

"The sheriff or collector, by virtue of his office, shall be collector of tax warrants and he shall be allowed in addition to the commissions allowed him for collecting taxes the same fees allowed by law to sheriffs for collecting executions and the County Clerk shall be allowed for his services the same fees now allowed him by law for similar services."

The General Assembly of 1908 by Chapter 43, Acts of the General Assembly of 1908, expressly repealed Sections 21, 22, 23, 24 and 25 of Article 8, Chapter 22, Acts of 1906, and thereby repealed the only provision of law authorizing the payment to sheriffs of a commission for the sale of real estate for taxes.

From the foregoing statements and provisions of the Statute, it follows that under the present law and under the law as it has been since 1908, sheriffs are entitled to a commission of 6% for collecting taxes from the sale of personal property in addition to the commission provided by section 4168 of the Kentucky Statutes but are not entitled to any commission for collecting taxes by the sale of real estate except the commissions provided by Section 4168, supra. It therefore follows that the collection of 6% commission by any sheriff since 1908 is illegal.

Section 4149 of Kentucky Statutes, Carroll's 1922 edition, provides for the advertisement of property to be sold by the sheriff for delinquent taxes and provides that

"... in order to cover the cost of such advertisement and notification the sheriff or collector shall have \$1.00 for each person whose property is advertised, to be paid by the delinquent, but in no event to be paid by the state, county or taxing district."

There is no other provision of the Statutes authorizing the sheriff to charge or collect any additional amount for advertising and it therefore follows that when any sheriff charges or collects more than \$1.00 for each person whose property is advertised for sale for delinquent taxes such additional charge is illegal and void.

Trusting that I have fully answered your questions, I am

Very truly yours,

M. B. HOLIFIELD

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Approved:

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