

Opinion No. 180.**State Lands—Forest Lands—Ex-
changes—Parks—Recrea-
tional Areas.**

HELD: State forest lands may be exchanged for similiar privately owned lands of equal value, and as near as may be of equal area. The land which is to be acquired may be used for recreational areas, providing the rentals and other income shall be available for the purposes mentioned in the Enabling Act.

October 4, 1935.

Mr. Rutledge Parker
State Forester
Missoula, Montana

You have submitted the following:

"Your opinion is desired to the State's authority, under Chapter 180,

1931 Session Laws, and the amendment to the Enabling Act, passed by the 72nd Congress, as to the exchange of State Forest lands for similar privately owned lands.

"We would also like to know if State lands can be exchanged to acquire recreational areas now in private ownership. The attached memo. relating to Lake Ronan shore lands, explains this class of exchange acquisition."

Section 1, Chapter 180, Laws 1931, provides: "That the State Board of Land Commissioners of the State of Montana is hereby authorized to accept on behalf of the State of Montana title in fee simple to any lands, timbered or from which the timber has been cut or burned, and in exchange therefor may convey not to exceed an equal value of similar land owned by the State of Montana. * * *"

Section 11 of the Enabling Act, approved February 22, 1889, (25 Stat. 676), was amended by the 72nd Congress of the United States so as to include, among other things, the following: "Any of the said lands may be exchanged for other lands, public or private, of equal value and as near as may be of equal area, but if any of the said lands are exchanged with the United States, such exchange shall be limited to surveyed, nonmineral, unreserved public lands of the United States within the state. * * *"

The said amendment further provides that rentals on leased land, and all other actual income, shall be available for the maintenance and support of such schools and institutions as are provided for in the said Enabling Act.

It appears that the said statute and the amendment to the Enabling Act are sufficiently broad to permit the exchange of state forest lands for similar privately owned lands of equal value, and as near as may be of equal area. As to lands to be exchanged so as to acquire recreational areas, such as the Lake Ronan shore lands, we see no objection thereto provided the lands exchanged are similar and are of equal value and the other requirements of the statute and Enabling Act are met. The fact that such lands to be acquired may be used for recreational areas would not seem to be

an obstacle to the exchange, providing the rentals and other income shall be available for the purposes mentioned in the Enabling Act.