

**OPINION
45-282**

April 4, 1945 (OPINION)

TAX DEEDS

RE: Forms of to Purchasers

I have before me the following proposed forms of tax deeds submitted to us by your office for examination and approval:

No. 1 - Auditor's Tax Deed to Original Purchaser or Assignee

No. 2 - Auditor's Tax Deed to County

No. 3 - Auditor's Tax Deed to Assignee of County Certificate

No. 4 - County Deed to Purchaser at November Sale

No. 5 - County Deed to Purchaser at Private Sale

No. 6 - County Deed to Repurchaser

On the last page of No. 1 in the acknowledgment, insert "Notary Public, _____
County, North Dakota, Seal, My Commission Expires _____."

In No. 2 in the acknowledgment, insert the word "Seal."

In No. 3 in the acknowledgment, insert the word "Seal."

In No. 4 in the acknowledgment, insert the word "Seal."

In No. 5 in the acknowledgment, insert the word "Seal."

In No. 6, County Deed to Repurchaser, at the bottom of the first page strike out the following: "except the party of the first part reserves ownership of _____ per cent of all oil, natural gas or minerals which may be found on or underlying said land." Since the law permits the original owner, or those designated as his successor, to repurchase, it is our opinion that on repurchases he is entitled to the premises in their original condition and without any reservation by the county. In other words, when the original owner repurchases the premises, he does not purchase a limited estate but is entitled to the entire estate as it was when originally held by him.

We are taking this position notwithstanding the provisions of section 11-2704 of the North Dakota Revised Code of 1943. It is true that this section provides that it shall not apply to any lands redeemed by the former owner thereof within one year after the date upon which the county acquires title thereto. To redeem, however, is not to repurchase. When the statute gives the original owner a right to repurchase, it is our opinion that this right entitles him to repurchase the property in its original condition, as we have already pointed out.

Under section 57-2819, the former owner, his executor or administrator, or any member of his immediate family shall have the right to repurchase all real estate forfeited to the county under tax deed proceedings so long as the title thereto remains in the county. Said section is part of chapter 286 of the Session Laws of 1941, which carried an emergency clause and was approved March 15, 1941.

Section 11-2704 is chapter 165 of the Session Laws of 1941. It also was an emergency measure but was approved February 20, 1941. Section 57-2819 was therefore approved after section 11-2704, and in case of conflict, section 57-2819, being the latest enactment, must govern. However, we do not believe there is any conflict, and since section 57-2819 gives the former owner a right to repurchase without any restriction or limitation, as I have pointed out, he does not purchase a limited estate but is entitled to the entire estate as it was when originally held by him.

We are retaining for our files the forms which you submitted together with a copy of this letter.

NELS G. JOHNSON
Attorney General