

**Opinion No. 46-4889**

April 12, 1946

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{\*218} We are in receipt of your letter of April 10, 1946, and the enclosed letter from the County Treasurer of San Juan County. The County Treasurer states that tax sale certificates have been issued on property owned by persons in the armed services, during the period of their service.

I am enclosing herewith Opinion No. 4323, dealing at some length with this question. In view of this opinion, I shall but briefly answer the questions.

Section 3 of the Soldiers' and Sailors' Civil Relief Act is as follows:

"When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than six months after the termination of such service, but in no case later than six months after the date when this Act ceases to be in force; but this shall not be taken to shorten any period, now or hereafter provided by the laws of any State or Territory for such redemption."

By virtue of this section the soldier may, within any time up to six months after his discharge, institute a suit to set aside the tax sale. While the sale might be unlawful, the County Treasurer has no authority vested in him to cancel the tax sale certificate, but should wait until an order of Court has been entered directing the cancellation of such certificate.

By ROBERT W. WARD,

Asst. Atty. General