

Opinion No. 47-4997

March 12, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. B. G. Dwyre State Highway Engineer New Mexico State Highway Department
Santa Fe, New Mexico

{*20} We wish to acknowledge receipt of your inquiry of the 10th instant relative to the constitutionality of enactments of the legislature authorizing the establishment of limited access highways within and in the vicinity of certain towns and cities.

Evidently you are concerned with whether or not such are in violation of Section 24, Article 4 of the New Mexico Constitution which prohibits the legislature from "enacting any law providing for the laying out, opening, altering or working roads or highways except as to state roads extending into more than one county".

It was held in the case of Borrowdale v. Board of County Commissioners, {*21} 23 N.M. -- 1, 163 P. 721, that an act of the legislature creating a designated route for a state highway extending into more than one county, does not violate this section, even though provision is made for working the road in one county only.

The Supreme Court of this State also held in Gallegos v. Conroy, 38 N.M. 154, 29 P. 2d 334, that the construction of a "Y" which will become part of Highway 66, a main trunk highway traversing the entire state, is not in violation of this section.

Therefore, it is our conclusion that enactments of the legislature which provide for the establishment of limited access highways within and in the vicinity of cities and towns as a part of or improvement of a **State Road** does not violate our constitution even though in establishing such all work is done in only one county.

Trusting the aforementioned satisfies your inquiry, I am

By ROBT. V. WOLLARD,

Asst. Atty. General