

**OPINION
69-507**

December 29, 1969 (OPINION)

Mr. Calvin N. Rolfson

State's Attorney

Pembina County

RE: Townships - Annual Meetings - Donations Prohibited

This is in response to your letter in which you state that a number of townships have inquired whether or not upon a two-thirds vote of the people assembled at the annual township meeting may authorize the making of donations to the Red Cross, Polio, Multiple Sclerosis, Heart and Cancer Foundations. You then call our attention to section 185 of the North Dakota Constitution and ask that we either give our opinion thereon, or if an opinion has been issued on this subject at a prior time that we furnish you with a copy of such opinion.

Section 185 of the North Dakota Constitution provides as follows:

"The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation."

It should be noted that the constitutional provision is a limitation and not a grant. It is not a self-executing provision. The authority of the township is limited. It has only the powers granted to it by the legislature and those set forth in Title 58. The powers of the electors are set forth in section 58-03-07, as amended of the North Dakota Century Code. No such authority is granted nor are we able to find any authority to make donations to the organizations mentioned in other provisions.

While it is conceivable that one or more of the organizations devote much time, effort and money to the welfare of the poor, nevertheless not all of the organizations limit their activities solely to helping the poor. However, because of the conclusions reached herein, it is not necessary to examine the functions of the various organizations. As noted, the legislature has not granted authority to the electors to spend township funds for such purposes. In addition to this, the township would, in effect, abrogate its responsibilities in expending governmental funds to another organization. Such would be prohibited regardless of the purposes for which the funds might be used.

Thus, in direct response to your question it is our opinion that donations by a township from its funds to the organizations mentioned herein are not authorized by law.

HELGI JOHANNESON

Attorney General