

Mr. Howard C. Beck, Jr., City Auditor (cont'd)

In the case of Banks v. State, 60 Md. 305, it was held that the Register of Wills was not entitled to retain, as extra compensation, over and above his salary and the expenses of his office, the 5% commission (allowed by statute) collected by him on the collateral inheritance taxes paid through his office, and on the commissions of executors and administrators; that although the statute made it his official duty to collect said taxes, etc., and that the commissions collected by him came through his hands in the discharge of his official duties, all those amounts over and above his salary and the expenses of his office had to be accounted for to the State of Maryland.

In the case of State v. Green, 120 Md. 681, at 690, it was said;

"The moneys received by the defendant for which he is to account to the State under the constitutional provision above quoted does not include fees and compensation illegally charged and collected by him. It was his duty to receive and pay over to the incorporated dispensaries and the Mayor and City Council of Baltimore the whole or such part of the fines to which they were respectively entitled, and we know of no law or has our attention been called to any by which he is authorized or permitted to charge commissions therefor to said parties. Therefore, the commissions charged and collected by the defendant from the incorporated dispensaries and from the Mayor and City Council of Baltimore for the fines paid over to them, respectively, in this case, were wrongfully and illegally charged and retained and thus, to the extent of said commission, so much of said fines are still owing unto them and not unto the State." (Underscoring supplied)

The opinion cited above distinguished the holdings in the case of Banks v. State, supra, pointing out that in the Banks case the commissions had been legally collected but "in the present case there was neither warrant or authority of law for the retention of the commissions attempted to be exacted."

In the second case of Green v. State, 122 Md. 288, it appeared that the Defendant had failed to account to the State for commissions of 6% withheld from the State's Attorney for Baltimore City and from the Clerk of the Criminal Court of Baltimore City, based on fees and costs to said State's Attorney for Baltimore City and said Clerk of the Criminal Court of Baltimore City, amounting to \$664.86. In its opinion, the Court said, at page 296: