

3014.

APPROVAL, BONDS OF CITY OF SPRINGFIELD, CLARK COUNTY,
OHIO—\$25,000.00.

COLUMBUS, OHIO, August 8, 1934.

Industrial Commission of Ohio, Columbus, Ohio.

3015.

SHERIFF—MAY EMPLOY AMENDED SENATE BILL NO. 23 WHEN OR-
DERED BY COURT TO PAY TAXES AND ASSESSMENTS FROM
PROCEEDS OF FORECLOSURE SALE.

SYLLABUS:

Where ordered by the court in a foreclosure proceeding to pay the taxes and assessments from the proceeds of a sale, a sheriff may avail himself of the provisions of Amended Senate Bill No. 23, enacted at the second special session of the 90th General Assembly.

COLUMBUS, OHIO, August 9, 1934.

HON. L. ASHLEY PELTON, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads in part as follows:

“Our County Treasurer has inquired of me as to whether or not he is permitted to remit penalties to the Sheriff in foreclosure cases since Amended Senate Bill No. 42 has been recently amended, now being Amended Senate Bill No. 23, passed in April.

I recall that under the former bill you rendered an official opinion stating that penalties could not be remitted by the Treasurer in such cases, inasmuch as the Sheriff was not such a person charged with the taxes and assessments, according to the intent of the Legislature when they enacted the bill. I note that the latest bill, being Amended Senate Bill No. 23, specifically says ‘Any person, firm or corporation charged with or legally authorized or required by law or decree of court’, which would apparently include the Sheriff in a foreclosure action, as he is required to pay the taxes, by decree of the court.

Will you kindly advise me as to whether or not I am correct in my assertion? * * *

As pointed out in your letter, this office in an opinion to be found in Opinions of the Attorney General for 1933, Volume II, page 1205, held as disclosed by the first branch of the syllabus:

"Am. S. B. No. 42, enacted by the 90th General Assembly does not authorize the county treasurer to accept from the sheriff out of the proceeds of a sale in foreclosure of a mortgage, the principal amount of taxes and assessments delinquent prior to the August 1932 settlement with the amount of the current taxes and thereupon to remit the penalties remaining unpaid. The sum of money so to be received by the county treasurer should be determined pursuant to the provisions of Section 5692, General Code."

However, the above opinion was based upon the language used in section 1 of Amended Senate Bill No. 42, enacted by the 90th General Assembly. Said section read as follows:

"Any person, firm or corporation charged with or legally authorized to pay real property taxes and assessments which have become delinquent at or prior to the August settlement in the year 1932, may at any time prior to the February settlement in the year 1934, elect to pay the principal sum of such delinquent taxes and assessments as provided in this act, anything in the permanent statutes of this state to the contrary notwithstanding. Provided, however, that no such person shall be entitled to make such election unless all taxes, assessments and penalties for the year 1932 and/or the first half of the year 1933 then due and payable have been paid." (Italics the writer's.)

Since the rendition of the above opinion, the legislature passed Amended Senate Bill No. 23, which amended the language upon which the above opinion was based. In so far as it is material to your present inquiry, section 1 of Amended Senate Bill No. 23 reads as follows:

*"Any person, firm or corporation charged with or legally authorized or required by law or decree of court to pay real property taxes and assessments which have become delinquent at or prior to the August settlement in the year 1933, or any person, firm or corporation holding a lien upon such real property, may at any time prior to the first day of September in the year 1934, elect * * *"* (Italics, the writer's.)

Your inquiry is prompted by reason of the addition of the above italicized portion of Amended Senate Bill No. 23, and you inquire as to the effect of this language upon the 1933 opinion.

Section 5692, General Code, providing for the sale of real estate at a judicial sale, provides in part as follows:

" * * the court shall order the taxes and penalties, and the interest thereon against such lands, to be discharged out of the proceeds of such sale * * *"*

The former opinion was based upon the grounds that the words "any person * * * legally authorized to pay real property taxes" only authorize the owner or his legal representative, or such other person who has been authorized under the provisions of section 5682, General Code, to pay the taxes and secure the benefits of Amended Senate Bill No. 42, but that it did not authorize a sheriff who dis-

tributes the proceeds of a sale of real estate in a foreclosure proceeding to secure such benefits. Since the addition of the words "or required by law or decree of court" in Amended Senate Bill No. 23, it would appear that the sheriff, since he is required under section 5692, General Code, to pay the taxes in foreclosure cases by order of the court, falls within the express provisions of Amended Senate Bill No. 23, and, consequently, may avail himself of the provisions of that Act.

Without further extending this discussion, it is my opinion in specific answer to your question that where ordered by the court in a foreclosure proceeding to pay the taxes and assessments from the proceeds of a sale, a sheriff may avail himself of the provisions of Amended Senate Bill No. 23, enacted at the second special session of the 90th General Assembly.

Respectfully,

JOHN W. BRICKER.

Attorney General.

3016.

TEACHER—PROHIBITED FROM SOLICITING BIDS OR OFFERING FOR
SALE SUPPLIES OR EQUIPMENT FOR USE IN PUBLIC SCHOOLS
OF STATE.

SYLLABUS:

The provisions of Section 7718, General Code, prohibit a teacher who is employed by any board of education, and who is the owner of a business dealing in supplies and equipment ordinarily used in schools, from soliciting bids on or offering for sale such supplies or equipment for use in the public schools of the state.

COLUMBUS, OHIO, August 9, 1934.

HON RUSSELL M. WILHELM, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—This acknowledges receipt of your request for my opinion which reads as follows:

"The following facts and question have been submitted to this office with the request that we secure your formal opinion in the matter:

STATEMENT OF FACTS

One J. G. who is a school teacher employed by the City School Board of Marion, Ohio, is engaged in an independent business owned and operated by himself under the name of 'Marion Paper and Twine Company' of Marion, Ohio. This company is engaged in the handling and sale of toilet paper, chalk, mimeograph paper, stencils, janitor's supplies, erasers, towel cabinets, etc., but does not handle text books, school seats and desks or filing cabinets. J. G. has submitted letters and called in person on various school boards in this county asking to bid on supplies such as stated above for the various school boards.