

Costs were unknown to the common law, and no costs whatever were recoverable. The right to recover costs is purely statutory; and the term "costs" has a legal significance and includes only "taxable costs." The only costs "which shall be carried into" a judgment are "taxable" costs."

Provision is made in a criminal case by Section 13752, supra, for the accused to obtain a complete certified transcript of the record and a bill of exceptions, if he so requests, providing he makes application to the proper officer required to make a record in such case and tenders the proper fee therefor.

The costs so incurred by an accused are "taxable" costs and, as provided in Section 3025 of the General Code, are taxed and entered of record in the costs bill of said case. Only such costs as appear or as properly should appear in the costs bill may be recovered by said plaintiff in error upon reversal and, any items of expense that the plaintiff in error incurred may be recovered *providing such expenses incurred were "taxable" costs.*

If, upon error proceedings, the reviewing court reverses the judgment of the lower court and renders judgment against the defendant in error for the costs, by the provisions of Sections 3026 and 13755, supra, the costs of the plaintiff in error are carried into his judgment.

In the question that you present the fee for a transcript of the record under Section 3025 of the General Code, are taxed and entered of record in the costs bill an amount so expended because the expense so incurred was a proper court cost.

Answering your question specifically it is my opinion that when a judgment of conviction for violation of a municipal ordinance by the municipal court of Dayton is reviewed on error proceedings in a court of common pleas and the judgment of the lower court is reversed and final judgment entered against the city and the plaintiff in error ordered to recover his costs, the plaintiff in error is entitled to recover all court costs incurred to secure such reversal and therefore to any fee that he may have paid, under provisions of Section 13752, supra, for a complete certified transcript of the record.

Respectfully,
EDWARD C. TURNER,
Attorney General.

47.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT, I. C. H.,
No. 334, RICHLAND COUNTY.

COLUMBUS, OHIO, February 4, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.

48.

APPROVAL, FINAL RESOLUTION, I. C. H. NO. 269, SECTION C, SUPPLEMENTAL, SENECA COUNTY, PROPOSAL NO. 1 AND NO. 2.

COLUMBUS, OHIO, February 4, 1927.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.