

**Opinion No. 15-1618**

August 17, 1915

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

**TO:** Mr. W. E. Sloan, Belen, N. M.

**Road tax or labor in lieu thereof.**

**OPINION**

{\*191} I have just received your letter of yesterday in which you say that having received a notice to pay your road tax at a bank, when you went to pay the tax, the Cashier refused to accept \$ 3.00 on the ground that you had received your notice more than ten days before and insisted on collecting 50 cents fine for letting it run over ten days, which you paid, and you ask if this legal. If there is any lawful foundation for the exaction of the fifty cents penalty, I do not know where it is to be found.

You further say that the road foreman will not allow a man to hire someone as his substitute to work for him, but insists on having the money. I believe that this is correct as the statute declares that every able-bodied man between twenty-one and sixty years of age, shall pay a road tax of \$ 3.00, "or in lieu of such sum shall labor on the public roads three days." This seems to make it plain that the money must be paid unless the man himself does the work, and there is some reason in this as the road officers, if they do their duty properly can get more labor for the money if they control the hiring than might be the case where the taxpayer himself hired somebody to work for him.