

In the light of the foregoing, it is my opinion that:

1. Under Section 8291, of the General Code, a sight draft drawn by a bank is a check and must be presented for payment within a reasonable time after issue, and upon the failure of the holder to make such timely presentment, the drawer is discharged to the extent of the loss occasioned by such failure.

2. Section 8291, General Code, is applicable to a draft forwarded to the Commissioner of Motor Vehicles by a deputy commissioner in payment of motor vehicle registration fees and held by the Commissioner.

3. What amount of time constitutes an unreasonable time for the presentment of a draft drawn on an "out of city" bank is a question of fact to be determined from a consideration of all the facts and circumstances.

4. Where the loss occasioned by the failure to make timely presentment can not be ascertained for an extended period due to the liquidation of the insolvent drawee bank, and where the drawer is in the hands of the Superintendent of Building and Loan Associations for liquidation, the holder of a check should file a claim for the full amount of such instrument with the Superintendent of Building and Loan Associations.

5. Under Section 6294, General Code, a deputy commissioner of motor vehicles is not authorized to deposit funds collected from motor vehicle license fees in a bank.

6. Public funds deposited in a bank or building and loan association otherwise than as provided by statute, are special deposits and entitled to a preference upon liquidation where the depository has knowledge of the public character of such funds. The amount of such claim may properly include the amount of the check or withdrawal order drawn against such unlawful deposit in payment of the draft which remains unpaid at the time the institution is taken over for liquidation.

7. A cashier's check or treasurer's check merely constitutes the holder the debtor of the bank and does not entitle him to preference upon liquidation.

8. Where a deputy commissioner of motor vehicles or other public officer illegally deposits public funds in a bank, or other institution authorized to receive deposits, he becomes personally liable for any loss occasioned by such deposit. The sureties upon his official bond are likewise liable.

Respectfully,

JOHN W. BRICKER,

Attorney General.

1440.

APPROVAL, TWO RESERVOIR LAND LEASES IN COVENTRY TOWNSHIP, SUMMIT COUNTY, OHIO, FOR THE RIGHT AND PRIVILEGE OF USING FOR COTTAGE SITE, DOCKLANDING AND BOATHOUSE PURPOSES—WILLIAM J. ZOUL AND ROBERT H. ZOUL.

COLUMBUS, OHIO, August 26, 1933.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—I am this day in receipt of a communication over the signature of the Chief of the Bureau of Inland Lakes and Parks, submitting for my

examination and approval two certain reservoir land leases in triplicate, executed by the Conservation Commissioner to William J. Zoul and Robert H. Zoul, respectively, of Shaker Heights, Cleveland, Ohio.

By the leases here in question, each of which is for a stated term of fifteen years, and which provide for annual rentals in the amount of thirty dollars (\$30.00) and twelve dollars (\$12.00), respectively, there are leased and demised to each of the lessees therein named the right and privilege of using for cottage site, docklanding and boathouse purposes certain parcels of state land in the New or North Reservoir of the Portage Lakes, in Coventry Township, Summit County, Ohio.

Upon examination of these leases, I find that the same have been properly executed by the Conservation Commissioner and by the respective lessees therein named. Upon examination of the provisions of these leases and of the conditions and restrictions therein contained, I find the same to be in conformity with section 471, General Code, under the authority of which these leases have been executed, and with other statutory enactments relating to leases of this kind.

I am accordingly approving these leases as to legality and form, which is evidenced by my approval endorsed upon the leases and upon the duplicate and triplicate copies thereof, all of which are herewith returned to you.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1441.

DISAPPROVAL, NOTES OF SEBRING EXEMPTED VILLAGE SCHOOL DISTRICT, MAHONING COUNTY, OHIO—\$15,927.00.

COLUMBUS, OHIO, August 26, 1933.

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

GENTLEMEN:—Re: Notes of Sebring Ex. Village School Distr., Mahoning County, Ohio, \$15,927.00.

I have examined the transcript of the proceeding relating to the above note issue and find that the note issue in question was authorized by resolution adopted at a special meeting held on the 28th day of July, 1933, at which all of the members were not present. The transcript shows that all of the members were notified of the special meeting, by telephone, by the president of the board. This is not in compliance with the provisions of section 4751, General Code, which requires written notice thereof to be served upon each member, either personally or at his residence or usual place of business, which notice must be signed by the official or members calling the meeting. It has been held that this provision must be complied with and that the service of the notice in writing is imperative, in order to validate such a meeting, where, as in this case, all of the members were not present at the special meeting. *Kattman vs. Board of Education*, 15 O. C. N. S. 232, Opinions of the Attorney General for 1930, Vol. II, page 1534. This case held as follows: