

State Arid Land Grant Commission, Warrants. Federal Grant Reclamation Fund, Warrants. Warrants, of State Arid Land Grant Commission. Warrants, Federal Grant Reclamation Fund.

The above warrants are valid and legal obligations against the state and should be paid in the order of their registration, and each bear six per cent interest.

Helena, Montana, June 27, 1910.

Hon. E. E. Esselsytn,
State Treasurer,
Helena, Montana.

Dear Sir:—

There was transmitted to this office by you three warrants of the state arid land grant commission, together with two warrants issued against the federal grant reclamation fund, all of these warrants bearing date during the years 1895 to 1898. Together with these warrants you ask verbally for an opinion:

First: As to their legality as valid obligations against the State;

Second: As to the order in which they should be paid; and,

Third: As to the rate of interest, if any, carried by them.

You are informed that there is now no commission known as the "Federal Grant Reclamation Commission," nor is there any "State Arid Land Grant Commission" now in existence, both of these boards having been succeeded by the Carey land act board.

The federal grant reclamation warrants are, in my opinion, valid claims against certain funds which are, or may be, in your hands.

Section 3543, Political Code, which is found in the chapter dealing with state arid lands, provides:

"That the state treasurer shall open an account with a certain fund to be known and designated as the federal grant reclamation fund, to which said fund shall be paid all moneys received from the sale, rental or other disposition of any of the lands reclaimed under the aforesaid act of congress."

The same section provides how this fund shall be disbursed by the state treasurer.

Section 3530, Political Code, provides for the establishment of a

commission known as the "State Arid Land Grant Commission." This act was approved March 18, 1895, and provided for the reclamation of arid land under the act of congress approved August 18, 1894, and also provided for the disposal and sale of this land and for the custody and disbursement of the funds received therefrom.

Section 3535 provides that warrants issued by the state arid land grant commission shall be dated the day of their issue, and shall bear interest at the rate of six per cent. per annum until paid. This section also provides that these warrants shall be registered by the treasurer, upon presentation, by the holders, in the order in which they are presented.

In view of this provision, warrants should not bear interest from the date of issue, but rather from the date of their presentation for payment, and on account of lack of funds, their registration by the treasurer.

In view of the sections above referred to, all of the warrants transmitted to this office, and others of like tenor, are held to be valid obligations of the state of Montana. They should be called in the order of their presentation when funds are available for their payment, and all of these warrants should bear six per cent. interest from the date of registration.

Section 2238, Revised Codes, establishes a board known as the "Carey Land Act Board," for the purpose of enabling the state to accept the offer of the United States, made by act of congress, approved August 18, 1894, as amended by act of congress, approved March 3, 1901. And Section 2239, Revised Codes, provides that the Carey land act board shall be the successor of the state arid land grant commission, which is abolished by this section; and, further provides, that such successor, the Carey land act board, shall perform all the duties pertaining to unfinished contracts of the state arid land grant commission.

You are therefore advised that the Carey land act board, as now constituted, is the legal successor of the state arid land grant commission, and that all the obligations and duties imposed by law upon the arid land grant commission survive and become the obligations and duties of the Carey land act board.

One of these obligations is to care for the outstanding warrants and back indebtedness of the federal land grant commission and the state arid land grant commission. However, the method of caring for these old obligations is prescribed by Section 2279, Revised Codes, under which the treasurer must disburse the Carey land act fund, first, for the payment of current expenses of the board and state engineer's office, etc.; second, to reimburse the general fund for the expenses of the board and of the state engineer; third, to reimburse the state for expenses of the state arid land grant commission, etc.; fourth, a certain amount shall be set aside, after estimate made by the board, for the expenses of the next two years, and whenever the remainder in said fund, less said estimate, shall equal \$2,000.00, the same shall be applied, pro rata, to the payment of warrants issued by the state arid land grant commission for expenses incurred by it against Districts Nos. 1, 2 and 4,

and upon accounts which were credited upon the ledger of said commission to sundry persons, these last accounts being about \$18,697.45.

If you find, after following the provisions of Section 2279, Revised Codes, that there is money available for the payment of warrants issued by the state arid land grant commission, then these warrants, and also federal grant reclamation warrants, should be called and paid in the order of their registration.

Yours very truly,
ALBERT J. GALEN,
Attorney General.