

"In the event the sheriff does not require the money to be paid to him, but on the other hand agrees that the purchaser shall pay the first mortgage holder direct, under such circumstances poundage could not be charged."

Under the fact set-up presented in your request for my opinion, clearly it is the duty of the sheriff to collect the money and distribute the same as provided by law. It follows necessarily that he would be entitled to poundage on said claim in the event he makes the collection and the distribution. However, in view of the authorities cited herein, if in fact, he does not receive the money he would incur no risk in handling and disbursing the same, and for that reason would not be entitled to poundage.

In the light of the court decisions and the Opinions of the Attorney General cited herein, it is clear that if the property sold at foreclosure sale is purchased by "one entitled to the proceeds of the sale" the sheriff is not entitled to poundage. It is likewise clear that if the property is purchased by a person not entitled to the proceeds of the sale, the sheriff is entitled to poundage in the event that he collects the money and distributes the same as provided by law. However, if the sheriff does not receive the money from the purchaser at foreclosure sale he incurs no risk in handling and disbursing the same, and consequently is not entitled to poundage.

It is therefore my opinion, in specific answer to your inquiry, that where a sheriff does not receive the money from the purchaser to cover the first mortgage holder's claim, but on the other hand permits the same to be paid directly to the said mortgage holder by the purchaser, the sheriff is not entitled to poundage under Section 2845, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2808.

APPROVAL, BONDS OF CITY OF WASHINGTON C. H., FAYETTE COUNTY, OHIO—\$5,799.00.

COLUMBUS, OHIO, June 9, 1934.

Industrial Commission of Ohio, Columbus, Ohio.

2809.

APPROVAL, BONDS OF TOLEDO CITY SCHOOL DISTRICT, LUCAS COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, June 9, 1934.

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