

Opinion No. 26.

**Mortgages — Combination Real and
Chattel Mortgages—Duration of
Lien on Chattels.**

HELD: The lien upon chattels in case of a combination mortgage of real estate and personal property provided for by Section 8273 is eight years as provided by Section 8267 R. C. M. 1935.

March 7, 1939.

Honorable W. A. Brown
Superintendent of Banks
The Capitol

Dear Mr. Brown:

You have requested my opinion as to the duration of the lien against personal property therein described in the case of a combination real estate and chattel mortgage executed pursuant to the provisions of Section 8273, R. C. M., 1935.

The latter section provides:

"All mortgages, deeds of trust, or assignments for the benefit of creditors, of both real and personal property, executed by a corporation, association or partnership, or by an individual or individuals, are governed by the law relating to mortgages or deeds of trust of real property and must be recorded in the office of the county clerk of every county where any part of said property is situated. * * *."

Section 8267, R. C. M., 1935, reads:

"Every mortgage of real property made, acknowledged, and recorded, as provided by the laws of this state, shall be good as against all from the time it is so recorded until eight years after the maturity of the entire debt or obligation secured thereby * * *."

Section 8273 Id., above quoted, provides further:

"The recording of such an instrument shall be notice of the rights of the parties under the same. It shall not be necessary to file any such instrument as a chattel mortgage."

In view of the statutes and the express provisions thereof, it is our opinion that the lien of such mortgage would be good for eight years after the maturity of the debt and for the additional period of the statute, upon filing of affidavit as provided by Section 8267.