"When the title is approved, all the mortgage papers, together with the assignment of the mortgage, at the discretion of 'A', is sent to a particular life insurance company which pays to the bank the proceeds of the mortgage. 'A' as Mortgage Loan Correspondent, obtains a commission out of the transaction."

It is my opinion that under the express provisions of subdivision (a) of Section 1, Chapter 294, Acts of 1935, page 1452, being Burns' R. S. Pocket Supplement 64-901, that the note and mortgage securing the same and made payable to "A" and recorded in the Recorder's office prior to any assignment thereof are subject to the payment of Intangible Stamp Taxes as provided in the statute.

It is further my opinion that under the provisions of subdivision (b) of the same statute, the note and mortgage are exempt from the provisions of the Intangible Tax Law after the same have been assigned to a bank or life insurance company. Under this interpretation, the Intangible Stamp Taxes for the current year in which the note and mortgage are executed must be paid, and after the note and mortgage have been duly assigned to a bank or life insurance company, thereafter the same would be tax exempt during the life of the note and mortgage.

This opinion is based upon the assumption that the mortgage is duly recorded in the Recorder's office of the county where the real estate is situated prior to its assignment to any bank or life insurance company.

BOARD OF ACCOUNTS: Whether Chapter 169 of the Acts of 1943 applies to recorders in office when the Act takes effect.

March 20, 1943.

Hon. Otto K. Jensen,
State Examiner,
State House,
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your letter of March 15 requesting an official opinion as to whether or not the provisions of House

Bill No. 76, which will be Chapter 169 of the Acts of 1943, are applicable to the recorders in office at the time of the effective date of the Act.

The provisions of Chapter 169 of the Acts of 1943, involved in this inquiry, reads as follows:

> "The salaries herein provided for the county recorders shall be in full for all services, except as herein otherwise provided. That a sum equal to thirty per cent of the collections, as now provided by law, shall be allowed and ordered paid by the board of commissioners to the recorder of each of the various counties; *Provided, however,* that the combination of salary and aforementioned percentage of collections shall not exceed in the aggregate, in any instance, a sum in excess of six thousand dollars."

It is apparent from the language quoted that the Act does not purport to increase the salaries of the county recorders, as salaries, but that the Legislature intended to provide that, in addition to the specified salaries, the county recorders should be allowed and paid an additional sum equal to thirty per cent of all the fees collected.

There is a well-defined legal distinction between the words, "salaries," and "fees" or "collections." The word, "salary," is generally understood and defined as the statutory compensation to be paid to a public official or officer for the services rendered and performed by such officer, and such salaries are uniformly made payable at certain stipulated periods and in regular amounts. See

> Cowdin, Auditor v. Huff, 10 Ind. 83;
> Seiler v. State ex rel., 160 Ind. 605.

The term, "fees," is generally understood and defined as the amount paid as compensation for doing particular acts or services.

> Cowdin v. Huff, *supra.*

Under the provisions of Chapter 169 of the Acts of 1943 the percentage to be paid to the county recorders on all collections made by them is not made payable at any specified

time and it necessarily follows that the amount of such percentage would vary according to the total collections made during the course of a year and each month. Under such circumstances it is my opinion that the percentage allowed to the recorders cannot be classed as salary but falls within the term and definition of fees allowed for the performance of particular services. In addition to the two cases cited *supra,* I call your attention to the following cases:

Benedict v. U. S., 176 U. S. 357;
Lobrano v. Police Jury etc. (La.), 90 So. 423;
Taylo et al. v. Harwell G. Davis (Ala.), 109 So. 433;
State ex rel. Ward v. Henry (Ala.), 139 So. 278; and
Mehrens et al. v. Bauman (Neb.), 271 N. W. 701.

Under the law, as declared in the authorities, heretofore cited, it is my opinion that the language of Chapter 169 of the Acts of 1943 applies to county recorders in office at the time of the effective date of the Act and that the answer to your question is in the affirmative.

DIVISION OF LABOR: Whether the check-off to pay union dues violates the law against assignment of future wages.

March 20, 1943.

Hon. Thomas R. Hutson,
Commissioner of Labor,
Room 225 State Capitol,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state you desire an opinion in answer to the following question:

> "Can a provision providing for the so-called check-off system of dues to a union be inserted in a contract between the employer and the union in view of the present laws in Indiana with respect to wage assignments and the like?"