

149.

COUNTY RECORDER—MAY PUBLISH INFORMATION CONCERNING
RECORDED CHATTEL MORTGAGES AND LIENS—MAY RETAIN
COMPENSATION WHERE WORK PERFORMED OUTSIDE OF OF-
FICE HOURS.

SYLLABUS:

A county recorder is not prohibited by the statutes of Ohio from obtaining or disseminating among business men information concerning the filing of chattel mortgages and liens, when no part of the business hours of the county recorder are used either in the collection or dissemination of such information, and any remuneration received by the county recorder is not required to be paid into the county treasury.

COLUMBUS, OHIO, February 18, 1933.

HON. FREDERIC V. CUFF, *Prosecuting Attorney, Napoleon, Ohio.*

DEAR SIR:—I am in receipt of your request for opinion, which reads as follows:

“A County Recorder has been furnishing credit information regularly by copying and circulating, at the request of business men in the community, filings of chattel mortgages and liens.

The compensation paid by the above named business men to the Recorder is retained by the Recorder, personally, and not turned into the county treasury. No part of the usual business hours of the day are used by the Recorder to do this credit information work.

May I have your opinion as to the legality of this course of action on the part of the Recorder?”

An examination of the sections of the Code, defining the duties of the county recorder (Sections 2750 et seq. General Code), discloses the duties imposed by law on the County Recorder. Under such statutes specified rules are laid down as to the manner in which the county recorder is required to record or file documents authorized by law to be filed in such office.

Section 2765, General Code, specifically provides that the county recorder shall keep a daily register of deeds and a daily register of mortgages, in which he shall note, as soon as such instruments are filed in alphabetical order according to the names of the grantors, all deeds and mortgages affecting real estate filed in his office. Such section also provides that such daily register shall be open during business hours to the inspection of the public. Such statute does not direct or impose the duty upon the county recorder of furnishing or circulating such information among the citizens of his county.

Sections 2751 and 2781, General Code, describe the bond and the liability of the county recorder and his bondsmen thereon; such bond is conditioned for the faithful performance of the duties of his office. Section 2781, General Code, is specific in its description of the liability of the county recorder and his bondsmen. Such section reads as follows:

“If a county recorder refuses to receive a deed or other instrument of writing presented to him for record, the legal fee for recording it

being paid or tendered; or refuses to give a receipt therefor, when required; or fails to number consecutively all deeds or other instruments of writing upon receipt thereof; or fails to index a deed or other instrument of writing, by the morning of the day next after it is filed for record; or neglects, without good excuse, to record a deed or other instrument of writing within twenty days after it is received for record; or demands and receives a greater fee for his services than is allowed by law; or knowingly indorses on a deed or other instrument of writing a different date from that on which it was presented for record, or a different date from that on which it was recorded; or refuses to make out and certify a copy of any record in his office, when demanded, his legal fee therefor being paid or tendered; or purposely destroys, defaces, or injures any book, record, or seal belonging to his office, or any deed or other instrument of writing deposited therein for record, or negligently suffers it to be destroyed, defaced, or injured; or does or omits any other act contrary to the provisions of this chapter, he shall be liable to a suit on his bond, at the instance and for the use of the party injured by such improper conduct."

I find in the statute with reference to the duties of the county recorder, no legislative inhibition against his right to engage in other occupations than those of county recorder. In your inquiry you state that no part of the business hours of the county recorder are used in obtaining or disseminating the information described in your inquiry. It would therefore appear that such conduct is not prohibited by statute.

Specifically answering your inquiry I am of the opinion that a county recorder is not prohibited by the statutes of Ohio from obtaining or disseminating among business men information concerning the filing of chattel mortgages and liens when no part of the business hours of the county recorder are used either in the collection or dissemination of such information, and that any remuneration received by the county recorder is not required to be paid into the county treasury.

Respectfully,

JOHN W. BRICKER,
Attorney General.

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SOLDIERS' RELIEF—CITIZEN OF UNITED STATES, NOW A RESIDENT OF COUNTY IN OHIO WHO SERVED IN CANADIAN ARMY NOT ENTITLED TO SUCH RELIEF.

SYLLABUS:

A citizen of the United States, now a resident of a county in Ohio, who served in the Canadian army during the World War, is not entitled to soldiers' relief under the provisions of section 2930, et seq. of the General Code.

COLUMBUS, OHIO, February 18, 1933.

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

GENTLEMEN:—I have your letter of recent date which reads as follows:

"You are respectfully requested to furnish this department with your written opinion upon the following: