

OPINION
53-125

April 17, 1953 (OPINION)

WAR MEMORIAL

RE: Exempt from Taxation

In your letter of the 15th inst. you state that a question has arisen as to the exemption from taxation of your local memorial hall. You state that in 1949 your county commissioners approved a levy for a war memorial as authorized by section 11-3201 1949 Supplement. We assume that this levy has been or will be collected and used, with contributed funds from other sources, for the construction of such a memorial.

You state that the memorial building was built so that the first floor provided offices for a doctor and a dentist, and the basement is used by the American Legion Post as its club room. You state that the county commissioners insisted that a nonprofit corporation be organized, and that title to the lots upon which the building is erected was taken in the name of such corporation. The corporation is such that the members of the Legion Post comprise the membership of the corporation.

You state that the memorial levy contributed about one half of the cost of the building, the other half being raised by private contributions. You also state that the said offices are rented, one to a doctor, and one to a dentist, at \$30 per month each, which rental is actually insufficient for the upkeep and maintenance of the building, and that the county commissioners refuse to assume any part of the cost of upkeep and maintenance.

It is our opinion that, since a part of the cost of the memorial was actually paid from a county fund raised by taxation, the county is the equitable owner of the building even though the legal title is held in the name of the nonprofit corporation, and that as county-owned property, it is exempt from taxation.

It is further our opinion that the memorial so erected must "be properly and permanently maintained by (the county) by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both of such funds." The rentals from the offices are properly a part of the fund for maintenance and when that is exhausted, the county must supplement it by payments from the general fund.

The officers of the corporation should account in some way to the county for the rentals or for the expenditure thereof for maintenance.

You mentioned an opinion of this office of date June 4, 1946, relating to power of cities to provide recreational facilities. This opinion was given before Chapter 283 Laws of 1947 was adopted. Therefore, the opinion has been superseded by this law, which is now

chapter 40-55 of the 1949 Supplement. Under this chapter cities may provide recreational facilities within the powers granted by the Act.

ELMO T. CHRISTIANSON

Attorney General