

**Opinion No. 211.****Taxation—Tax Sale Land, Sale of—  
Private Sale—County Commissioners.**

HELD: The Board of County Commissioners may sell tracts of tax deed lands of a value of less than \$100.00 at private sale.

December 13, 1935.

Mr. P. R. Heily  
County Attorney  
Columbus, Montana

In your letter of December 3 you

asked the following question:

"Under Chapter 33 of the 1933-34 Extraordinary Session of the legislature, may the board sell unredeemed tax sale lands, appraised at less than \$100.00 at private sale and without notice?"

You refer to Section 10 of Chapter 100, Session Laws of 1931, Chapter 65, Session Laws of 1933 and Section 96, R. C. M. 1921, as well as Chapter 33 of the Laws of the Extraordinary Session, above mentioned, and say substantially that in your opinion, if Section 10 of Chapter 100, Laws of 1931, was impliedly repealed by Chapter 65, Laws of 1933, of the Extraordinary Session (page 90, bound volume), it was not revived by the enactment of Chapter 33, Laws of 1933-34.

While I think you are probably correct on the revival question, I do not think it is necessary to decide that question for the reason that the aforesaid provisions of Chapter 33, Laws of 1933-34, incorporating by reference the procedure provided by subdivision 10 of Chapter 100, Laws of 1931, seems to be valid.

"When there is no constitutional inhibition against it, the provisions of a law which has lapsed or has been repealed may be made a part of a new statute by referring to the law in general terms and without incorporating such provisions at length; reference may be made to an act which is repealed and succeeded by the act making the reference for the purpose of adopting provisions of the succeeded act." (59 C. J. 618, Section 173). *Spratt v. Helena P. T. Co.*, 37 Mont. 60, 86, 94 Pac. 631; *Gustafson v. Hammond Irrigation District*, 87 Mont. 217, 287 Pac. 640; 25 R. C. L. 875, Section 120; Note, Ann Cas. 1916B 375.

Accordingly, it is our opinion that the Board of County Commissioners may sell tracts of tax deed lands of a value of less than \$100.00 at private sale. However, the conflicting statutory provisions inject some doubt into the situation, and if the board desires to eliminate this doubt, I suggest that it first offer all lands for sale at public auction as provided by Chapter 65, Laws of 1933. Our opinion number 204 (Vol. 15, Report and Official Opin-

ions of the Attorney General) holding that all tax title land, regardless of value, must be sold at public auction, was written May 6, 1933, before passage of Chapter 33, Laws of 1933-34.