

cannot be placed in a position to receive such adjustment payments.

November 21, 1933

You have requested our opinion on the right of Carbon County, as owner of certain wheat lands, to share in adjustment payments that may be made by the Federal Government under the Wheat Adjustment Plan.

It appears from your letter that Carbon County has title through tax deeds to approximately 15,000 acres of land within its limits. In some cases farms which make up a part of this acreage are still occupied by the former owners. In other cases farms which also constitute a part of this acreage have been leased by the former owners to third parties in consideration of receiving shares of the crops produced for rents. Several of these tenants have made application to the Department of Agriculture for wheat allotment contracts.

The Wheat Adjustment Plan is based on the Agricultural Adjustment Act recently passed by the Congress. Under the plan, as we understand it, the owner or landlord must sign the contract with the tenant to make it effective, and where the lease requires the tenant to pay the rent in cash the owner or landlord is not entitled to any part of the adjustment payments.

So far as material here Section 4465, Revised Codes 1921, as amended by Chapter 100, Laws of 1931, reads as follows: "The Board of County Commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: * * * To lease and demise county property, however acquired, which is not necessary to the conduct of the county's business or the preservation of county property and for which immediate sale cannot be had. Such leases shall be in such manner and for such purposes as, in the judgment of the board, shall seem best suited to advance the public benefit and welfare, and all revenue derived therefrom, except as otherwise provided, shall be paid into the county treasury. On the tenth day of January and the tenth day of July in each year the county treasurers shall distribute such revenues to the several county and trust and agency funds on

Opinion No. 393

**County Commissioners — Powers —
County Lands, Rentals to be Cash
—Agricultural Adjustment Plan,
Federal, Applied to County
Lands**

HELD: R. C. 4465 as amended by Chapter 100, Laws of 1931, contemplates leasing of county owned lands for rents in the shape of money only. Therefore, since under the Wheat Adjustment Plan the landlord or owner is not entitled to any part of adjustment payments where the rent is required to be paid in cash, the county

the basis of the tax levy for the preceding calendar year."

We think it is clear that this section contemplates that a lease of county property must be for rent in the shape of money and nothing else. If the legislature intended otherwise it could easily have used such apt language as is found in section 38, Chapter 60, Laws of 1927.

Since the board of county commissioners of Carbon County is without power to lease the county's lands for shares of the crops produced by the tenants, the county cannot be placed in a position to receive a part of the adjustment payments to be made by the Department of Agriculture.

What we have just said does not imply, however, that the commissioners are not in duty bound under their oaths of office to use every allowable means to obtain revenue from the lands belonging to the county to the end that the burdens of the taxpayers may be lessened.