

## Opinion No. 17-1972

April 9, 1917

**BY:** H. L. PATTON, Attorney General

**TO:** Hon. Scott Etter, Carlsbad, New Mexico.

Terms of Sale of State Lands Must Conform to Chapter 52, of the Laws of 1917, and No Further Sales Can Be Made Under the Terms Formerly in Force.

Holder of a Contract Issued Under the Old Statute May Surrender Same and Take Advantage of New Terms.

### OPINION

I am in receipt of your letter of the 7th instant, asking for construction of parts of the act of the last legislature created by House Bill No. 322.

I shall first answer the question propounded by your second inquiry, which is as follows:

"Can the Land Commissioner of the State of New Mexico accept contracts for purchase after the passage of this act under the terms of prior statutes?"

Section 1 of the act reads, in part, as follows:

"From and after approval of this act, State lands shall be sold for cash, or upon payments of one-twentieth of the purchase price in cash and the balance at any time within thirty years from the date of the contract."

In my opinion, the terms of this act as quoted are imperative and hereafter State lands shall be sold upon the terms and conditions set forth in the act. While this act contains no express repealing clause, by implication, all former acts providing for the sale of State Lands in the future are repealed. I should state, however, that Section 4 of the act provides that this act shall not be applicable to lands selected for the benefit of the Santa Fe and Grant County Railroad Bond Issue, but such lands shall be sold as provided by Section 5236, Code 1915.

Your other question is as follows:

"As to Section 3 of said bill, I desire to inquire whether or not, in your opinion, contracts entered into prior to the passage of said act are subject to assessment for taxation at their full value."

While in answer to the former question. I stated that all former laws with reference to the sale of State lands are repealed, I did not mean to say that rights acquired under former

sales are abrogated under the new act. Section 3 of the act provides that "all lands sold under the provisions of this act, or for which existing contracts are changed, in conformity herewith, shall be assessed for taxation at their full value."

Section 4 of the act provides:

"That contracts for the purchase of State lands now outstanding shall, upon application of the holders thereof \* \* \* be cancelled, and new contracts issued under the provisions of this act, in lieu of such outstanding contracts."

If the holder of a contract issued under the old statute elected to do so, he could surrender the same and have a contract under the provisions of the new act issued to him. In such case, the land would be assessed at full value. If he does not elect to surrender his old contract, in my opinion, the land should be assessed and taxed as provided under the law in force prior to the passage of the act of 1917.