

In consideration of the question here presented it is likewise pertinent to note the provision of Section 412, General Code. This section provides as follows:

"The Superintendent of Public Works shall have the care and control of the public works of the state and shall protect, maintain and keep them in repair. The superintendent shall have the power to remove obstructions therein or thereto and shall make such alterations or changes thereof, and shall construct such feeders, dikes, reservoirs, dams, docks or other works, devices or improvements as he may deem proper in the discharge of his duties. Subject to the approval of the Governor, the Superintendent of Public Works may purchase on behalf of the state such real or personal property, rights or privileges as it may be necessary, in his judgment, to acquire in the maintenance of the public works or their improvement subject to the approval of the Governor."

Inasmuch as, under the statutory provisions above noted, you, in your official capacity as Superintendent of Public Works of the state, have authority to lease surplus water out of said canal for hydraulic and other industrial use, and, subject to the approval of the Governor and the Attorney General, to fix the rental to be paid by the lessee for the use of such water, I am of the opinion that you have the implied power and authority to acquire and install a meter in the pipe through which such water is taken, for the purpose of registering the quantity of water used by such lessee, if you find that the use of such meter is necessary for the purpose; and that this is true whether the rental provided for in the lease is a flat rate per year or is determined by the amount of water used.

The question presented in your communication is therefore answered in the affirmative.

Since submitting the communication above quoted, you have advised me that there are available moneys appropriated for the use of your department which can be expended for the purchase and installation of said water meter, and that you did not in and by said communication intend to present any question touching the availability of moneys appropriated for your department for such expenditure; and no opinion is expressed by me upon this question.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2671.

DISAPPROVAL, ARTICLES OF INCORPORATION OF THE ALLIANCE
LIFE AND ACCIDENT INSURANCE COMPANY, ALLIANCE, OHIO.

COLUMBUS, OHIO, December 13, 1930.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I beg to acknowledge the receipt of your communication together with the proposed Articles of Incorporation of the Alliance Life and Accident Insurance Company, of Alliance, Ohio, for my approval.

The proposed Articles of Incorporation disclose the intention of the incorporators to form a company for the purpose of making insurance upon the lives of individuals, disability of the same resulting from sickness or accident, and the granting, purchas-

ing and disposing of annuities, under Section 9339, General Code, and related sections. The last paragraph of the third article reads as follows:

"The foregoing clauses shall be construed both as objects and powers, and it is hereby expressly provided that the enumeration herein of specific objects and powers shall not be held to limit or restrict in any way the general powers of the corporation, to do any act permitted by the General Corporation Laws and the Insurance Laws of Ohio, *or any amendments thereto, and such further acts as may be necessary, convenient or expedient to accomplish its stated purposes.*"

Although a corporation, whether formed under the general corporation act or the insurance law, may lawfully include in its purpose clause the power to do any act necessary to carry out its express lawful powers not prohibited by law, the italicized portion of the above quoted provision of the purpose clause of said corporation imposes no such limitation and for that reason must be considered illegal. 10 Ohio Jur. 814, Sections 605, et seq. This defect is curable by adding at the end of said provision of the purpose clause "not prohibited by law," or some similar phrase.

Among the signatures of the incorporators appears the name of Georgie M. Garrity. In the typed acknowledgment before the Notary Public appended to the said Articles of Incorporation the name of said signer appears as Georgia M. Garrity. Also, among the signatures of the incorporators appears the signature, as nearly as I can discern the same, of H. S. Buttermory. In the aforesaid acknowledgment the name of said signer appears as H. S. Buttermore. The inconsistencies between the signatures and the names as appearing in the acknowledgment should be corrected.

You will note in the acknowledgment by the signers of the Articles or Incorporation, who are apparently members of both sexes, there is used the phraseology as follows: "who each severally acknowledged the signing of the foregoing articles of incorporation to be his free act and deed * * *". In order to remove the patent ambiguity therein existing, it would seem that some such phrase as "to be the free act and deed of each of them", or some other expression of like import, should be substituted.

I am returning herewith said Articles of Incorporation for revision and correction in the respects above outlined.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2672.

OFFICES COMPATIBLE—MEMBER OF VILLAGE COUNCIL AND SECRETARY OF THE COUNTY AGRICULTURAL SOCIETY.

SYLLABUS:

A member of a village council may hold the office of secretary of the county agricultural society during his term as member of council.

COLUMBUS, OHIO, December 13, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your recent communication reads:

"Section 4218 G. C. reads: