

3895.

DISAPPROVAL, CANAL LAND LEASE TO LAND IN NEWCOMERSTOWN,
TUSCARAWAS COUNTY, OHIO, FOR RIGHT TO OCCUPY AND USE FOR
RESIDENCE PURPOSES—JOSEPHINE EDWARDS.

COLUMBUS, OHIO, February 1, 1935.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a canal land lease in triplicate, executed by you in your official capacity to one Josephine Edwards of Newcomerstown, Ohio. By this lease, which is one for the stated term of fifteen years and which by its terms provides for an annual rental of twelve (\$12.00) dollars, payable semi-annually, there is leased and demised to the lessee above named the right to occupy and use for residence purposes that portion of the berm embankment of the Ohio Canal in the Village of Newcomerstown, Tuscarawas County, Ohio, that lies immediately east of Goodrich Street in said Village, and in the rear of lots now or formerly owned by J. R. Keast and George Pace, said parcel being a strip of canal land fronting about thirty-six (36) feet to the east line of Goodrich Street, and extending thence easterly, including the full width of said berm embankment a distance of about one hundred fifteen (115) feet, measured along the northerly line of said canal property.

The lease here in question is one executed by you under the authority of Amended Substitute Senate Bill No. 72, enacted by the 89th General Assembly under date of April 29, 1931, and which went into effect on the 6th day of August, 1931, 114 O. L. 541. This Act, which by designation of sectional numbers by the Attorney General has been carried into the General Code as Sections 14203-90 to 14203-98, General Code, provides for the abandonment of that portion of the Ohio Canal and of all lateral canals and canal feeders connected therewith, situated within Tuscarawas, Coshocton and Muskingum Counties, Ohio, and for the lease or sale of such abandoned canal lands, expressly provides by Section 8 thereof (14203-97) for the lease to individuals of such abandoned canal lands as have not been applied for by railroad, municipal corporations and others having prior rights with respect to the lease of such lands. This is provided for by the fifth paragraph of said section which paragraph reads as follows:

“All tracts of abandoned canal property lying within a municipality, but not included in the application of anyone of the four classes enumerated above, and likewise the abandoned canal property lying outside the corporate limits of any municipality, may be leased by the Superintendent of Public Works, who shall appraise such tracts at their true value in money for any purpose for which they can be used, and the annual rental shall be 6% of such appraisal.”

As above noted, the annual rental provided for in this lease is the sum of twelve (\$12.00) dollars, payable semi-annually in installments of six (\$6.00) dollars each. It appears on the face of this lease instrument that the appraised valuation of the parcel of land covered by this lease is the sum of two hundred fifty (\$250) dollars. Six (6%) percent of the appraised value of this land is fifteen (\$15.00) dollars, which should be the annual rental provided for in this lease under the terms and provisions of the paragraph of Section 8 of this Act above quoted.

In view of the appraised value of this property I am compelled to hold, therefore,

that you were not authorized to fix the annual rental of this property at the sum of twelve (\$12.00) dollars, and the lease is accordingly disapproved for this reason. I am therefore returning said lease instrument to you without my approval endorsed thereon.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3896.

WORKMEN'S COMPENSATION LAW—COMPENSATION TO WORKMAN
 WHEN PLACED IN BANK SUBJECT TO ATTACHMENT OR EXECUTION.

SYLLABUS:

Compensation paid under the provisions of the Workmen's Compensation Law, after it has been received by an injured workman and placed in a bank by him, is subject to attachment or execution the same as any other funds so deposited by such injured employee.

COLUMBUS, OHIO, February 1, 1935.

HON. NELSON CAMPBELL, *Prosecuting Attorney, Mount Gilead, Ohio.*

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

“Is money received by an injured man from the Industrial Commission, and on deposit in a bank, exempt from attachment or execution?”

“This query has been propounded to me by one of our Justices of the Peace. The facts in brief are as follows: R received a settlement of \$..... from the Industrial Commission. This money, and no other, was deposited in a bank. D, a store-keeper, has sued R on a claim for necessaries, and has named the Cashier of the bank wherein R has deposited his money received from the Industrial Commission, as garnishee. Can the attachment of such funds be maintained?”

Section 1465-88, General Code, provides in part as follows:

“Compensation before payment shall be exempt from all claims or creditors and from any attachment or execution, and shall be paid only to such employees or their dependents. * * *”

It will be noted from the language used in this section that exemption from claims or creditors and from attachment applies only to the time “before payment.” After the Industrial Commission of Ohio pays compensation to an injured workman, and such injured workman then deposits the money in a bank, the exemption does not apply. This money then becomes subject to attachment the same as any other funds which the man might have in such institution.

The Legislature was very careful to limit this exemption to “before payment” and made no provision that compensation should be exempt from execution and attachment after it was in the possession of the employee. And this is in harmony with the