

OPINION
59-62

August 18, 1959 (OPINION)

COUNTIES

RE: Memorials - Public Recreation System - Recreation Centers

As Memorials

We have received your letter of August 6, 1959, in which you state that the park board of the city of Glen Ullin has requested the board of county commissioners of Morton County to authorize the use of five thousand dollars of the memorial fund in Morton County toward the development of a memorial park in the city of Glen Ullin. Such park to include a well, picnic shelters, and playground equipment, as well as memorial markers.

It was proposed that the county commissioners direct this to be a proper memorial by resolution authorizing the expenditure of not more than five thousand of the memorial fund. The county commissioners would reserve to themselves the right to supervise and finally approve the development of this memorial.

Section 40-5511 of the 1957 Supplement to N.D.R.C. of 1943 reads as follows:

RECREATION CENTERS OR SYSTEMS MAY BE ESTABLISHED AS MEMORIALS. The community centers, playgrounds, recreational centers and systems or any recreational or character building facility provided for herein, may be erected or established as memorials in commemoration of the men and women of the locality who lost their lives in the service of their country during World War II and in gratitude to all who served in the armed forces. In such cases the names of those so remembered shall be preserved in some manner in connection with the memorial."

Chapter 11-32 authorizes the county commissioners to erect a memorial or memorials or other suitable recognition, and to make a levy therefor. It provides for the creation of a fund and for the expending of the money. Further provision is made for the county to join with a city, school district, or other agencies in erecting and operating a suitable memorial.

Statutes which relate to the same person or thing, or to the same class of persons or things, or which have a common purpose are in pari materia, and it is a general rule that in the construction of a particular statute, or in the interpretation of its provisions, all other statutes in pari materia should be read in connection with it, as together constituting one law, and they should be harmonized, if possible." (See 81 C.J.S., page 801, section 366).

Section 40-5511 of the 1957 Supplement to the N.D.R.C. of 1943 was passed in 1947 with an emergency clause and it is believed that it

was passed by the Legislature before the enactment of chapter 11-32. In any event, section 40-5511 became effective before chapter 11-32 because it contained the emergency clause while chapter 11-32 did not.

We believe it can be assumed that the Legislature knew when it passed what is known as chapter 11-32 of the 1957 Supplement that section 40-5511 was already in existence. They would be presumed to have in mind the contents of section 40-5511 and therefore any provision incorporated in chapter 11-32 would have to be interpreted as being the intent of the Legislature although going beyond, in some instances, the provisions of section 40-5511.

Taking these enactments together it seems clear to us that Morton County is authorized to invest money from the memorial fund in the development of the Glen Ullin park provided they comply with the provisions of chapter 11-32. Among other things, this chapter provides for the erection of a suitable memorial. We take this to mean that a building should be erected which would be a suitable memorial and which would justify the investment of funds. This chapter refers repeatedly to the erection of a suitable memorial. We doubt that a development of a park itself would be sufficient under chapter 11-32 to justify the investment of memorial funds.

It is our opinion that a building of some consequence could be erected in the park to be used in connection therewith. On this building there should be a plaque containing the names of the men and women of the Glen Ullin locality who lost their lives in the service of their county during World War II. The plaque should contain a memorial statement indicating the dedication of the park and building for memorial purposes.

It is clear from the provisions of chapter 11-32 that the county may join with the city of Glen Ullin in the development of this park and in the erection of a suitable memorial, and that the commissioners may be agreement with the city provide for the maintenance of the park and building by the city of Glen Ullin.

The above and foregoing constitutes our views on the subject and if there are any questions that you care to raise which we have not herein clarified, please advise.

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Attorney General