

2136.

APPROVAL, BONDS OF VILLAGE OF GRANDVIEW HEIGHTS, FRANKLIN COUNTY, \$57,400.00.

COLUMBUS, OHIO, January 9, 1925.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

2137.

APPROVAL, BONDS OF VILLAGE OF GRANDVIEW HEIGHTS, FRANKLIN COUNTY, \$94,200.00.

COLUMBUS, OHIO, January 8, 1925.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

2138.

FEES OF PROBATE JUDGE ACTING AS JUDGE OF JUVENILE COURT—  
SECTIONS 1602 AND 1654 G. C. CONSTRUED.

**SYLLABUS:**

*When acting as judge of a juvenile court, a probate judge may not tax any costs against delinquent, dependent or neglected children, except the costs which may be taxed against delinquent minors under the age of eighteen years, under the provisions of section 1654, General Code. In a case of this kind the fee of the probate judge is two dollars and fifty cents as provided by section 1602, G. C., as amended, 109 O. L., page 42.*

COLUMBUS, OHIO, January 12, 1925.

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

GENTLEMEN:—Acknowledgment is hereby made of the Bureau's recent communication, which reads:

“Section 1602 G. C., before its amendment in 109 O. L., 42, provided that the fees enumerated in the section should be taxed by the probate judge in the bill of costs and be collected from the estate of the person against whom the proceeding is instituted if there be such an estate, and if there be no such an estate, then from the person legally responsible for his care and support, and shall be in full for all services rendered in the respective proceedings. One of the fees enumerated, is as follows:

‘When acting as a judge of the juvenile court, for each case filed against a delinquent, dependent or neglected child, two dollars and fifty cents; \* \* \*

By the amendment in 109 O. L. 42, it is provided that fees enumerated in section 1602 G. C., shall be paid out of the county treasury and there is no provision for taxing the same in the costs. Section 1651 G. C., referring to juvenile court cases, contains the following provision:

'The compensation of jurors and costs of the clerk and sheriff shall be taxed and paid as in criminal cases in the court of common pleas.'

Question 1: May the probate judge when acting as judge of a juvenile court tax any costs against delinquent, dependent or neglected children?

Question 2: If your reply to the first question is in the affirmative, what fee may the probate judge charge in such a case; the \$2.50 fee provided by section 1601 G. C., or the schedule of fees provided by section 2900 and 2901 G. C., provided for the clerk of courts by virtue of the provisions of section 1603 General Code?"

Section 1602 G. C., before its amendment, 109 O. L., page 42, in so far as pertinent provides:

"The fees enumerated in this section shall be taxed by the probate judge in the bill of costs and collected from the estate of the person against whom the proceeding is instituted if there be such estate; if there be no such estate, then from the person legally responsible for his care and support, and shall be in full for all services rendered in the respective proceedings; \* \* \* ; when acting as a judge of the juvenile court, for each case filed against a delinquent, dependent or neglected child, two dollars and fifty cents."

Said section 1602 G. C. in its amended form reads:

"The fees enumerated in this section shall be paid to the probate judge out of the county treasury upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings: \* \* \* ; when acting as judge of the juvenile court, for each case filed against a delinquent, dependent or neglected child, two dollars and fifty cents."

It is evident that the legislature intended to enact and did enact in section 1602, as amended 109 O. L., page 42, that the fees therein enumerated, instead of being collected by the probate judge from the person legally responsible for the care and support of the delinquent, dependent or neglected child, are payable out of the county treasury; and there is no provision for taxing the same in the costs.

In the opinion of this department found in Opinions of Attorney-General, 1921, volume II, page 966, construing section 1602 as amended, 109 O. L., page 42, it was held that:

"The change as indicated above in section 1602 is the only change made, and it is apparent that the source from which the fees mentioned in the section are paid has been changed and that that is the only change."

It is therefore believed that the general rule is that the probate judge when acting as judge of a juvenile court may not tax any costs against delinquent, dependent or neglected children.

However, in a case of delinquency, there is apparently an exception to this rule, under the provisions of General Code section 1654, which reads:

"Whoever abuses a child or aids, abets, induces, causes, encourages or contributes toward the dependency, neglect or delinquency, as herein defined, of a minor under the age of eighteen years, or acts in a way tending to cause delinquency in such minor, shall be fined not less than ten dollars, nor more than one thousand dollars or imprisoned not less than ten days nor more than one year, or both. Each day of such contribution to such dependency, neglect or delinquency, shall be deemed a separate offense. If in his judgement it is for the best interest of a delinquent minor, under the age of eighteen years, the judge may impose a fine upon such delinquent not exceeding ten dollars, and he may order such person to stand committed until fine and costs are paid."

The fine and costs described in the above section are taxed against a delinquent minor; but even then, they are taxed by the court "when acting as a judge of the juvenile court" and the probate judge's fee is for a "case filed against a delinquent child" and the amount is "two dollars and fifty cents" as provided in section 1602 G. C.

It is therefore the opinion of this department that when acting as judge of a juvenile court, a probate judge may not tax any costs against delinquent, dependent or neglected children, except the costs which may be taxed against delinquent minors under the age of eighteen years, under the provisions of section 1654 General Code. In a case of this kind the fee of the probate judge is two dollars and fifty cents as provided by section 1602 G. C., as amended, 109 O. L., page 42.

Respectfully,

C. C. CRABBE,  
*Attorney-General.*

2139.

**AUTOMOBILE LICENSE TAX—FEDERAL RESERVE BANK COMES  
WITHIN PROVISIONS OF SECTION 6295 G. C.**

**SYLLABUS:**

*The Federal Reserve Bank comes within the provisions of section 6295, General Code of Ohio.*

COLUMBUS, OHIO, January 12, 1925.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication in which you inquire whether a Federal Reserve Bank may be exempted from the payment of automobile license taxes on automobiles owned by it.

Section 6295, General Code of Ohio, as far as pertinent, provides:

"Publicly owned and operated motor vehicles used exclusively for public purposes shall be registered as provided in this chapter, without charge of any kind; but this provision shall not be construed as exempting the operation of such vehicles from any other provision of this chapter and the penal laws relating thereto. The secretary of state shall accept any application to register a motor vehicle owned by the federal government which may be made by any officer, department or agent of such government."

By this section publicly owned and operated motor vehicles used exclusively for