

**OPINION**  
**58-61**

November 19, 1958            (OPINION)

COUNTIES

RE: Memorials - Memorial Fund - Expenditure to Pay Lien on Memorial

This is in reply to letter in regard to disposition of Korean memorial levy funds.

You inform us that a part of the Burke County World War II memorial levy was designated for the erection of a Veteran's Memorial Hall in the city of Powers Lake. The building could not be completed, so the Legion organization borrowed money from a bank in Stanley to complete the hall to an extent sufficient to enable it to be used. Subsequently, the board of county commissioners made a Korean Memorial levy. It is apparently understood and more or less agreed that a portion of the fund realized will be used for memorial purposes in the city of Powers Lake. Both the city and the Legion organization have asked that the available fund be used to complete the World War II Memorial and to pay off outstanding obligations against the hall, specifically, a lien claimed by the Stanley Bank.

We do not find specific decision on a situation similar to the one with which you are here concerned. We note a letter from Assistant Attorney General T. H. H. Thoresen, of date November 29, 1955, to the effect that a county would be authorized to pay off a mortgage against property used as a memorial from memorial funds. We note also the statement in Hart v. Bye, 76 N.W. 2d. 139, 141 to the effect that: "The county may not go into debt" in regard to these memorial levy funds. However, as we understand the tenor of your letter, this is not an attempt by the county to pay off its contractual obligation, nor to actually pay the debt of the Legion organization, but rather it is merely an attempt to acquire an interest in a part of a building now existing and used as a memorial. We do not believe that the regulations of the county memorial fund contained in chapter 11-32 of the 1957 Supplement to the N.D.R.C. of 1943 in this type of situation prohibit either the acquisition of a part of a building now actually used and which will be used as a memorial, nor do they prohibit joining of a Korean Memorial with a World War II Memorial. It is, therefore, our opinion that there is no legal objection to the contemplated procedure.

LESLIE R. BURGUM

Attorney General