

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

day, for each day such stenographer shall be actually engaged in taking testimony or performing other duties under the orders of such court, which allowance shall be in full for all services so rendered.

The auditor of such county shall issue warrants on the treasury thereof for the payment of such compensation in equal monthly installments, when the compensation is allowed annually, and when in case of services per diem, for the amount of the bill approved by the court, from the general fund upon the presentation of a certified copy of the general entry of appointment and compensation of such stenographer.

Sec. 1551. 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 stenographer reporting the case shall cause full and accurate transcripts thereof to be made, for the use of such court or party.

Sec. 1552. The compensation of stenographers for making such transcripts shall be not more than eight cents per folio of one hundred words, to be fixed by the common pleas judges of the subdivision. Such compensation shall be paid forthwith by the party for whose benefit the transcript is made. The compensation for transcripts made in criminal cases, by request of the prosecuting attorney or the defendant, and transcripts ordered by the court in either civil or criminal cases, shall be paid from the county treasury, and taxed and collected as other costs. The clerk of the proper court shall certify the amount of such transcripts, which certificate shall be a sufficient voucher to the auditor of the county, who shall forthwith draw his warrants upon the county treasurer in favor of such stenographers.

It will be observed that section 1550 specifies that the compensation provided therein shall be in place of all per diem compensation to be paid a stenographer except when an appointment is made for a term of less than one year. While primarily the duty of a court stenographer is to take shorthand notes of oral testimony, or other oral proceedings in the trial of a case, it is believed said section contemplates the performance of other duties under the orders of the court. Aside from the salary provision in section 1550, *supra*, there is no authority for a court stenographer to receive any compensation except when a transcript is made under the provisions of sections 1551 and 1552, *supra*, and section 1554 G. C. It will be readily seen that the preliminary notes of a judge are not oral testimony or other oral proceedings as contemplated by the statutes hereinabove set forth. His proposed opinion may be dictated and transcribed for his personal consideration and convenience and before delivered may be re-written at his pleasure, or after having been written, he may decide to deliver an oral opinion. Therefore, a court stenographer can not properly make a transcript of a proceeding which is not "oral testimony or other oral proceedings" until there has been such a proceeding.

You are advised that a court stenographer can not legally receive compensation other than the salary provided in section 1550 for services rendered to a court in the preparation of an opinion preliminary to its being rendered. It is further evident that such a charge can not be legally taxed as costs.

Respectfully,
JOHN G. PRICE,
Attorney-General.