should be transferred to the Ohio Penitentiary by the Department of Public Welfare, under authority of and in accordance with the provisions of Sections 2140 and 2210-2 of the General Code. (Opinion No. 5745, Opinions, Attorney General, 1936, approved and followed.)

2. Where a prisoner is simultaneously convicted of and sentenced on two or more felonies, such person is in the eyes of the law a first offender and is not a prisoner who has been previously convicted of crime. Under the statutes of Ohio, including Sections 2131, 2140 and 2210-2, such a convict should, therefore, if otherwise eligible, be sentenced to the Ohio State Reformatory to serve both or all the sentences imposed upon him, regardless of whether or not the trial court orders that such sentences shall be served concurrently or shall run consecutively and regardless of whether or not the sentences, if they are to be served concurrently, are for the same length of time. (Branches 1 and 3 of the syllabus of Opinion 1317, Opinions Attorney General, 1937, Volume III, p. 2249, overruled.)

Respectfully,
THOMAS J. HERBERT,
Attorney General.

1578.

WATERWORKS — MUNICIPALITY — CHARTER CITY OR OTHERWISE—UNDER SECTION 3982-1, G. C., MUNICIPALLY OWNED WATER PLANT MAY PROVIDE WATER FOR MUNICIPAL PURPOSES WITHOUT MAKING CHARGE—EXCEPTION, PROVISION IN BOND OR NOTE INDENTURE WHICH WOULD VIOLATE VESTED PROPERTY RIGHT—OPINIONS ATTORNEY GENERAL 1938, VOLUME III, PAGE 2263, OVERRULED—SECTIONS 2302-18, 82, ORDINANCES, CITY OF CLEVELAND—COMMISSIONER OF WATER—AUTHORITY TO MAKE ADJUSTMENT OF CHARGES TO CUSTOMERS, IN CASE OF LEAKAGE—DEPARTMENT OF LAW NOT AUTHORIZED TO COMPROMISE CHARGES.

SYLLABUS:

1. A municipality, whether a charter city or otherwise, may, under authority of Section 3982-1, General Code, in the operation of its municipally owned water plant, provide water for the municipal purposes of such municipality without making any charge to the respective department therefor, unless there is some provision in a bond or note indenture which would cause such method of conduct to violate a vested property right. (Opinions Attorney General, 1938, Volume III, page 2263, overruled.)

2. Section 2302-18 of the ordinances of the City of Cleveland is not void as an unconstitutional delegation of legislative functions, and authorizes the commissioner of water to make certain adjustments of charges to customers for lost water by reason of unknown leakage.

3. Section 82 of the ordinances of the City of Cleveland does not authorize the department of law of the City of Cleveland to compromise charges for water furnished by the city to customers.

COLUMBUS, OHIO, December 14, 1939.

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

GENTLEMEN: I am in receipt of your request for opinion reading:

> "We are inclosing herewith a letter from our City of Cleveland Examiner, in which inquiry is made concerning rebates and allowances made by the Commissioner of the Water Department and by the Director of Law, which cause reductions in the revenue earned by this public utility plant to the point of giving the service free, or partly free of charge, under certain conditions.
>
> In Attorney General's Opinion No. 1188, dated May 4, 1918, it was held that no legal authority exists for rebating water rents on account of leaks. In a later Opinion No. 3411, dated December 16, 1938, it was held, in effect, that if the city furnishes free water service for a municipal or public purpose, the city's general fund must be charged with the value thereof and the sums due be paid to the water department.
>
> We have been guided by the two opinions above mentioned, and have rendered findings accordingly.
>
> In view of the additional questions raised in the accompanying letter, and to certain difficulties encountered in complying with the ruling laid down in the latter opinion, may we request that you review the whole situation concerning the allowances, if any, a city, whether charter or non-charter, may make as a reduction to consumers' water bills because of leakage or other claims; also please advise whether or not you concur in the former ruling as to payment for free water service, especially that furnished by a municipally owned plant, to other city departments, buildings, fire hydrants, etc."

Inasmuch as you request a broad discussion, I will take the liberty to discuss your inquiries in their inverse order as stated in your request.

Several Attorneys General have rendered opinions concerning the right of a municipally owned water plant to furnish water to public agencies and to the city without compensation. Under date of December 16, 1938, my immediate predecessor rendered an opinion bearing No.

3411, which will appear at page 2263 of the 1938 Opinions of the Attorney General, in which he stated in the syllabus that:

> "1. The council of a municipal corporation may not provide by ordinance for furnishing free of charge, the services of its municipally owned public utility plants when used for a municipal or public purpose, without providing also, for the payment to the utility funds for such service from its general revenue fund. To do otherwise would be to fly in the face of the case of Board of Education, Etc., vs. The Village of Willard, 130 O. S., 311, as the cost of furnishing the product of such utilities to such institutions would, if not provided for by general taxation, have to be charged against the consumers and thereby amount to taking private property for public use without compensation.
>
> 2. The Bureau of Inspection and Supervision of Public Offices of the State of Ohio under the grant of authority contained in Section 13 of Article XIII of the Constitution of Ohio, has plenary power to examine the financial transactions of municipalities, charter as well as non-charter, and it is the duty of such Department to render findings for adjustment and for recovery against the general fund in favor of the particular public utility fund for the value of the service furnished institutions under virtue of Section 3982-1, General Code, notwithstanding, under the law as announced in the case of the City of Niles, et al. vs. The Union Ice Corporation, et al., 133 O. S., p. 169, the municipality might neutralize your finding by having transfer made from any accumulated surplus in the particular utility fund other than a waterworks fund, if there be such a surplus to the general revenue fund, and amount equal to the cost of furnishing the product of such utilities to such institutions."

The court's decision in Board of Education v. Village of Willard, referred to in the first syllabus of such opinion, is brief. It merely states that the decision of the Court of Appeals was affirmed on authority of Board of Education v. City of Columbus, 118 O. S., 295. Looking then to that case, it was held in the syllabus as follows:

> "1. That portion of Section 3963, General Code, which prohibits a city or village or the waterworks department thereof from making a charge for supplying water for the use of the public school buildings or other public buildings in such city or village, is a violation of the rights conferred upon municipalities by Section 4 of Article XVIII of the Ohio Constitution, and is

unconstitutional and void. (East Cleveland v. Board of Education, 112 Ohio St., 607, 148 N. E., 350, overruled.)

2. That portion of Section 3963, General Code, above referred to is unconstitutional and void for the further reason that it results in taking private property for public use without compensation therefor, in violation of Section 19, Article I, of the Ohio Constitution.

3. Municipalities derive the right to acquire, construct, own, lease and operate utilities the product of which is to be supplied to the municipality or its inhabitants, from Section 4 of Article XVIII of the Constitution and the legislature is without power to impose restrictions or limitations upon that right. (Euclid v. Camp Wise Assn., 102 Ohio St., 207, 131 N. E., 349, approved and followed.)"

In the body of the opinion at page 297 the court states that it incorporates by reference the dissenting opinion in the case of East Cleveland v. Board of Education, 112 O. S., 607, into such case and that the reasons therein set forth are the reasons for the court's decision. We quote from such dissenting opinion at pages 618 and 619:

"The majority respectfully claim that this controversy is controlled, not by Section 3 of Article XVIII, pertaining to home rule, but by Section 4 of Article XVIII, pertaining to ownership, operation, and control of public utilities. There has not heretofore been any difference of opinion in the pronouncements of this court as to the meaning and application of Sections 4, 5, and 6 of Article XVIII of the Constitution as amended in 1912. There has heretofore been perfect unanimity and harmony upon the proposition that by those amendments certain utilities within the state of Ohio have been placed within the entire control of the municipalities within whose boundaries their operations have been carried on.

It is the spirit of the unanimous decision of this court in the case of Village of Euclid v. Camp Wise Assn., 102 Ohio St., 207, 131 N. E., 349, that whereas, prior to the amendments of 1912, all authority to a municipality to own and operate public utilities was derived from the Legislature, after those amendments, and by reason of their adoption, the authority came direct from the people, entirely absolved from any conditions or restrictions theretofore imposed or which might thereafter be imposed. The first paragraph of the syllabus of that case, which received unanimous concurrence, is as follows:

'By reason of the adoption of Section 4, Article XVIII of

the Constitution, in 1912, municipalities may acquire, construct, own, lease and operate waterworks free from any restrictions imposed by Sections 3963 and 14769, General Code.'

It did not seem to the court at that time that Sections 2 and 3 of Article XVIII had any bearing upon the case, because they are general sections, and it seemed that Section 4 being a special provision pertaining to utility service the special provision became paramount over the general provisions. The present controversy is not different in that respect. The pertinent parts of Section 4 provide:

'Any municipality may acquire, construct, own, lease and operate within or without its corporate limits, any public utility the product or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service.'

This delegation of power to a municipality directly from the hands of the people is plain, unambiguous, and unequivocal, and it is free from conditions; it is apparently self-executing, requiring no enabling legislation to complete the grant of power. Any legislation relative to this subject must necessarily be confined to regulatory measures. The majority of the court are therefore of the opinion that any attempt by the Legislature to impose conditions upon the grant must be ineffective. We are not declaring the entire statute unconstitutional, because the second paragraph of the section is clearly regulatory."

In such opinion, at page 620, the court said:

"The entire matter of a supply of water for the inhabitants and *institutions* of East Cleveland, including the public schools, being within the control of the city, that control must rest, under the charter of the city of East Cleveland, in its city commission. It having seen fit to adopt an ordinance clearly covering the situation, the judicial branch of the government may not stay its hand." (Italics mine.)

Similarly, that same court held in Village of Euclid v. Camp Wise Assn., 102 O. S., 207, that:

"1. By reason of the adoption of Section 4, Article XVIII of the Constitution, in 1912, municipalities may acquire, construct, own, lease and operate waterworks free from any restrictions imposed by Sections 3963 and 14769, General Code.

2. The obligation imposed upon municipalities having waterworks constructed prior to 1912 to furnish free service to

charitable institutions operates as a discrimination against them and in favor of municipalities constructing waterworks after 1912, and therefore Section 3963, General Code, and Section 14769, General Code, in so far as they require free service to charitable institutions, are in conflict with Section 26, Article II of the Constitution of Ohio, requiring laws of a general nature to have uniform operation throughout the state, and therefore inoperative."

The only question considered and decided by the court in such cases was: Does the legislature have the power to enact a statute *requiring* a municipality owning a municipal water plant to supply water to schools and charitable organizations without compensation? The court therein pointed out that a municipality gets the power to operate such utility direct from the people, through the Constitution (Sections 4, 5, 6, 12 and 13 of Article XVIII), and not from any enactment of the legislature. The court held that the provisions of Section 3963, General Code, by reason of such fact, were violative of Sections 1 and 19 of Article I of the Constitution, in that it attempted to take the property of the municipality without compensation therefor.

As pointed out in such opinions, the Constitution has granted to municipalities the right to acquire, own, lease and operate a waterworks. The provision contained in the Constitution is self-executing (Ricketts v. Mansfield, 43 O. App., 316; East Cleveland v. Board of Education, supra, page 619); that is, it needs no enabling legislation from the General Assembly in order to make it effective (Snider v. United Banking and Trust Company, 124 O. S., 375; Priest v. Wapakoneta, 24 O. L. Abs., 214). In the operation of a waterworks, the city acts in a proprietary capacity. Travelers Insurance Company v. Wadsworth, 109 O. S., 440; Butler v. Karb, 96 O. S., 472. A municipality, when performing such proprietary function, has the same rights and is subject to the same obligations and liabilities as would a private corporation or person when performing the same duties. As was stated in the first syllabus of Travelers Insurance Company v. Wadsworth, supra:

"The board of trustees of public affairs of a village, which under authority granted by the Constitution and general law operates an electric light and power plant and lines, has power within Sections 4361 and 3961, General Code, to contract for an insurance policy of indemnity against liability for the operation of the said property."

And in the fifth syllabus of Cincinnati v. Cameron, 33 O. S., 336:

"There is a distinction between those powers of a municipal corporation which are governmental or political in their nature

and those which are to be exercised for the management and improvement of property. As to the first, the municipality represents the state, and its responsibility is governed by the same rules which apply to like delegation of power. As to the second, the municipality represents the pecuniary and proprietary interests of individuals, and within the limits of corporate power, the rules which govern the responsibility of individuals are properly applicable."

From an examination of Section 4 of Article XVIII of the Constitution and the court decisions, above cited, it appears that a municipality has been granted by the people the right to acquire and operate a waterworks for the purpose of supplying water "to the municipality" and/or "to its inhabitants." Certain restrictions are imposed upon the operation by the Constitution. For example, it may not sell more than fifty per cent of its product outside of the municipality (Section 6). Section 12 places certain restrictions upon the power to incumber the plant.

The waterworks is not an entity separate and distinct from the city. It is but a department of the city. The municipality is a corporation created under authority of state law. It can be created only under general laws enacted by the legislature (Section 2, Article XIII, Constitution), "but all such laws may, from time to time, be altered or repealed" (Section 2, Article XIII, Constitution). The constitutional mandate to the legislature is that "general laws shall be passed to provide for the incorporation and government of cities and villages." (Section 2, Article XVIII, Constitution.) Section 13 of Article XVIII provides that:

"Laws may be passed to limit the power of municipalities to levy taxes and incur debts for local purposes * * *."

Under authority of this section there is reserved to the General Assembly the right to limit the indebtedness that may be incurred for local purposes. Such section is a limitation on the right of home rule. Such section further limits the right of municipalities to levy taxes. (State, ex rel. Toledo, v. Weiler, 101 O. S., 123.) The right to tax is a right of sovereignty of the state. It may delegate a portion of this power to subsidiary political entities or agencies created by it, in such measure as it deems expedient. (State, ex rel. Attorney General, v. Toledo, 48 O. S., 112.) The power to restrict certain functions of the municipality is contained in Section 6 of Article XIII of the Constitution by language mandatory in form:

"The General Assembly *shall* * * * restrict their power of taxation, assessment, borrowing money, contracting debts and

loaning their credit, so as to prevent the abuse of such power." (Italics mine.)

See also Federal Gas and Fuel Company v. Columbus, 96 O. S., 530; State, ex rel. Toledo, v. Cooper, 97 O. S., 86.

It may be urged that if a municipal corporation in its operation of a waterworks were to furnish water to its several departments without transferring funds to compensate therefor to the waterworks fund, such conduct might have an indirect effect upon the taxing power of that municipality, in that the city might be thereby compelled to levy a tax for waterworks purposes to replace such lost revenue. If such be true, the General Assembly clearly would have the power to restrict such action by legislation. It may also be urged that such conduct might have an indirect effect upon the contracting of indebtedness by the city. If such be true, the Constitution has authorized legislation to restrict it.

Whether or not such be true, it would appear that the General Assembly as yet has not seen fit to use its power for such purpose, but instead has provided in Section 3982-1, General Code, that:

> "The council of any municipality owning and operating municipal water, gas, or electric light plants, *may* provide by ordinance to furnish free of charge the products of such plants when used for municipal or public purposes." (Italics mine.)

You will note that the legislature in the enactment of this section has used the term "may" rather than "shall." I have been unable to find any decision of the court wherein the constitutionality of such section has been questioned. There is no language in the opinions of the cases above cited which would indicate a tendency on the part of the court to question the constitutionality of such provision. I am therefore impelled to disagree with the opinion of my immediate predecessor rendered under date of December 16, 1938, and to be of the opinion that the municipality may constitutionally comply with the authority granted it by the legislature in Section 3982-1, supra, unless limited by some agreement contained in a contract pledging revenues of waterworks for the payment of notes and bonds.

I come now to a consideration of the matter of the question set forth in the second paragraph of your request as to whether the commissioner of water may legally make rebates from charges to customers based upon the amount of water passing through the meter, when the charge has been enhanced over that actually used by the customer by reason of underground leaks on the customers' property, and other causes.

In the City of Cleveland there exists an ordinance bearing number 2302-18 which reads:

> "Sec. 2302-18. Charges in case of leaks. All water that passes through a meter shall be charged for whether used or wasted or lost by leakage, except that the commissioner may make such abatement as seems to him right and proper in the case of a leak, when it does not appear that the owner or user could be reasonably expected to know of the leak, or to have had a fair chance to stop the same. Such reduction shall not exceed one-half of the excess bill, except as otherwise determined by the commissioner."

And another bearing number 82 which reads:

> "Sec. 82. The director of law shall have power, and he is hereby authorized to adjust, settle, compromise, or submit to arbitration any actions, causes of action, accounts, debts, claims, demands, disputes and matters in favor of or against the City of Cleveland, or in which the City of Cleveland is concerned as debtor or creditor, now existing or which hereafter arise."

Such Section 2302-18 is contained in the chapter of the Municipal Code of Cleveland with reference to the operation of the municipal water system, that is, the furnishing of water from such system to customers. Such chapter sets forth a specific schedule of water rates to be charged to customers. Such Section 2302-18 is a specific provision as distinguished from a general provision. It deals only with debts due to the city for water furnished by it and not with other types of obligations. In terms it provides that the customer shall pay for all water that passes through the customer's meter. It then provides, as an exception to such provision, that if without the knowledge of the customer a leak exists and if the loss was caused before the customer could repair it, the commissioner may rebate not to exceed one-half of the excess charge caused by the leakage. Your inquiry as to this section is two-fold. First, may the council provide for a rebate to the customer by reason of loss of water without his fault? If so, may it delegate such power to the commissioner of water?

As stated in East Cleveland v. Board of Education, supra, the entire matter of supplying the water to the inhabitants is in the city council. The waterworks system being a proprietary function, the council would have the same powers concerning its operation as would a private corporation. However, as stated in 5 McQuillin, Municipal Corporations, 2d Ed., Section 1942, page 65:

> "Where the municipality owns its plant, the rates for water, light or any other product, furnished by it must be fair, reasonable and just, *uniform and non-discriminatory.*" (Italics mine.)

See also Mansfield v. Humphreys Manufacturing Company, 82 O. S., 216.

In the case of Butler v. Karb, 96 O. S., 472, the court considered the question as to whether a municipality could discriminate in the rates and terms for utility services rendered to its customers. Such court said on page 485:

> "That such discrimination constitutes an abuse of power there can be no question. That neither public nor private corporations may discriminate between members of the public with reference to rates and terms of service does not longer admit of controversy. This wholesome rule, long in force, has had frequent application, particularly to common carriers and utility companies. A municipality operating a utility is not exempt therefrom. Acting in a proprietary capacity, we have seen, it should have the freedom of action of a private utility corporation, but it is also subject to the same restrictions as to practices of discrimination in rates and service."

In the case of Wagner v. Rock Island, 146 Ill., 139, the court held that where the inequality in water rates in a city resulted merely from a failure to enforce the rate ordinance as to some users, the others had no cause to complain. Such court points out that the cost of the use of the water to the customer is not a tax but rather is a contract charge, based upon the agreement between the city and the user, and for such reason it was not required that the rule of uniformity which was applied to taxation was the rule to be applied to such service. The user has the right to discontinue the use of the service at any time he may choose. (See also City of Niles v. Union Ice Corporation, 133 O. S., 169, 182, 183.)

While the provisions of Section 3959, General Code, limit the use of funds collected from waterworks' services from being used for any purpose other than repayment of loans, and interest thereon. for the construction, etc., of the plant and the payment of the cost of operation, repairs, enlargement and extension of the service and of reservoirs, I am unable to find any authorities indicating that the service must be furnished at cost. In fact, were it not for such provision of statute the Supreme Court has held that it could be operated at a profit. (See Niles v. Union Ice Corporation, supra.)

Even in taxation statutes the requirement of uniformity is as to the levy of the tax. Miller v. Korns, 107 O. S., 287; Holton v. Board of County Commissioners, 93 N. C., 430; Railway v. Beard, 293 Fed., 448. It has likewise been held, with respect to tax laws, that the rule as to uniformity is not violated by the classification of subjects for taxation, in so long as the levy is uniform upon all subjects within the class. State, ex rel. Struble, v. Davis, 132 O. S., 555. I am unable to say, as a matter

of law, that if the council should make a special classification of those types of water users, who, without neglect or knowledge on their part, use surplus water and charge therefor at a fixed rate, such is not a reasonable classification. The ordinances in nearly every city have a higher or lower rate for large users than for ordinary residences. Such schedules of rates have been uniformly upheld.

If then the council has the power to charge a different rate to accidental loss users, may it delegate the power to fix the rate to be charged to the water commissioner? Rate-making is a legislative function. East Ohio Gas Company v. Cleveland, 106 O. S., 489. It is elemental that the legislative branch of a governmental body may not delegate its power to an administrative officer or body. It may, however, delegate such persons to carry its will into effect providing it lays down the rules or tests for determining whether particular sets of facts bring the statutes or ordinances into effect. State, ex rel. Campbell, v. Cincinnati Street Railway Company, 97 O. S., 283, 293; Matz v. J. L. Cartage Company, 132 O. S., 271. Section 2302-18 of such ordinance authorizes the abatement of a part of the excess charge only when the water commissioner finds the facts to be that the customer did not know of the underground leak and had not been negligent in repairing it after discovering it. I am of the opinion that the council has, by such ordinance, sufficiently laid down the tests or rules for abating a portion of the excess bill, and that a court would not hold such ordinance to be a delegation of legislative power.

I am not unmindful of the fact that one of my predecessors, in an opinion set forth in Opinions of the Attorney General for 1918, Vol. I, page 639, ruled:

> "The director of public service is without authority to grant reductions of water rents on account of leaks which exist upon the premises of the consumer.
>
> The rules of the waterworks cannot contain a provision permitting the director of public service to grant reductions in water rents on account of leaks occurring on the premises of the consumer."

The reasoning upon which such conclusion was founded is stated on page 640 as follows:

> "While it is true that a municipal corporation in operating a waterworks does not exercise governmental functions, but solely proprietary business and administrative functions, and while it is true that a very wide discretion is placed in the director of public service in the operation thereof, nevertheless, your question as it seems to me strikes deeper than the mere operation of a waterworks. After water has been furnished to a

consumer and has been through the meter, the water then is the sole property of the consumer and the same is true when the consumer pays a flat rate, either in advance or at the end of a certain period. In either case, as before stated, the water after reaching the premises of the consumer and is being distributed through pipes in the premises is the property of the consumer and if the consumer permits the same to escape by way of leakage on his premises it should be and is his loss exclusively. Therefore, I am of the opinion that no reduction can be made from the water bill for water that has been furnished. To hold otherwise would be to hold that the director of public service can remit a claim due the city for which there is no authority of statute."

Since it is not the function of a court to pass upon the economic feasibility or social practicability of a legislative pronouncement and in view of the reasons above set forth, I am of the opinion that such opinion should be overruled, and the policy of the enactment of Section 2302-18 of such ordinances was within the discretion of the city council.

You next inquire whether the director of law could make rebates of water rentals under authority of Section 82 of such ordinances above quoted.

Since in Section 2302-18, supra, the city council has specifically stated that all water passing through the meter of the customer shall be paid for by the user at the rates fixed by the ordinance, unless abated in part by the water commissioner, and, further, since the city council in Section 2302-5 of such ordinances provides that all water shall be paid for six months in advance as therein provided, it is difficult to perceive how there could ever be a case which would even in good conscience justify a rebate other than that for which a remedy is provided in Section 2302-18.

While the language of Section 82 is broad enough to include the settlement of disputed water rentals, nevertheless it is a general ordinance referring to all classes of claims. It is a well established rule of statutory interpretation that where there are two statutory provisions, one of which is general and in terms broad enough to include the matters provided for, and the other which is special or specific, the specific statute controls over the general statute. Doll v. Barr, 58 O. S., 113, 120; City of Cincinnati v. Holmes, 56 O. S., 104; Gas Company v. Tiffin, 59 O. S., 420, 441. Section 82 of such ordinances purports to authorize the director of law to settle all types of claims in favor of or against the city regardless of form. Section 2302-18 provides that all claims for water must be paid for in advance, unless abated in part as therein provided. It would therefore appear that the intent of the council was to authorize the commissioner of water alone to determine the rate for payment of water lost

by leakage within the limits therein set forth. I am therefore of the opinion that Section 82 of such ordinances does not authorize the department of law of the City of Cleveland to abate water charges.

In specific answer to your inquiries, it is my opinion that:

1. A municipality, whether a charter city or otherwise, may, under authority of Section 3982-1, General Code, in the operation of its municipally owned water plant, provide water for the municipal purposes of such municipality without making any charge to the respective department therefor, unless there is some provision in a bond or note indenture which would cause such method of conduct to violate a vested property right. (Opinion, Opinions Attorney General 1938, Volume III, page 2263, overruled.)

2. Section 2302-18 of the ordinances of the City of Cleveland is not void as an unconstitutional delegation of legislative functions, and authorizes the commissioner of water to make certain adjustments of charges to customers for lost water by reason of unknown leakage.

3. Section 82 of the ordinances of the City of Cleveland does not authorize the department of law of the City of Cleveland to compromise charges for water furnished by the city to customers.

Respectfully,
THOMAS J. HERBERT,
Attorney General.

1579.

RENTAL ADJUSTMENT—CANAL LAND LEASE 385, SIDNEY FEEDER, MIAMI AND ERIE CANAL, THE CITY OF SIDNEY, LESSEE.

COLUMBUS, OHIO, December 15, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: I beg to acknowledge receipt of your Recommendation of Rental Adjustment drawn and executed pursuant to House Bill No. 514 of the 93rd General Assembly, and dealing with the adjustment of abandoned canal lands lease No. 385, Sidney Feeder, Miami and Erie Canal, in which lease The City of Sidney, Ohio, appeals as lessee.

Finding the provisions of this instrument correspond with the said act of the Legislature, I endorsed my approval upon the original and duplicate and triplicate copies thereof, and same are transmitted to you herewith.

Very truly yours,
THOMAS J. HERBERT,
Attorney General.