

Poll Tax—Constitutionality of.

Chapter 172 of the Laws of 1917, requiring the payment of a road poll tax, held to be constitutional.

W. J. Tighe, Esq.,
County Attorney,
Great Falls, Montana.

Mr. dear Mr. Tighe:

You have inquired whether, in view of the decision in the Bachelor Tax Case holding that the levy of the poll tax for the support of the poor in various counties directly by the Legislature was unconstitutional, the road poll tax of \$2, as provided by Chapter 172, Sub-Chapter 2 of the Laws of 1917, may be assessed and collected by the counties.

The language of Section 1, Sub-Chapter 2 of Chapter 172 of the Laws of 1917, relating to the poll tax, is as follows:

“There is also established a general road tax of two dollars (\$2.00) per annum on each male person over the age of twenty-one years, and under the age of fifty (50) years, inhabitant within the county, and payable by each person liable

therefor at any time within the year. The collection of these taxes shall be under the direction of the Board of County Commissioners."

The constitutional provision which controlled the bachelor tax decision is Section 4, Article XII, reading as follows:

"The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law vest in the corporate authorities thereof powers to assess and collect taxes for such purposes."

The ground of decision in the Bachelor Tax Case is that the poor poll tax was levied in a fixed amount by the Legislature for county purposes, in contravention of the foregoing section. By Section 5 of Article X of the Constitution it is made the duty of the counties to provide for the poor. The Constitution is silent as to the duties of counties in connection with roads and highways, and in this respect a distinction appears between the poor poll tax and the road poll tax here in question. The building and maintenance of roads is not, in my opinion, a county purpose within the meaning of Section 4 of Article XII of the Constitution, and the poll tax provided by Chapter 172 of the Laws of 1917 should be collected by the county officials.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.