

Opinion No. [29-114]

February 11, 1929

TO: Office of the Attorney General of New Mexico

TAXATIONS -- Jurisdiction and authority for the collection of delinquent taxes vested in State Tax Commission.

OPINION

I have your letter of even date setting forth what purports to be a copy of the minutes of the meeting of the Board of County Commissioners of Socorro County held on September 7, 1928, designating Mr. A. G. Whittier as agent of the County of Socorro to take such action as may be necessary to collect the taxes due the said County from the owners of the Cervilleta de la Joya Land Grant by redemption or otherwise, and, in default of such payments to proceed to sell the Grant, and to act as agent of said County in all transactions necessarily connected therewith. With reference to this proposition you asked me the following questions:

1. Whether or not the County Commissioners are authorized to appoint an agent to collect delinquent taxes.
2. Whether they are authorized to appoint an agent to sell real estate which has been purchased by the county under sale resulting from foreclosure of a tax lien.

The reply to these questions is set forth fully in chapter 127 of the Laws of 1927, wherein the State Tax Commission itself is given entire charge over the collection of delinquent taxes, in fact the title to the said Act among other things, contains the following:

"* * * Making provision whereby the jurisdiction and authority for the collection of all delinquent taxes shall be vested in the State Tax Commission, * *"

While section 481 of the said Act reiterates this proposition in detail.

Turning to section 494 of said chapter 127 of the Laws of 1927, a section which you yourself cite in your letter to me, the entire procedure is set forth with a clarity which should not call for an interpretation, and provides, as a glance at the said section will disclose, that in case any property be sold as authorized by a decree of court that the said sale shall be consummated by the county treasurer.

The whole proposition, however, is so clearly in the hands of the State Tax Commission that there can be no doubt whatsoever of the answer to both of your said questions. It is, therefore, strictly up to you people.

In the last paragraph of your letter you state as follows:

"I would like your opinion, also, as to whether or not the assumption by Mr. Whittier or agency to sell for the county property acquired in the manner indicated is compatible with his duties as delinquent tax collector."

Under the provisions of section 483 of the said Act the question of the selection of delinquent tax collectors is placed exclusively in the hands of the State Tax Commission; while section 484 mentions some of their requisite qualifications.

Therefore, here again the question is one for you people, yourselves, to decide, and any opinion of mine on the question would be purely a personal one which would have no bearing on the case.