

## Opinion No. 38-1865

January 17, 1938

**BY:** FRANK H. PATTON, Attorney General,

**TO:** Hon. John Baron Burg District Attorney Los Lunas, New Mexico

{\*208} In your letter of January 15 you state that there are tax delinquencies in Socorro County for years as far back as 1921 and that "in some of these delinquent tax matters suits were filed by delinquent tax collectors several years ago and prior to the present existing law". You also state that it is doubtful whether these old taxes have been extinguished and the county treasurers permitted to take credit as required by Section 141-716, 1929 Compilation, because of the pendency of these suits.

I think you are correct in your conclusion that such statutes of limitation do not apply where suits have been filed before the ten-year period. However, Section 5 of Chapter 182, Laws of 1937, amended Section 39 of Chapter 27, Laws of 1934, so as to specifically give the State Tax Commission the right to dismiss such suits **at any time**. The entire act (Chapter 182, Laws of 1937) clearly indicates an intention on the part of the Legislature to do away with foreclosure suits theretofore filed in order to relieve the taxpayers from the exceedingly harsh provisions of the 1929 foreclosure laws, and it was my understanding that all such suits were being dismissed.

When and if those suits are dismissed, it is my opinion that these various statutes of limitation come into play and that they are sufficient, in so far as the treasurer is concerned, to protect him. Among them is Section 141-716 of the 1929 Compilation, mentioned by you, and which has not been specifically repealed. There are also two later statutes, the first being Chapter 104 of the Laws of 1931 and the last being Section 33 of Chapter 27, Laws of 1934. Although this Chapter 27 of the Laws of 1934 states in Section 35 thereof that its provisions shall be applicable to all property on which taxes are delinquent for 1931 and subsequent years, except as therein specifically provided, it is my opinion that Section 33 of that Act was not intended to be so limited, because, as you will observe, it specifically includes in its language foreclosure of tax lien "certificates" which existed or could be issued only under {\*209} the 1929 law for 1930 and prior years.

If suits for the foreclosure of tax liens delinquent for more than ten years are still pending, I think the matter should be called to the attention of the State Tax Commission or its Special Tax Attorney.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.