

Opinion No. 15-1487

March 31, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. C. E. Mann. President, Board of Education, Artesia, New Mexico.

As to who is subject to the payment of poll tax.

OPINION

{*68} I am just in receipt of your letter of the 29th instant in which you propound a number of questions concerning the collection of poll taxes in New Mexico, and I will endeavor to answer these questions categorically.

1. -- The law of New Mexico provides that a poll tax of one dollar shall be levied upon all able-bodied male persons of the age of twenty-one years or over, and if, as stated in your question, a man comes to Artesia, rents a house and sends his children to school, he is most certainly subject to the payment of a poll tax. The law is silent as to how long an able-bodied male person must be residing {*69} in New Mexico before becoming subject to the payment of this tax, and I believe that the collecting official should exercise some discretion in such matters. Mere transients, who may remain in town for a day or two on business or pleasure bent, should not be compelled to pay this tax, although it might be argued that any able-bodied male person who may be found within the state on the first Monday in February of any year should be compelled to contribute one dollar for school purposes.

2. -- Section 1550, C.L. 1897, as amended by Chap. 61 of the Laws of 1905, makes it the duty of school district clerks on the first Monday in February, to post lists containing names of persons liable to pay poll tax, and on or before the first Monday in April report said lists to the county superintendents, together with the amount of poll tax collected, and the names of persons **still** delinquent. Sec. 1549, C.L. 1897, as amended by the act of 1905 above referred to, authorizes the school district clerk to bring suit for the collection of poll tax if not paid within thirty days after the first demand has been made for the payment of the same from any person who is delinquent. It would seem that the first demand for the payment of poll tax is to be made on the first Monday in February, and it is the opinion of this office that suit may be brought against delinquents thirty days after that date.

3. -- As to what is an able-bodied man, I will refer you to an opinion of this office to be found at page 52 of a volume mailed to you under separate cover.

4. -- An able-bodied man who has served in the United States army in the Philippine war or any other war, and has received an honorable discharge from the service of the United States, is not exempt from the payment of poll tax.