

Opinion No. 22-3313

March 7, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. S. J. Lobban, Bellview, New Mexico.

Labor Performed Upon Roads in Lieu of Payment of Road Tax.

OPINION

{*131} In reply to your letter of the third instant, regarding the payment of road tax for the years 1921 and 1922, and stating that the county treasurer of Curry County refuses to accept receipts showing labor upon the roads as payment for such road tax, I wish to say:

As intimated in your letter, the attorney general is not authorized to render opinions to private individuals concerning their personal matters, but as the question submitted in your letters is of a quasi public nature I shall attempt to suggest the proceedings which in my opinion should govern in this case.

Section 15, Chapter 135, Laws 1921, requires that county assessors shall place upon the tax roll against every taxpayer in the county and county treasurers and collectors shall collect a road tax of three dollars.

In accordance with this law the three dollar road tax was properly assessed against every taxpayer in Curry County upon the rolls of that county for the present year.

The section above mentioned, however, recognizes that such tax may be paid by performance of labor upon the road as is evidenced by the allusion to the public road work, which occurs three times in the second paragraph of the said section.

It is, therefore, clearly apparent that it was not the intention of the legislature to repeal that part of Section 2674, Code 1915, which permitted the road tax provided for therein to be paid by labor upon county roads.

While there is no provision in the law which authorizes the county treasurer to give credit upon the tax rolls for labor performed in lieu of the three dollar tax assessed upon the roll, I have consulted with the State Traveling Auditor and have requested him to notify county treasurers and collectors to accept in payment of such three dollar road tax a receipt showing the performance of labor by the taxpayer upon the roads of the county.

The State Traveling Auditor has agreed to so instruct all county treasurers and collectors.