

the annual distribution. In practical operation this would be fifty per centum of one-third, or one-half of one-third, which would be one-sixth, as a fraction which the local board of education could plead as a reimbursement for transportation expense where it had an agreement with parents or other persons in charge for the transportation of pupils to school.

In reply to your inquiry, then, you are advised that it is the opinion of this department that

1. Where a rural school district or a village school district, acting under section 7731-4 G. C., makes an agreement with a parent or other person in charge of a child for the transportation of such child to school, and the district owns neither the vehicle nor the means of locomotion, only one-third the amount paid for transporting such pupils shall constitute the "personal service expense" as defined in section 7787 G. C.

2. In the annual distribution of school funds by the county auditor after each semi-annual settlement with the county treasurer, the expense that may be attributed to the transportation of pupils in a village district or a rural school district shall be fifty per cent of the "personal service expense" incurred in such transportation, as defined in section 7787 G. C.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2805.

COUNTY RECORDER—NOT AUTHORIZED TO ACCEPT PERSONAL CHECKS IN LIEU OF FEES—SEE SECTION 8572 G. C.—LOSS SUSTAINED BY COUNTY RECORDER PERSONALLY.

By the provisions of section 8572 G. C. a county recorder is not authorized to accept personal checks in lieu of fees provided, and in the event such a check is accepted by said recorder, and proves to be valueless by reason of the bankruptcy or insolvency of the maker, the loss occasioned thereby must be sustained by said county recorder.

COLUMBUS, OHIO, January 20, 1922.

HON. KARL TIMMERMEISTER, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date reading as follows:

"I would like to have your opinion on the following matter:

Our county recorder received twenty (20) chattel mortgages for filing in his office, accompanied by a check for five dollars (\$5.00), covering the charges for work of the just mentioned mortgages, and the check was made payable to the order of Andrew Lampert, who is the present recorder of this county. The check was accepted in good faith as fees for the same. After the above mortgages were fully taken care of, the check was returned marked "In Bankruptcy," which I understand is true.

I would like to know, in case the same cannot be recovered, whether the county or the county recorder bears the loss."

Section 8572 G. C. pertinent to your inquiry is quoted herewith:

"For services in respect to chattel mortgages, or instruments for conditional sales, as provided in this chapter, the officer shall be entitled to re-

ceive the following fees: For filing each instrument or copy, six cents; for searching each paper, six cents; for making the entries upon the filing of an instrument, six cents for each party thereto; for recording such instrument, ten cents per hundred words; for recording any affidavit, credit or statement added to an instrument between the time of its record and refileing, twenty-five cents; and the like fees for certified copies of such instrument, or copies as are allowed by law to county recorders for like services."

This section provides for the fees chargeable by the county recorder for services in respect to chattel mortgages, and makes no provision for the acceptance of individual checks in lieu of such fees.

Section 2977 G. C. provides as follows:

"All the fees, costs, percentages, penalties, allowances and other perquisites collected or received by law as compensation for services by a county auditor, county treasurer, probate judge, sheriff, clerk of courts, surveyor or recorder, shall be so received and collected for the sole use of the treasury of the county in which they are elected and shall be held as public moneys belonging to such county and accounted for and paid over as such as hereinafter provided.

It may be noted that this section definitely states that all fees and costs collected as compensation for services by a county recorder shall be held as public moneys belonging to the county.

A recent opinion of the Attorney General, No. 2194, issued June 25, 1921, in a consideration of the same principle involved, held that a county treasurer accepting Canadian instead of United States money in his fiscal transactions, must bear the loss of any depreciation in such foreign money accepted. A similar conclusion is reached in the consideration of a question involving acceptance of a check by a county treasurer, found in Opinions of the Attorney General, 1917, Vol. I, page 969.

In view, therefore, of such rulings, and in the absence of statutory provision authorizing the acceptance of personal checks covering the amount of the fee chargeable by a county recorder and collectible by him for the services rendered in filing of chattel mortgages, it is assumed that there is no lawful authority supporting the acceptance of a personal check in lieu of the fees provided by law, and that the county recorder is liable to the county in the amount of loss occasioned by the acceptance of such a check as your inquiry indicates.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2806.

APPROVAL, ARTICLES OF INCORPORATION, THE LIBERTY INSURANCE COMPANY, DAYTON, OHIO.

COLUMBUS, OHIO, January 20, 1922.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—The articles of incorporation of the Liberty Insurance Company, of Dayton, Ohio, are herewith returned to you with my approval endorsed thereon.

Respectfully,

JOHN G. PRICE,
Attorney-General.