

State Lands, Sale of at Appraised Value. Appraisement, of State Lands, Sale Upon.

A quarter section of land may be sold for the total appraised value of such quarter section, where it is ten dollars or more per acre, notwithstanding the fact that certain 40's of said quarter section were appraised at a higher value than the price per acre received for the entire quarter section.

Helena, Montana, November 18, 1909.

State Board of Land Commissioners,

Helena, Montana.

Gentlemen:

I am in receipt of a letter from the register of state lands, requesting an opinion upon the following proposition:

"The state board of land commissioners require each forty (40) acre subdivision to be appraised separately. It frequently happens that one or more subdivisions in a quarter section are appraised at less than ten and others at more than ten dollars per acre.

Question: Where a quarter thus appraised, e. g. one forty at \$7.00, one forty at \$9.00 and two forties at \$12.00, has been applied for and is offered at auction, must the register insist on \$10.00 per acre for both the inferior tracts, and \$12.00 per acre for the forty thus appraised, or can he lawfully accept \$10.00

per acre for the entire quarter section, which would equal in total the appraised value of this 160 acres in its entirety and also the minimum price of \$10.00 per acre?"

Section 37, of chapter 147, laws of 1909, provides the method for selling state lands. This section provides that each quarter section shall be offered for sale separately, and that smaller lots than 160 acres may be sold only when it is impossible to sell a quarter section, or when a larger price may be obtained thereby. If the board offers a quarter section for sale, and the bid submitted is \$10.00 or more per acre for the entire tract, and is also not less than the appraised value for the entire tract, in our opinion, the bid can be legally accepted and the land sold for such price, for in such case each acre is bringing at least \$10.00 an acre, and the total price for the 160 acres is not less than the total appraised value for said 160 acres. On the other hand, if the board desires to sell a smaller lot than a quarter section, for instance, a 40 acre tract, which was separately appraised at less than \$10 per acre, it would have to get at least \$10.00 an acre for such separate 40 acres, as any appraisement at less than \$10.00 an acre would not repeal the law and the provisions of the Enabling Act that all state lands must be sold at not less than \$10.00 per acre. The separate appraisement of each 40 acres is for the purpose of informing the board of the present actual value of each 40 acre tract. But the law fixes the unit for selling at a quarter section. Therefore, if the price received for a quarter section is \$10.00 or more per acre for each acre, and is not less than the total appraised value of said quarter section, where such total appraised value for the entire quarter section is more than \$10.00 an acre, the board clearly has the right to sell it at such price, notwithstanding the fact that certain 40's of such quarter section were appraised at less than \$10.00 and others at more than \$10.00 per acre.

Yours very truly,

ALBERT J. GALLEN,

Attorney General.