

COPY OF A.O.G. 446, 1928

TAX SALES - DISTRAINING FEE - ADVERTISING FEE - SHERIFF

May 10, 1928

Mr. J. K. Lewis,
Grayson, Kentucky.

Dear Sir:

Your letter of May 8th addressed to the Attorney General has been referred to me for reply.

You advise that Mr. Tolbert Holliday, ex-sheriff of Perry county, is trying to claim a 6% commission for distraining fee on real estate sold by him for delinquent taxes. You further advise that the records of Perry county disclose that it has been the practice in that county for the sheriff to charge \$3.50 for advertising fee and you request an opinion on each question. I shall answer the questions in the order stated.

Section 4148 of Kentucky Statutes, Carroll's 1922 edition, provides that:

"All state, county and district taxes, except as otherwise specially provided, shall be due and payable on and after the first day of March after the assessment and all taxpayers whose taxes are not paid on the first day of December after the same are due shall be deemed delinquent and such taxes shall bear interest at the rate of 6% per annum from the first day of December after they are due until paid and a penalty of six percentum."

Said section was amended by an Act of 1926 changing the date when the penalty and interest start to December 31st instead of December 1st and further

"providing any taxpayer who pays his or her or its state, county or district taxes on or before September 1st after same becomes due in any year shall be entitled to 2% discount thereon."

That section makes it the duty of the sheriff to collect the interest and penalty and account for the same in the same way in which they are required to collect and account for taxes.

Section 4149 provides for distraining for taxes and for levy and sale of the delinquent's land for that purpose.

Section 4168 fixes the compensation of the sheriff or collector for collecting and accounting for said taxes and Section 1726 of Kentucky Statutes fixes the sheriff's compensation for collecting money under execution or distress warrant.

A sale of land by the sheriff for taxes is not a sale under execution or distress warrant and Section 1726 has no application to sales of