

## Opinion No. 15-1595

July 23, 1915

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Hon. Charles A. Spiess, East Las Vegas, New Mexico.

**Publication of delinquent tax lists.**

### OPINION

{\*170} I have your letter of yesterday with reference to the publication of delinquent tax lists under Chapter 58 of the Laws of 1915. That portion of Chapter 58 which you have under consideration is as to the time of publication, and that part of it remains the same as it was in Section 34 of Chapter 84 of the Laws of 1913. Under that act this question was presented to me by Judge Kelly of Socorro, and at page 156 of the last published report of this office you will find that I wrote him to the effect that I was of opinion that the publication would be sufficient if it were begun within the forty-five days after the first day of June, but not later. I put this on the ground that the general law on the subject of tax sales is that every statutory detail and requirement must be complied with or the sale is not valid, and it might well be argued that owners of property upon which taxes have been levied are under no obligation to take notice of any advertisement of delinquent tax sales except at the time provided by statute and that any advertisement at any other time would, therefore, be insufficient.

I find also that in January last I wrote a letter addressed to Nestor Montoya, and this was while the legislature was in session, in response to a request for an opinion as to whether the law required the publication in January, that there was no such law, and that the Law of 1913 changed the time of the beginning of publication to sometime within forty-five days after the first day of June.

I do not believe it would be safe to take any different view of the statute. I do not see, however, that this will do any serious harm in San Miguel County where, as the Treasurer told me two years ago, the amount of money realized at the delinquent tax sales was not enough to pay for the advertising under the old law, and it was largely for that reason that I tried to get the law changed so that it would not be necessary to publish descriptions of the property. Chapter 84 of the Laws of 1913 was originally one of my bills, but Mr. Charles Springer, with Mr. Charles Catron, destroyed the most of that which was of value in it, and I think very unwisely required descriptions of property to be printed in the advertisement of the sale of certificates where the property had been struck off to the county. They also eliminated a section as to the presumption of validity and regularity of tax titles, which makes it all the more necessary very carefully and strictly to observe the statutory requirements.

The treasurer can next year, however, under the decision in *Crane v. Cox*, 18 N.M. 377,

advertise all delinquent taxes, including those which become delinquent this year.