

6292.

APPROVAL—GRANT OF EASEMENT TO LAND IN PERU TOWNSHIP, HURON COUNTY, OHIO—FRANK HOHLER.

COLUMBUS, OHIO, November 6, 1936.

HON. L. WOODDELL, *Commissioner, Division of Conservation, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain grant of easement No. 94, executed by one Frank Hohler of Peru Township, Huron County, Ohio, to the state of Ohio, conveying to the state of Ohio, for the purposes therein stated, certain lands in said township and county.

By the above grant there is conveyed to the State of Ohio, certain lands described therein, for the sole purpose of using said lands for public fishing grounds, and to that end to improve the waters or water courses passing through and over said lands.

Upon examination of the above instrument, I find that the same has been executed and acknowledged by the grantor in the manner provided by law and am accordingly approving the same as to legality and form, as is evidenced by my approval endorsed thereon, which is herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6293.

INDUSTRIAL COMMISSION OF OHIO—AUTHORIZED TO DESTROY FILES OF CLAIMS—IF DURING TEN OR MORE YEARS NO COMPENSATION PAID OR APPLICATION FOR MODIFICATION OF AWARD FILED.

SYLLABUS:

Under the provisions of Section 1465-86, General Code, the Industrial Commission of Ohio has authority to make provision for the destruction of files of claims in which no compensation has been paid for a period of ten or more years if no application for modification of award has been filed within that time.

COLUMBUS, OHIO, November 7, 1936.

The Industrial Commission of Ohio, Columbus, Ohio.

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

"Since the year 1912 there has accumulated a vast number of claim files in which the Industrial Commission has paid compensation and/or medical and hospital benefits. A portion of these said claim files are stored in a warehouse located on Short Street, Columbus, Ohio. It is the desire of this Commission to order the destruction of these claim files dating from the year 1912 up to and including the year 1920 in which no action has been taken during ten or more years. However, before doing so, the Commission requests advice from your office as to whether or not this Commission has proper authority under the provisions of Section 1465-86, G. C. to destroy these claim files. Your advice in this matter is respectfully requested."

Section 1465-86, General Code, which relates to your power in the matter of destruction of files, reads as follows:

"The powers and jurisdiction of the board over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion may be justified. Provided, however, that no such modification or change or any finding or award in respect of any claim whether filed heretofore or hereafter shall be made with respect to disability, compensation, dependency or benefits, after ten years from the last payment theretofore made of compensation or benefits awarded on account of injury or death, or ten years after the injury in cases in which no compensation ever has been awarded.

"Provided further that nothing herein contained shall deprive the commission of its continuing jurisdiction as herein defined to determine the questions raised by any application for modification of award which shall have been filed with the commission after June 1, 1932, and prior to the expiration of such ten years but in respect to which no award shall have been granted or denied during such ten years.

"The commission may, by general rules, provide for the destruction of files of cases in which no further action may be taken."

It is to be noted that this section provides that no award shall be made

“after ten years from the last payment theretofore made of compensation or benefits awarded on account of injury or death, or ten years after the injury in cases in which no compensation ever has been awarded.”

In your communication you say that you refer to claims in which “no action has been taken during ten or more years”. The mere fact that the Commission took no action within ten years would not prevent it from making an award subsequent thereto provided compensation had been paid during the period. For instance, if the Commission took an action awarding compensation covering a period in the future, that is, beyond the date of the action allowing such compensation, the provisions of Section 1465-86, *supra*, would not commence to run until after the date of the last payment; and after ten years after the date of the last payment no further action could be taken in the claim either by way of awarding compensation or paying death benefits if the death occurred after the ten year period.

Section 1465-82, General Code, authorizes awards to dependents after the death of an injured employee for a period not to exceed eight years after the date of the injury. There are a couple of unreported decisions by our courts holding that if death occurred after the eight year period there could be no provision for paying death benefits to dependents because there was no period during which such compensation could be paid.

The last paragraph of the above quoted Section 1465-86 clearly gives the Industrial Commission authority to make provision, by way of general rules, for the destruction of files in cases in which no further action may be taken. So it is my opinion that the Industrial Commission has authority to make provision for the destruction of files of claims in which no compensation has been paid for a period of ten years or more if no application for modification of award has been filed within that time.

Respectfully,

JOHN W. BRICKER,
Attorney General.