

**OPINION
57-212**

June 25, 1957 (OPINION)

TOWNSHIPS

RE: Authority to Build Roads Outside Territorial Limits

This is in reply to your letter requesting an opinion of this office in regard to a township's power to build roads.

You inform us that a citizen of your county sends his children to a South Dakota rural school located about one-half mile south of the State line. This is his nearest and most accessible school and there are no roads leading from this man's farm to a school in your county. The South Dakota road is in need of repair and is impassible a good part of the year. The South Dakota authorities will not insist upon improving this road. The Board of Supervisors of the township would have to provide six miles of road to give this citizen a road in your county. They would therefore like to expend township money to improve the road in South Dakota.

You call our attention to section 24-0613 of the N.D.R.C. of 1943 providing:

"TOWNSHIPS MAY UNITE EFFORTS. The electors of any township, at the annual township meeting, may direct such portion of the road tax to be expended on the highways in an adjoining township as they deem conducive to the interests of the township. In such instance, labor and taxes shall be expended under the joint direction of the townships interested and furnishing the same."

We find no North Dakota cases on the point you raise. We find a general rule of construction at 50 Am. Jur. 510, Statutes Section 487 as follows:

IMPLIED TERRITORIAL LIMITATIONS. Unless the intention to have a statute operate beyond the limits of the state or county is clearly expressed or indicated by its language, purpose, subject matter, or history, no legislation is presumed to be intended to operate outside the territorial jurisdiction of the state or county enacting it. To the contrary, the presumption is that the statute is intended to have no extraterritorial effect, but to apply only within the territorial jurisdiction of the state or county enacting it, and it is generally so construed. An extraterritorial effect is not to be given statutes by implication. Accordingly a statute is prima facie operative only as to persons or things within the territorial jurisdiction of the lawmaking power which enacted it. These rules apply to statutes using general words, such as 'any' or 'all' in describing the persons or acts to which the statute applies. They are particularly applicable where the statute would be declared invalid if given an interpretation resulting in its extraterritorial operation."

Applying such rule to the instant situation, it is our conclusion that the quoted statute does not authorize a North Dakota township to expend township road funds on a road outside the territorial limits of the State of North Dakota.

LESLIE BURGUM

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