

the original tax without penalty and interest, where the tax deed proceedings were commenced prior to the enactment of Chapter 11, Laws, 1939, and completed subsequent thereto.

2. Where the proceedings were commenced and tax deed taken subsequent to the enactment of Chapter 11, the owner may likewise repurchase by paying the original tax, without penalty and interest.

April 3, 1939.

Mr. J. E. McKenna
County Attorney
Lewistown, Montana

My Dear Mr. McKenna:

You have submitted the following questions for my opinion:

"If the county started tax deed proceedings prior to the passage and approval of the legislative act known as Senate Bill No. 12, but the deed was issued subsequent to the passage of said act, has the former owner a right to redeem the real property sold to the county under the provisions of Section 2235 on a contract over a five-year period as provided under Section 4465.9 of the Political Code, without said former owner being required to pay the penalty and interest under the terms of the repurchase contract?"

"If the county has started to take tax deed proceedings after the passage and approval of the legislative act known as Senate Bill No. 12, has the former owner a right to redeem the real estate taken by the tax deed under the provisions of Section 2235 of the Political Code on a contract as provided by Section 4465.9 before it has been resold, without the former owner being required to pay the penalty and interest under the terms of the repurchase contract?"

Where the tax deeds were issued subsequent to the approval of Chapter 11, L. 1939, upon notice of application given prior thereto, the same were invalid because the amounts stated in the applications included penalty and interest. Only the amount of the original tax should have been included.

Tilden v. Chouteau County, 85 Mont. 398;

Hinz v. Musselshell County, 82 Mont. 502.

Opinion No. 39.

**Taxation — Tax Deeds—Redemption—
Penalty and Interest.**

HELD: 1. The owner of property sold for taxes may redeem by paying

Chapter 94, L. 1939, approved March 1, 1939, acted to validate such tax deeds. This act did not declare applications for tax deeds which contained the original tax, penalty and interest as correct. It had the effect of declaring valid that which was invalid. It established the regularity and validity of the tax deed proceedings regardless of the correctness of the amount which may have been stated therein. Chapter 94 authorized the county treasurer to issue tax deeds subsequent to February 7, 1939, upon application, containing penalty and interest made prior thereto. Although the county treasurer may have issued tax deeds to the county based upon the incorrect amount, his records should be, if necessary, corrected to conform to the actual facts and show in the sale of the property the amount of the original tax without penalty and interest. While Section 2233 refers to the payment of the full amount of the original tax, penalty and interest, it actually contemplates that the purchaser should pay the amount for which the tax deed was issued. The tax deed having in fact been issued for the amount of the original tax without penalty and interest, it follows that the owner may repurchase for such an amount.

In order to clarify ambiguities in a statute, one may consider the intention of the Legislature and the evils intended to be remedied.

State ex rel. Boone v. Tullock, 72 Mont. 482.

It appears that upon the passage and approval of Chapter 11, many counties had initiated tax deed proceedings. One of the results of that chapter was the loss of the expenditures already entailed by the counties in preparing and advertising notices of applications for tax deeds. Chapter 94 acted as a curative statute in relieving that situation.

Where the county made application and the county treasurer issued tax deeds subsequent to the approval of Chapter 11, the correct amount of delinquent taxes included the original tax without penalty and interest. The owner having the right to repurchase by paying the amount the county paid, it follows that penalty and interest are excluded in the repurchase price.