

## Opinion No. 13-982

January 27, 1913

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

**TO:** Honorable J. B. McManus, Superintendent of State Penitentiary, Santa Fe, New Mexico.

### **CONVICT LABOR.**

State Road Commission to pay expenses of convicts at road camps.

### **OPINION**

{\*147} I have received your letter of even date herewith, in which you {\*148} ask three questions as to the intent of Section 7 of Chapter 42 of the Laws of 1909, which section reads as follows:

"Sec. 7. Convict labor shall be used in work herein provided for whenever available and advisable, and the board of penitentiary commissioners shall, at any time upon the demand of such roads commission, furnish such a number of convicts for such work as shall be available and at such times and places as shall be designated by the roads commission, and shall also furnish sufficient guards with such convicts, the expense of employing and transporting guards to take charge of such prisoners while engaged in the work herein provided, as well as the expense of transporting and maintaining such prisoners while actually engaged in such work shall be paid by the roads commission out of funds hereinafter provided."

Your first question is, "Does the law intend that the transportation of convicts to and from the various road camps shall be paid by the road commission?" I cannot see how there can be any doubt as to this matter, because the statute distinctly says that the expense of transporting such prisoners shall be paid by the roads commission. The statute certainly requires that the expense of transportation shall be so paid.

Your next question is, "Does the law intend that the guards having charge of the convicts at the various camps shall be furnished by the penitentiary authorities, and their salaries paid by the road commission?" The answer to this question seems to be just as clear from the language of the statute as the answer to the first one. The statute distinctly says that the commissioners shall furnish convicts as they may be available "and shall also furnish sufficient guards with such convicts, the expense of employing and transporting guards" to be paid by the roads commission. This certainly includes the compensation of the guards as well as their transportation. To hold otherwise would deprive the words "the expense of employing" of all substantial meaning.

Your third question is, "Does 'maintaining such prisoners' mean that food, clothing and all other necessities shall be paid for by the road commission?" The answer to this is to be found in the meaning of the word "maintain." In this sense of the word the Century Dictionary defines "maintain" as meaning "To furnish means of subsistence or existence of; sustain or assist with the means of livelihood; provide for; support: as to maintain a family or an army; to maintain a costly equipage." Webster's Dictionary defines the word as meaning "To bear the expense of; to support; to keep up; to supply with what is needed."

Within the meaning of these definitions, I believe would be included everything necessary for the subsistence or assistance of convicts so employed, which would include food, clothing, lodging, and any other like necessities.