

**Opinion No. 14-1161**

February 21, 1914

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** Mr. D. O. Colson, Fort Bayard, New Mexico.

**ROADS.**

Civil employes of United States government not exempt from payment of road tax.

**OPINION**

{\*17} I am in receipt of your letter of the 19th instant in regard to the payment of a road tax of \$ 3.00, or in lieu of the payment of such sum, the requirement of three days' labor upon the public roads, by every able-bodied man between the ages of 21 and 60 years.

I am unable to see how you can be exempt from the performance of working upon the roads, or in lieu thereof, the payment of \$ 3.00, because you are a civilian employe of the U. S. government upon the military reservation at Fort Bayard, or that in case you did perform such labor, that you perform the same at a point to be selected by yourself. No man who pays the road tax has anything to say as to where the money shall be expended, nor has he, if he performs labor, any right to fix the place where he shall work. This is a matter which rests entirely in the hands of the county road board. The fact that you are a civilian employe at Fort Bayard will not exempt you from the payment of this tax or the performance of labor in lieu thereof, any more than it would deprive you of the right to vote at any general election held in the state, or any local election held within the precinct where you reside. The question of the payment of the tax or the performance of labor, has recently been passed upon by the Supreme Court of this state, and its decision is as above indicated.

The principal question in that case was whether a man residing within the corporate limits of the city of Albuquerque was subject to the payment of county road tax, such money to be expended outside of the city. The Court held that he was subject to the payment of such tax, or to perform labor at some point to be designated by the proper county authorities.