



June 17, 1963

OPINION REQUEST NO. 245
ANSWERED BY LETTER

Honorable Charles B. Faulkner
Prosecuting Attorney
County of Lawrence
Mount Vernon, Missouri

Dear Mr. Faulkner:

This is in response to your request for an opinion of this office concerning the proposed sale of certain land presently owned by Lawrence County.

We find that two of the questions posed by your request have been answered by previously issued opinions of this office, which opinions have been reviewed and found to correctly state the law at this time. Although the opinions are enclosed herewith, we will summarize them as they pertain to your questions:

1. Although the county court may sell real property through a duly appointed commissioner as provided for in Section 49.280, RSMo 1959, the court may also sell the property itself and make the deed itself. Opinion to Honorable J. R. Gideon, February 18, 1949. However, because of the practical problems involved in execution of the deed by a three man court, it might be advisable to adhere to the procedure outlined in Section 49.280.

2. The proceeds of real property sold by a county go into general revenue of the county. Opinion to Honorable A. L. Wright, September 28, 1945. Because of its relationship to the matters under consideration here, we also forward a copy of an opinion of this office issued to the Honorable W. Frazier Baker on August 8, 1957, which holds that the proceeds of such a sale may be spent in the same year that they are received even though they were not included in the budget for that year.

Honorable Charles B. Faulkner -2-

Inasmuch as the statutes relating to sale of real property by a county court do not require that such disposition take place at public auction or after the taking of bids, it is the opinion of this office that the sale of county owned real property may be consummated by private sale. The county court must, of course, act in good faith, exercising the degree of prudence which guides careful men in their own business affairs regardless of what procedure is followed in the sale of county property.

We trust that the foregoing will be of assistance to you in resolving the questions stated in your letter.

Very truly yours

AJS:im

THOMAS F. EAGLETON
Attorney General

Enclosures (3)