It is therefore my conclusion that:

1. If a state, other than Ohio, charges an applicant for an insurance agent's license, who is to represent an Ohio insurance company authorized to do business in such state, a fee for taking an examination for such agent's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicants for insurance agents' licenses in this State who are to represent a company or companies of such other state which are authorized to do business in Ohio.

2. If a state, other than Ohio, charges an applicant for an insurance solicitor's license, who is to represent an insurance agent of an Ohio company or companies authorized to do business in such state, a fee for taking an examination for such solicitor's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicents for insurance solicitors' licenses in this State for taking such examination when such applicants are to represent, as solicitors, agents of a company or companies of such other state, which are authorized to do business in Ohio.

Respectfully,
THOMAS J. HERBERT,
Attorney General.

1205.

INSURANCE POLICY, LIFE—GROUP—"WHOLESALE INSURANCE" — INDUSTRIAL INSURANCE — WHERE COMMON EMPLOYER HAS LESS THAN FIFTY EMPLOYES— PREMIUMS LESS THAN SIMILAR CONTRACTS TO OTHER INDIVIDUALS— SECTIONS 9426-1 TO 9426-4, G. C., INCLUSIVE, NOT VIOLATED—SECTIONS 9403, 9404 AND 12956, G. C.. VIOLATED.

SYLLABUS:

1. Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar contracts of insurance to other individuals, the provisions of Sections 9426-1 to 9426-4, inclusive, General Code, are not violated thereby.

2. Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar con-

tracts of insurance to other individuals, the provisions of Sections 9403, 9404 and 12956, General Code, are violated.

COLUMBUS, OHIO, September 19, 1939.

HON. JOHN A. LLOYD, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR: Your recent request for my opinion reads as follows:

"A number of life insurance companies doing business in this state have been writing so-called 'wholesale insurance' covering employees of a common employer. The plan involves the issuing of individual one-year renewable term policies and is restricted to the employees of concerns having less than fifty persons employed. Individual policies are issued to the employees which comply with the standard requirements of the Ohio law applicable to such policies.

Individual applications, including statements of health, are required from each employee. In a majority of cases the policy is issued on the basis of the application as submitted, but in some cases the company reserves the right to medical examination where information given on the application would indicate the desirability of such procedure.

Premiums are paid by employees, payroll deductions being made by the employers, pursuant to a contract between them and the insurance companies. The rates charged are lower than similar contracts sold on an individual basis.

Under this plan the employees are insured only so long as they retain their employment. However, those who terminate their employment while the insurance is in force have the privilege of converting the insurance to other life or endowment contracts issued by the company within a period of thirty-one days after the date of termination of the employment.

Since Section 9426-1, General Code, limits group life insurance to a group of not less than fifty employees, the plan in question has been used to provide life insurance on a basis similar to group insurance for employees in concerns with less than fifty persons on their payrolls.

I am in doubt as to the legality of so-called 'wholesale insurance' and desire your opinion upon the following questions:

1. Is such plan prohibited by the Group Life Insurance Law, Sections 9426-1 to 9426-4, inclusive, General Code, particularly that portion of Section 9426-2, General Code, which reads:

'Except as provided in this act, it shall be unlawful to make a contract of life insurance covering a group in this state.'?

2. Does said plan violate any of the provisions of Sections 9403, 9404, or 12956, General Code, in view of the fact that a lower rate is charged than that paid for the same protection by individuals having equal expectation of life and subject to no greater occupational hazards?"

Section 9426-1, General Code, provides in part as follows:

"Group life insurance is hereby declared to be that form of life insurance covering not less than fifty employees with or without medical examination, written under *a policy issued to the employer,* the premium on which is to be paid by the employer or by the employer and employees jointly, and insuring only all of his employees, or all of any class or classes thereof, determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer; * * *"

(Italic mine.)

You state in your letter that the plan in question involves the issuing of individual policies. The definition of group life insurance expressed in Section 9426-1, supra, requires a policy to be issued to the employer and since the plan outlined in your letter does not involve the issuance of any such policy to the employer, it would seem that the plan does not constitute group life insurance as the term is used in the Ohio statutes. I am therefore of the opinion that the provisions of Sections 9426-1 to 9426-4, inclusive, General Code, and particularly that portion of Section 9426-2 providing that "except as provided in this act, it shall be unlawful to make a contract of life insurance covering a group in the state," do not prohibit the plan in question. Section 9403, General Code, provides as follows:

"No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between the insured of the same class and equal expectation of life in the amount of payment of premiums, or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company, or any agent thereof, make any contract of insurance or agreement as to such contract, other than is plainly expressed in the policy issued thereon."

Section 12956, General Code, contains inter alia a similar prohibition as to officers, agents, solicitors, employes or representatives of life insurance companies and contains a proviso at the end thereof in the following language:

> "* * * provided, that nothing in this chapter shall be so construed as to forbid a company, transacting industrial insurance on a weekly payment plan, from returning to policy holders, who have made premium payments for a period of at least one year, directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the weekly collection of such premium."

Section 9404, General Code, provides in part that no life insurance company doing business in this State shall make or permit any distinction or discrimination in favor of individuals between insurants of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of insurance.

It seems clear that this plan of so-called "wholesale insurance" is a distinction and discrimination as between assureds of equal expectation of life, for undoubtedly there are other persons who are not in the employ of an employer who have an expectation of life equal to that of persons insured under the plan. However, in order to fall within the provision of these statutes the distinction or discrimination must be not only as to assureds of equal expectation of life but also of the same class and it is necessary to determine whether employes of an employer who is willing to participate in the plan outlined are of a class different from persons who are not in the employ of such an employer. It is a sound rule of construction that where the meaning of words used in a statute is uncertain or doubtful when considered by themselves, their sense is to be gathered from an examination of the language associated therewith. In 37 O. Jur., 558, Section 298, I find the following statement:

> "It is a familiar rule in the construction of terms of a statute to apply the meaning naturally attaching to them from their context. Noscitur a sociis, as a rule of construction, is applicable to the interpretation of statutes. The meaning of a word may be ascertained by reference to the meaning of words associated with it. Thus, where any patricular word is obscure or of doubtful meaning when taken by itself, its obscurity or doubt may be removed by reference to associated words. * * *"

The words "of the same class" are closely associated with the words "of equal expectation of life" and apparently have reference to the occupation, business or profession in which the individual is engaged. It is

a matter of common knowledge that some occupations are of much greater danger to human life than others and it would seem that the legislature in the use of the words "of the same class" in association with the words "of equal expectation of life" intended that classification should be based on occupations according to their hazard. I recognize that the proposed plan would probably result in economies to the insurer and that it could afford to insure the employes in question at a rate less than that charged to other persons. However, as has been said heretofore, I think that this is not a proper basis of classification. If it were, then it would be proper for insurance companies transacting industrial insurance on the weekly premium plan to classify its assureds as to whether or not they pay their premiums at the district or home office. This can be legally done, but only because of the proviso hereinabove quoted to Section 12956, General Code. The legislature apparently felt that in the absence of the proviso such practice would fall within the prohibition of the statute; otherwise it would not have added the proviso thereto.

In consonance with the foregoing and in specific answer to your questions, I am therefore of the opinion that:

1. Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar contracts of insurance to other individuals, the provisions of Section 9426-1 to 9426-4, inclusive, General Code, are not violated thereby.

2. Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar contracts of insurance to other individuals, the provisions of Sections 9403, 9404 and 12956, General Code, are violated.

Respectfully,
THOMAS J. HERBERT,
Attorney General.

1206.

CONTRACT — CITY — PARTNERSHIP — CORPORATION — WHERE CONTRACT FOR CONSTRUCTION OF IMPROVEMENT MADE ON "COST PLUS" BASIS, ITEM OF $25.00 PER DIEM AS COMPENSATION OR SALARY TO PARTNER OR OFFICER OR CORPORATION MAY NOT BE INCLUDED—FINDING.

SYLLABUS:

When a city enters into a contract with a partnership or corporation for the construction of an improvement on a "cost plus" basis, such city