

## Opinion No. 14-1173

March 17, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Honorable Robert P. Ervien, Commissioner of Public Lands, Santa Fe, New Mexico.

### **TAXES.**

Taxation of lands sold by state on deferred payments.

### **OPINION**

{\*30} In response to your oral request, accompanied by a memorandum on the subject, I take pleasure in saying that I agree fully with you as to your views concerning the taxation of state lands sold or contracted to be sold under the provisions of Chap. 82 of the laws of 1912, with special reference to Sec. 57 of that act.

The first sentence of that section reads:

"All lands, or any interest therein, sold or contracted to be sold under the provisions of this act upon deferred payments shall be subject to taxation."

The section then requires you to furnish county assessors with lists of state lands in their respective counties which have been sold, and then follows a proviso that such lands shall not be assessed at a higher valuation than similar lands in the immediate vicinity.

The price at which the state sells or agrees to sell the lands does not furnish any absolute standard as to the value of the land, and it should be assessed like any other land, at its actual value. A portion of a tract of land purchased may be worth much more than other portions, and again, a man might buy land upon the deferred payment plan at a much higher price than could be realized for the land if sold for cash. The value of the land having been ascertained and fixed by the county assessor, the purchaser should then be taxed, not upon the whole value of the land when he has paid only a small part of the purchase price, but upon so much of the value as would bear to the total value the same proportion as the amount which he has paid bears to the full amount which he has agreed to pay. In this way he is taxed upon what he has actually put in the land. It is inconceivable that the legislature would intend to compel him to pay taxes upon the full value when it may be many years before he obtains complete title.