

Opinion No. 43-4422

December 6, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

In your letter dated December 3, 1943 you state that the American Legion Chapter in Lea County contemplates building a monument on the grounds of the Lea County Court House upon which to place an "Honor Roll" of citizens of Lea County who are in the armed forces. The total cost is estimated to be about \$ 3,000.00. You are wondering whether the County Commissioners may legally grant \$ 500.00 to the fund in order to build such a monument.

Although the County Commissioners, undoubtedly, if they have funds available within their budget, could build such a monument on the Court House grounds and probably accept donations for that purpose, I do not believe a grant of \$ 500.00 could be made to the American Legion Chapter for this purpose without violating the provisions of Article 9, Section 14 of the New Mexico Constitution, in as much as such a grant would amount to a donation to or in aid of a private enterprise and the public funds expended would not be expended under the control of the county. See *Hutcheson vs. Atherton*, 44 New Mexico, 144, 99 Pac. 2nd, 462; *Harrington vs. Attebury*, 21 New Mexico, 50, 153 Pac. 1041.

By C. C. McCULLOH,

First Asst. Atty. General