

Opinion No. 288.**County Lands—Contracts For Sale on
Deferred Payments—Interest Rate
—County Commissioners.**

HELD: The board of county commissioners has no power to reduce the interest rate on contracts for the sale of county lands on deferred payments, where the contracts were made under authority of Chapter 162, Laws of 1929.

May 22, 1936.

Mr. P. R. Heily
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You ask for an interpretation of Section 2235, R. C. M. 1921, as amended by Chapter 162, Laws of Montana, 1929, and Chapter 33 of the Extraordinary Session Laws of 1933-34.

This is a statute in relation to the sale of lands by county commissioners. By the terms of the 1929 statute, deferred payments draw interest at the rate of 6% per annum. As to lands sold under the authority of Chapter 33, Extraordinary Session, 1933-34, deferred payments bear interest at the rate of 4% per annum. In your inquiry you advise us that parties who have purchased lands under the authority of the 1929 statute and whose deferred payments bear interest at the rate of 6% per annum, have requested the county commissioners to modify their contracts to the extent of accepting payments with interest at the rate of 4% per annum as provided in the latter statute. You inquire as to the right of the county commissioners to reduce the interest rates on these contracts entered into under the 1929 statute, from 6% per annum to 4% per annum.

You are advised that as to contracts entered into under and by virtue of the 1929 statute same must comply with the terms of that statute. The contracts entered into under that statute are not affected by an amendment of the statute which authorizes contracts of a different char-

acter and a different rate of interest in relation to subsequent transactions. The contract entered into under the prior statute is in no manner affected by the subsequent amendment of such statute. The subsequent statute contains no language from which it might be inferred that it was the intent of the legislature to modify contracts already in existence.

It is true that claims of the applicants who desire to secure concessions as to interest rates have great equity and it may be that the legislature has power to reduce the interest rates as to contracts already in existence. However, no such power is given by the subsequent statute and we must, therefore, conclude that there is no authority in the board of county commissioners to alter said contracts or to change the interest rate upon contracts already in existence from 6% per annum to 4% per annum.