

Opinion No. 208.**State Lands—Leases—Tie Bids.**

HELD: Where A and B submit tie bids for a lease and the commissioner of state lands called for new oral bids at a later date, and B withdrew his bid and stated that it would be impossible for him to appear and protect his bid and A, through his authorized representative submitted a bid in a lesser sum, the latter bid should be accepted for the reason that it was the only bid, the previous bids having been rejected.

March 6, 1940.

Mrs. Nanita B. Sherlock
Commissioner of State Lands
The Capitol

Dear Mrs. Sherlock:

You have submitted the following facts: On January 5, 1940, you called for sealed bids to be received at your office until January 22, 1940, at 2:00 P. M., on a lease for a certain tract of land of 480.35 acres. Your office thereafter received two sealed bids from A and B, each for the cash rental of \$35.00. On January 25, 1940, you notified each contestant that on account of the tie bid you believed "it would be advisable to re-set the bidding for oral competition" and accordingly on January 26, 1940, gave notice that oral bids would be received at your office until February 19, 1940, at 2:00 P. M. The notice carried the following note: "You, or your fully authorized representative should be present at the time and place named, in order that your interest may be fully protected." B, on February 10, 1940, wrote to you as follows: "I hereby withdraw my bid of \$35.00 on * * * Am sorry to have to do this, but it will be impossible for me to appear and protect my bid." A appeared by his authorized representative who tendered a cash bid of \$18.00, the minimum rental for which this land could be leased, according to

your notice. You have asked, what bid, if any, to accept.

In my opinion, when you did not accept either of the sealed bids but called for new oral bids, you rejected both sealed bids previously made. There was before you on February 19, 1940, only one bid, that of \$18.00 submitted by A, through his authorized representative, and it would be proper for you to accept the same.