

**Opinion No. 320****Taxation—Delinquent Taxes—Real  
Property—Redemption of a  
Portion.**

HELD: Where the taxes on real property become delinquent, the fact that the owner sells a portion of it does not relieve him from the duty of paying taxes on the whole amount, which he must do in order to clear the title to the remainder. Where, however, a portion is sold by the proper officer, owner may redeem the remainder.

August 22, 1933.

It appears from your request for an opinion that in recent years A owned a tract of land in Lewis and Clark County which was regularly assessed to him. He allowed the taxes which were levied on the property to become delinquent, but whether or not the county treasurer ever sold the property cannot be determined from anything before us. From time to time after the delinquency occurred he disposed of portions of the tract, but not enough to equal in the aggregate the whole thereof. Being anxious to clear the title to the remainder, if possible, he

is willing to pay so much of the delinquent taxes as would be chargeable against it had it been all that he owned in the first place. It is your view that he ought to be permitted to do so and you ask us to give you the benefit of our opinion on the matter.

By reason of the assessment of and levy upon his property, it became the duty of A to pay the taxes in full as they fell due. They could not be paid piecemeal. (*Butte & Superior Min. Co. v. McIntyre*, 71 Mont. 255; *Gray v. Boundary County*, 290 Pac. 399; 61 C. J. 965; 3 *Cooley on Taxation*, sec. 1253.) The duty on his part to pay the taxes still subsists, unless as a matter of fact the property was sold by the proper officer because the same were delinquent. (Sec. 2152, Revised Codes 1921.)

Assuming, however, that the tract was sold in conformity with the tax laws, then we believe A is in a position to do the very thing he desires to do. The provisions of section 2211, Revised Codes 1921, as amended by Chapter 48, Laws of 1923, permit the redemption in a proper case of part of a parcel of real estate which has been sold for the payment of delinquent taxes. (*State ex rel. Federal Land Bank v. Hays*, 86 Mont. 58.)