

Section 2845 has been amended (108 O. L., Pt. II, 1214) since the 1916 opinion, but the portion material to your question was not changed. The section is not entirely free from ambiguity. It is subject to the interpretation that the phrase "of real estate" refers to the word "execution" as well as to "decree" and "sale". No cases involving poundage resulting from the sale of chattel property on execution have come to my attention, although there have been a number of cases, not in point on the present question, involving the sale of real estate. This is a slight indication against the view taken by this office in 1916, although it is very far from being conclusive.

The reason for allowing poundage was stated in the case of *Major vs. Coal Company*, 76 O. S. 200, 209. The court said that poundage was allowed "as a compensation to the sheriff for the risk incurred in handling and disbursing money actually received by him in his official capacity". Under the court's reasoning, there is no justification for distinguishing between money received from the sale of chattels and that received from real estate.

It has also come to my attention that poundage has been collected in some counties upon sums received from the sale of chattel property. In the absence of judicial decisions to the contrary, this long continued administrative practice should be accorded some weight and should not be overturned in the absence of clear language in the statute.

I am therefore of the opinion that a sheriff can charge poundage as a result of handling money from the sale of chattel property on execution.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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104.

APPROVAL, NOTES OF CANFIELD VILLAGE SCHOOL DISTRICT, MAHONING COUNTY, OHIO—\$7,500.00.

COLUMBUS, OHIO, February 4, 1933.

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

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105.

TAX AND TAXATION—PROPERTY PURCHASED BY BENEFICIARY OF WAR RISK INSURANCE POLICY—NOT EXEMPT FROM TAXATION.

*SYLLABUS:*

*Real property is subject to the state's general property tax, although purchased by a beneficiary with money received from the United States government as the proceeds of a war risk insurance policy. The exemption from taxation contained in the War Risk Insurance Act (38 U. S. C. A., sec. 454) does not include such property.*

COLUMBUS, OHIO, February 6, 1933.

HON. C. WOOD BOWEN, *Prosecuting Attorney, Logan, Ohio.*

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