

that a municipality may legally acquire and possess an easement for the purpose set forth in your letter.

Having the power to acquire this easement, the question presented is whether or not the municipality may pay for such grant in the manner set forth in your letter.

The municipality has obtained an easement for a right-of-way across land for its water mains. In return for such easement, the municipal authorities have agreed to furnish the owner of the land through which the easement runs water not to exceed 2,500 cubic feet per quarter. It must be conceded that some mode of payment is necessary and if the municipality chooses to furnish a specific amount of water as rental rather than cash or other consideration, that is a matter entirely within the discretion of the municipal officials.

The net effect of furnishing water to the owner of the land rather than paying money seems to be that should the water rate decrease, the owner will receive a correspondingly low rental and if the water rate increased, he will receive a correspondingly higher rental. The value of the water furnished represents the consideration for the easement and as such, the contract here set forth can not be considered as a special contract or an unequal assessment repugnant to Section 3958, General Code, as no provision is made for any exceptional or special rate or service. The prevailing rate for 2,500 cubic feet of water is to be considered as the rental value of the easement here in question.

It is, therefore, my opinion that the contract was legally entered into by the Council of the Village of Carrollton and its Board of Public Affairs and being so, it will be necessary for the village to furnish the water required under said contract.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

644.

PETITION—CERTIFICATION OF SUMMARY—TO REPEAL
HOUSE BILL NO. 336, 93rd GENERAL ASSEMBLY, TO
AMEND SECTION 5276, G. C.—TERM OF OFFICE, GOV-
ERNOR'S MILITARY STAFF—ADJUTANT GENERAL.

COLUMBUS, OHIO, May 25, 1939.

MR. F. M. KIRWIN, *Executive Secretary, Ohio Non-Partisan Defense League, 500 Hartman Theatre Bldg., Columbus, Ohio.*

DEAR SIR: You have submitted for my examination a written petition bearing over one hundred names, containing a certified copy of

House Bill No. 336, passed by the 93rd General Assembly on April 12, 1939, approved by the Governor and filed in the office of the Secretary of State April 18, 1939, and a summary of the same under the provisions of section 4785-175, General Code, which act is sought to be referred to the electors. Copy of said bill and summary of the same is hereto attached.

I am of the opinion that the attached summary is a fair and truthful statement of House Bill No. 336, and accordingly submit for uses provided by law the following certification :

“I, THOMAS J. HERBERT, Attorney General of the State of Ohio, pursuant to the duties imposed upon me under the provisions of section 4785-175 of the General Code of Ohio, hereby certify that in my opinion the foregoing summary is a fair and truthful statement of House Bill No. 336 of the 93rd General Assembly.”

Respectfully,

THOMAS J. HERBERT,
Attorney General.

645.

HOTEL—WHERE SEPARATE BUILDINGS OR STRUCTURES, UNDER SEPARATE ROOFS, LESS THAN FIVE ROOMS, FOR ACCOMMODATION OF GUESTS—NOT CLASSIFIED AS HOTEL—SECTION 843-1, G. C.

SYLLABUS:

Several separate buildings or structures, each under separate roofs and each having less than five rooms for the accommodation of guests, can not be classified as a hotel within the meaning of Section 843-1, General Code.

COLUMBUS, OHIO, May 25, 1939.

MR. RAY R. GILL, *State Fire Marshal, Columbus, Ohio.*

DEAR SIR: I am in receipt of your request for my opinion which reads as follows:

“I would like to have an opinion on Section 843-1 of the General Code of Ohio, in which a hotel is defined.

What I would like to know is where a person operates cabins and no one building has more than four rooms, but there are probably four or five cabins, making a total of fifteen or twenty rooms, whether that would be classed as a hotel and if the op-