

OPINION
45-127

August 16, 1945 (OPINION)

HIGHWAYS

RE: Crossings - Duty of Township to Construct

Your letter of August 14, addressed to the Attorney General has been received and contents noted.

You state that the operators of two farms in your community have requested the township board to furnish culverts for crossing from the farms in question to the highway. In one place the present culvert for crossing purposes is unsafe and it needs replacing. In the other case, a crossing culvert is needed from the farm to the highway. You state further, that the township board of supervisors have refused to furnish these culverts and advised the farmers to furnish the culverts themselves.

Any person owning a farm adjoining the highway is entitled to ingress and egress from the adjoining land to the highway, and it is the duty of the township board to install the necessary crossings.

Section 24-0611, of the North Dakota Revised Code of 1943, provides that, "Whenever a township constructs a ditch or drain in connection with road building, and such ditch, drain, or road interferes with the ingress or egress of any owner of adjoining land, the township shall install crossings at such point or points as will afford the owner or owners of the premises suitable ingress thereto or egress therefrom."

If, therefore, crossings from the farms to which you refer to the highway are really necessary, it is the duty of the township board of supervisors to take the necessary steps to construct the same. If they refuse, you undoubtedly can get a court order to show cause why such action should not be taken by the board. In such cases, however, you would have to employ an attorney as this office is not in a position to go further than to advise you what the law is, and we are prohibited from engaging in private, therefore, we could not appear for you in court.

NELS G. JOHNSON

Attorney General