arate parcels. Certainly it would be unconscionable on the part of the County, or an individual, should an assignment of the taxes on the other parcel be made, to attempt to obtain a tax deed on all three parcels on the theory that no redemption of either has been made.

Since the County holds the tax sale certificate, I see no reason why it may not be cancelled and a new one issued. I see no reason why the interest and penalty should not be refunded, and in my opinion it should be done. Such effect should be given to Chapter 88, Laws of 1935, as will give it the broadest relief possible, if by any reasonable construction it may be done.

Opinion No. 121.

Taxation—Delinquent Taxes—Penalty and Interest, Refund of—Certificate, Cancellation of.

HELD: Where taxes on three pieces of property, assessed together, have become delinquent and the taxpayer has paid the taxes, together with penalty and interest on one parcel since Chapter 88, Laws of 1935, became effective, the penalty and interest so paid should be refunded because since the county holds the tax sale certificate, and since the taxes may be segregated, there is no reason why the county may not cancel the old tax certificate and issue a new one to such parcel of land.

June 18, 1935.
Mr. Charles F. Walton
County Treasurer
Harlowton, Montana

You have submitted the following: A taxpayer had three pieces of property assessed together and the taxes of all three became delinquent. In 1933 he redeemed one piece, but owing to the fact that all three were written up on one tax certificate no redemption certificate was issued. In March, 1935, subsequent to the passage of Chapter 88, Laws of 1935, he sold another tract and paid the back taxes and current taxes in full. You have asked whether he is entitled to refund of interest and penalty.

Since this taxpayer was permitted to pay the delinquent taxes, we assume that it was possible to segregate the taxes on the three separate parcels of land. By paying the taxes on the two parcels he has therefore in fact redeemed two of the three sep-