



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

January 13, 1948

Hon. Wayne L. Hartman,
County Attorney,
De Witt County,
Cuero, Texas

Opinion No. V-477.

Re: Legality of the ap-
pointment by a Com-
missioners' Court of
one of its members
as Commissioner to
sell real estate un-
der Article 1577,
R. C. S.

Dear Sir:

We refer to your letter of December 23, 1947,
in which you submit the question:

"May the Commissioners Court of De
Witt County, Texas, appoint one of its own
members as Commissioner, without compensa-
tion, to sell real estate belonging to said
County, under the provisions of Article
1577, Rev. Civ. St. 1925."

That Article reads:

"The commissioners court may, by an
order to be entered on its minutes, appoint
a commissioner to sell and dispose of any
real estate of the county at public auction.
The deed of such commissioner, made in con-
formity to such order for and in behalf of
the county, duly acknowledged and proved and
recorded shall be sufficient to convey to
the purchasers all the right, title, and in-
terest and estate which the county may have
in and to the premises to be conveyed. Noth-
ing contained in this article shall author-
ize any commissioners court to dispose of any
lands given, donated or granted to such coun-
ty for the purpose of education in any other
manner than shall be directed by law."

We assume that the real estate in question is other than County School Land and must be sold under the provisions of Article 1577, V. C. S.

In Spencer v. Levy, 173 S. W. 550, writ refused, the Court said:

"We are of the opinion that the deed executed by the Chief Justice of Falls county to Frank Barnes, under whom W. M. Reed claimed, did not convey title to the grantee therein, for the reason that it does not appear that he was appointed by the commissioners' court to sell said land, nor that such sale was made at public auction."

The sale by the Chief Justice (now County Judge) in that case was held void "for the reason that it does not appear that he was appointed by the Commissioners' Court to sell the land, nor that such sale was made at public auction." This language clearly indicates that the County Judge may be appointed to make such a sale; and since the Judge is a member of the Commissioners' Court it necessarily follows that any other member of the Court may be appointed to perform such service. However, the person appointed must serve without compensation.

SUMMARY

A member of the Commissioners' Court is eligible to serve without compensation as Commissioner to sell county land under Article 1577, R. C. S., 1925.

Very truly yours,

APPROVED:

J. R. Greenhill

ACTING
ATTORNEY GENERAL
WTW:wb

ATTORNEY GENERAL OF TEXAS

By

W. T. Williams
W. T. Williams
Assistant