

**OPINION
51-193**

February 2, 1951 (OPINION)

TOWNSHIPS

RE: Easements

You called at this office on January 31, 1951, and requested a written opinion as to whether or not a board of township supervisors has the legal authority to grant an easement of a road right-of-way to a private power company. You state that your township had granted a twenty-year easement to the power company to enable them to construct power lines on the right-of-way. That twenty-year easement is about to expire and consequently is up for renewal.

Section 24-0703 of the North Dakota Revised Code of 1943 provides:

In all townships in this state outside the limits of incorporated cities and villages, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, where the same have not been opened already upon the order of the board having jurisdiction, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessments of damages."

Section 58-0601 of the North Dakota Revised Code of 1943 provides:

The board of township supervisors shall have the following powers and duties:

* * *

0. To grant to any person the right-of-way for the erection of telephone lines, electric light systems, or gas or oil pipe line systems over or upon public grounds, streets, alleys, or highways; * * *."

Therefore it is our opinion that the board of township supervisors has the legal authority to grant a franchise on public road rights-of-way as authorized by the quoted statutes.

However, if the renewed easement creates an additional burden on the adjoining property, the owners thereof may be entitled to compensation for the burden from the imposing company.

ELMO T. CHRISTIANSON

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