

ceeding for that purpose consequently it is believed that said California court would still have a continuing jurisdiction over the ward of its original proceedings, and under the circumstances would be the proper court to determine the facts as to the best interests of the child, as well as those matters relative to a change of such minor's foster parents.

In specific answer to your third question it is therefore thought that such considerations as have been discussed would be legal obstacles, sufficient in themselves to affect the validity of the proposed adoption proceeding as stated in the third question of your inquiry.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2497.

PROBATION OFFICER—COUNTY ATTENDANCE OFFICER—COMPENSATION—HOW PAID—EXPENSES OF ATTENDANCE OFFICER PAID FROM COUNTY BOARD OF EDUCATION FUND—HOW COMPENSATION OF PROBATION OFFICER INCREASED OR DECREASED.

1. *A probation officer designated under section 7769-1 G. C. as a county attendance officer, cannot legally draw two compensations, that is, one for acting as probation officer and a separate salary as county attendance officer, for the reason that section 7769-1 does not provide a salary for the county attendance officer where such county attendance officer is also a probation officer of the juvenile court. Where a probation officer is designated as county attendance officer, only his expenses as attendance officer is to be paid from the county board of education fund, which is disbursed by the county board of education.*

2. *The compensation of a probation officer may be increased or decreased at any time by the appointing judge not to exceed the amounts appearing in section 1662 G. C., and such compensation is paid from the county treasury.*

COLUMBUS, OHIO, October 24, 1921.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your recent inquiry, requesting the opinion of this department upon the following statement of facts:

"Section 7769-1 G. C. (109 O. L., 388,) specifically provides that with the consent and approval of the judge of the juvenile court, a probation officer of the court may be designated as the county attendance officer. In a certain county in this state the probation officer, who is receiving a salary of \$75.00 per month, is designated as county attendance officer at a salary of \$25.00 per month.

Question 1. May such probation officer legally draw two compensations, one for acting as probation officer, and a separate salary as county attendance officer?

Question 2. If such probation officer may legally receive separate

compensation when designated as such county attendance officer, from what fund shall he receive such compensation?"

Section 7769-1 G. C. reads as follows:

"Every county board of education shall employ a county attendance officer, and may employ or appoint such assistants as the board may deem advisable. The compensation and necessary traveling expenses of such attendance officer and assistants shall be paid out of the county board of education fund. With the consent and approval of the judge of the juvenile court, a probation officer of the court may be designated as the county attendance officer or as an assistant. The compensation of the probation officers of the juvenile court so designated shall be fixed and paid in the same manner as salaries of other probation officers of the juvenile court; their traveling expenses as attendance officers which would not be incurred as probation officers shall be paid out of the county board of education fund. The county attendance officer and assistants shall work under the direction of the county superintendent of schools. The authority of such attendance officers and assistants shall extend to all the village and rural school districts which form the county school district. But this section shall not be interpreted to confine their authority to investigate employment to that within the county school district."

It will be noted in the above section that the compensation and necessary traveling expenses of "such attendance officer" (when employed by the county board of education) shall be paid out of the county board of education fund, but it is further provided in the next sentence of the section that a probation officer of the juvenile court may be *designated* as the county attendance officer upon the approval of the judge of the juvenile court. Proceeding further the section then says when this latter condition obtains, that is, that a probation officer is to be *designated* as the county attendance officer, then "the compensation of the probation officer of the juvenile court so designated shall be fixed and paid in the same manner as salaries of other probation officers of the juvenile court; their traveling expenses as attendance officers which would not be incurred as probation officers shall be paid out of the county board of education fund." The compensation of the probation officers of the juvenile court is provided for in section 1662 G. C., which as amended in 109 O. L., p. 527, reads in part as follows:

"* * * Such chief probation officer and assistants shall receive such compensation as the judge appointing them may designate at the time of the appointment; provided, however, that such compensation may be increased or decreased at any time by said judge, but the compensation of the chief probation officer shall not exceed three thousand dollars per annum and that of the assistants shall not exceed twenty-four hundred dollars per annum. * * *

The compensation of the probation officers shall be paid by the county treasurer from the county treasury upon the warrant of the county auditor, which shall be issued upon itemized vouchers sworn to by the probation officers and certified to by the judge of the juvenile court. The county auditor shall issue his warrant upon the treasury and the treasurer shall honor and pay the same, for all

salaries, compensation and expenses provided for in this act, in the order in which proper vouchers therefor are presented to him."

As above indicated, section 7769-1 provides that the compensation of the probation officer, when designated as an attendance officer, shall be fixed and paid in the same manner as salaries of other probation officers, which manner is set forth in section 1662 G. C., just quoted. Thus the compensation of all probation officers shall be paid out of the county treasury by the county treasurer, upon warrant of the county auditor, upon itemized vouchers certified to by the judge of the juvenile court. Section 1662 then provides in its closing language that even the expenses of the probation officer shall be paid from the county treasury upon warrant of the county auditor, but when these expenses are made by the probation officer, who has been designated as an attendance officer, then section 7769-1 provides that "their traveling expenses, as attendance officers, *which would not be incurred as probation officers*, shall be paid out of the county board of education fund".

There is nothing in section 7769-1 G. C. providing for the salary of a county attendance officer who is also a probation officer, other than the reference that probation officers designated as county attendance officers shall be paid "in the same manner as salaries of other probation officers of the juvenile court." Hence the compensation of this individual remains within the provisions of section 1662 heretofore quoted. This section provides that the probation officer shall receive such compensation as the judge of the juvenile court may designate at the time of appointment, but says further that such compensation may be increased or decreased at any time by the judge. It would appear, therefore, that if in the county in question it was desired to pay the probation officer, who was acting also as attendance officer, a total of \$100.00 per month, rather than the \$75.00 which he formerly received when performing only the duties of probation officer, it would be within the power of the judge of the juvenile court appointing such officer (and he also approves his designation as attendance officer) to increase the salary of the probation officer as the court may see fit, being bound only by the limitations as to amount set forth in section 1662 G. C. This increase, of course, would come from the county treasury, the same place from which his original salary was taken. In practice, then, it would appear that in those counties having a probation officer designated as the county attendance officer, the county treasury general fund would relieve the county board of education fund of the burden of supporting a county attendance officer other than his mere expenses, while in other counties where the county attendance officer was one who was not a probation officer designated as the county attendance officer, the county board of education fund would bear the burden of the salary and expenses of the county attendance officer made mandatory in each county of the state. The effect then is that in some counties the support of the county attendance officer would come wholly from school funds, while in other counties, where the personnel of the juvenile court was used, the support of the county attendance officer would not be a burden upon the school funds at all, except as to his mere expenses as an attendance officer. This situation, however, does not change the status of the law as set forth above.

In answer to your questions, then, you are advised that:

1. A probation officer designated under section 7769-1 G. C. as a county attendance officer, cannot legally draw two compensations, that is, one for acting as probation officer and a separate salary as county attendance officer, for the reason that section 7769-1 does not provide a salary for the county attendance officer where such county attendance officer is also a probation

officer of the juvenile court. Where a probation officer is designated as county attendance officer, *only his expenses as attendance officer* is to be paid from the county board of education fund, which is disbursed by the county board of education.

2. The compensation of a probation officer may be increased or decreased at any time by the appointing judge not to exceed the amounts appearing in section 1662 G. C., and such compensation is paid from the county treasury.

Respectfully,

JOHN G. PRICE,

Attorney-General.

2498.

AUTOMOBILES—AMENDED SENATE BILL NO. 3 (109 O. L. 330)—SHERIFF OR CONSTABLE SELLING AUTOMOBILE UNDER COURT ORDER REQUIRED TO GIVE BILL OF SALE.

Under the provisions of Amended Senate Bill No. 3 it is necessary for a sheriff or constable selling an automobile under court order to give a bill of sale.

COLUMBUS, OHIO, October 24, 1921.

HON. ARTHUR W. DOYLE, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—Your letter of recent date received in which you request the opinion of this department as follows:

“Will you please furnish this office with a ruling upon the following question:

Is the sheriff of the county, or a constable, required to give a bill of sale when he sells an automobile on order of the court?”

Your attention is called to the following portions of Amended Senate Bill No. 3:

“The term ‘bill of sale’ as used in this act shall mean the bill of sale or paper of conveyance issued by the corporation, partnership, association, or person, selling, giving away, transferring, conveying or passing title to a motor vehicle or ‘used motor vehicle.’

Section 2. It shall be unlawful to sell, convey, give away, transfer, exchange, receive, purchase or obtain any ‘motor vehicle’ or ‘used motor vehicle’ within this state, except in the manner and subject to the conditions hereinafter provided.

* * * * *

Section 5. Each corporation, partnership, association or person, in all sales, conveyances, transfers, gifts, exchanges of, or transactions in which title to a ‘used motor vehicle’ passes, shall execute in the presence of two witnesses a bill of sale, in duplicate, and deliver the same to the corporation, partnership, association or person purchasing, receiving or obtaining such ‘used motor vehicle,’ at or before such sale, conveyance, transfer, gift, exchange or passage of title; such bill of sale shall contain the name or names and residence or residences of each and every bona fide owner or owners of such used motor vehicle, beginning with the original or first purchaser of such used motor ve-