compensation for transcribing the shorthand notes. In other words, he receives compensation for transcribing the words, as spoken by the persons testifying, or by other persons connected with the oral proceedings, and not for punctuation marks.

In the case of *In re: Murtaugh*, 129 N. Y. S., 850, the court held as follows :

“Under general Construction Law (Consol. Laws 1909 C. 22) paragraph 21, providing that a folio is 100 words, counting as a word each figure, a ‘folio’ in determining an allowance under Insanity Law (Consol. Laws 1909 C. 27) paragraph 84, for taking and transcribing testimony, means words and figures but not punctuation ; the word ‘figure’ being limited to numerals, which are letters or characters representing a number, and not including ‘punctuation’, which is a pointing off or separating of one word from another by arbitrary marks.”

In this case, the court, in the course of its opinion, says as follows :

“When a stenographer is taking testimony he does not make a note of punctuation marks, for the reason that the speaker utters no sound to indicate one. He does of figures, and there is the reason of the statutory discrimination. In transcribing his notes, the stenographer may arbitrarily point off as many commas as he pleases ; but that is not transcribing testimony.”

In the case of *Walsh vs. Jackson*, 81 Pac. 258, the court held :

“Under the statute providing that the stenographer transcribing the shorthand notes of the testimony shall be allowed not exceeding twenty cents per folio of 100 words, he should not be allowed for punctuation marks.”

The court, in the opinion in this case, says as follows :

“The statute provides that for transcribing the shorthand notes of the stenographer, he shall be allowed not exceeding twenty cents per folio of 100 words. The stenographer transcribes what the witness says, as reported by his shorthand notes. It is so clear that the compensation of the stenographer is to be determined by the number of words transcribed and not by the number

of punctuation marks which he may employ to make the transcript intelligible, that it is not necessary to enter upon a dissertation of the subject. The trial judge was in error in allowing the stenographer for punctuation marks."

In view of the authorities cited herein, and in specific answer to your inquiry, I am of the opinion that under the terms of Section 1552 of the General Code, providing that the compensation of shorthand reporters for making transcripts and copies shall not be more than twelve cents per folio of one hundred words, in counting the number of words, punctuation marks are not to be included.

Respectfully,
GILBERT BETTMAN,
Attorney General.

833.

APPROVAL, NOTES OF JACKSON CITY SCHOOL DISTRICT, JACKSON COUNTY, OHIO—\$250,000.00.

COLUMBUS, OHIO, September 5, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

834.

APPROVAL, BONDS OF VILLAGE OF OTTAWA HILLS, LUCAS COUNTY, OHIO—\$77,856.65.

COLUMBUS, OHIO, September 5, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

835.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN LORAIN COUNTY.

COLUMBUS, OHIO, September 5, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*