

**Tax Deed—Certificate of Tax Sale—Subsequent Purchasers.**

Where the purchaser at a tax sale fails to protect his title, the County Treasurer is authorized to issue tax deed to subsequent purchaser at expiration of period for redemption.

December 21st, 1918.

Hon. H. S. Magraw,  
State Examiner,  
Helena, Montana.

Dear Sir:

Your letter of December 16th, 1918, requests an opinion from me upon the following question:

“In case where a County Treasurer issued a ‘certificate of Tax Sale’ to A for a certain parcel of real estate, and the next year issues a ‘Certificate of Tax Sale’ for the same parcel to B, and the next year issues a ‘Certificate of Tax Sale’ for the same parcel to C, and when the time has arrived for a Treasurer’s Tax Deed to A, who has made application for the deed, and same has been executed; has the County Treasurer authority to execute a deed to B and C for the same parcel?”

My opinion is that you have such authority. The law gives the County Treasurer authority to sell land for delinquent taxes and to issue to the purchaser a tax certificate reciting the fact of such sale. It is further provided that at the expiration of the period of redemption the holder of this certificate may apply for a tax deed.

Sec. 2655 provides that such tax deed conveys to the grantee “the absolute title to the lands \* \* \* free of all incumbrances except the lien for taxes which may have attached *subsequent to the sale.*” In the

case cited in your letter "A" receives a tax deed subsequent to the sale upon which his title is based; a new lien has attached to the land by virtue of the sale to "B" and again by the virtue of the sale to "C". "B's" right to a tax deed at the expiration of the period of redemption (provided "A" does not protect his former title by redeeming) rests upon exactly the same basis as did "A's" right in the first instance, i. e. the failure of the holder of the legal title (in this case "A") to pay the taxes and the subsequent sale of the land for said taxes. The same in turn becomes true of "C" upon the failure of "A" or "B" to pay the subsequent tax.

It is also to be observed that if the above rule were otherwise there is no way in which the county could ever enforce the payment of delinquent taxes after a tax deed had once been issued.

Respectfully,

S. C. FORD,

Attorney General.