

other power and telegraph and telephone lines, together with the right to cut and remove from the premises adjoining the lines on either side any trees or other obstructions which might interfere with the use of said poles, towers, fixtures or wires, and the right of ingress and egress to and over said premises for the purpose of patrolling the line, repairing or adding to the number of poles, etc., and for doing anything necessary or useful or convenient for the enjoyment of the same. The consideration to be paid for the same was the sum of \$1.00 per pole along fence lines and \$5.00 per pole erected in the open field.

4. An oil and gas lease executed by Otis P. Morris and wife in favor of The Ohio Fuel Gas Company on August 26, 1926, recorded in Lease Book 19, page 457, by the terms of which the lessor granted unto the lessee all of the oil and gas and all of the constituents thereof in the land under consideration, together with the exclusive right to drill for, produce and market oil and gas and their constituents, and also the right to enter on said land at all times for the purpose of drilling and operating for oil, gas and water and to possess, use and occupy so much of the premises as is necessary and convenient in removing the above-named products therefrom, by pipe lines or otherwise, for a term of five years and so much longer thereafter as oil, gas or their constituents are produced in paying quantities. The lessee was to drill a well on said premises within six months from the date of the execution of the instrument or pay the lessor \$29.50 each six months thereafter until such well is drilled or the lease surrendered. The abstracter does not set out any consideration for the lease or any other consideration for the continued enjoyment of the easement.

It will be noticed that the option executed by Otis P. Morris and wife on the 11th of October, 1927, to the state for the land under consideration, says that an abstract will be furnished showing a good title to the premises, "free from all encumbrances, except an oil and gas lease granted by me to The Ohio Fuel Gas Company, dated August 25, 1926, all interest in which I agree to transfer with the property in case of exercise of this option. \* \* \* I agree to execute and deliver a good and sufficient warranty deed for said property free and clear of all taxes, assessments and liens, except said lease."

Investigation should be made by the committee for the purchase of the ground for the preservation of the site of Schoenbrun as to whether or not the existence of the rights of ways and the oil and gas lease above referred to will interfere with the use of the property by the state for the purposes for which it is desired to purchase the same.

No encumbrance certificate or deed were submitted with the abstract and I am therefore unable to render an opinion on the same.

The abstract, option and correspondence relative to the above matter are herewith returned.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1547.

APPROVAL, RESOLUTION FOR SALE OF ABANDONED CANAL LAND  
IN THE CITY OF MASSILLON, STARK COUNTY, OHIO.

COLUMBUS, OHIO, January 7, 1928.

HON. R. T. WISDA, *Director of Public Works, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of December 21.

1927, inclosing for my approval resolution in duplicate for the sale of the following abandoned canal land:

"That portion of the old abandoned Ohio Canal basin, now filled, formerly known as the LOWER BASIN, fronting on the westerly side of Mill Street, in the vicinity of Commonwealth Street in the City of Massillon, Stark County, Ohio, and more definitely described as follows:

Commencing at an iron pin in the westerly line of Mill Street in said city of Massillon that is 149.2 feet south of the point where the center line produced of Commonwealth Street in said city, would intersect the westerly line of Mill Street, measured along the westerly line of Mill Street and running thence northwesterly along the westerly line of said Mill Street, 753 feet, more or less, to an iron pin that marks the northeast corner of a lot owned by Mary Oster; thence N. 81° 00' W. 60.2 feet to an iron pin that marks the northwest corner of said Mary Oster's lot, and likewise the easterly line of the State canal property, north of said Mary Oster's lot; thence S. 12° 30' E. 130 feet to a point that is 65 feet west of the westerly line of Mill Street, measured at right angles thereto; thence S. 8° 59' E. 132 feet to a point that is 87 feet west of the westerly line of Mill Street, measured at right angles thereto; thence S. 2° 20' E. 144.5 feet to a point that is 128 feet west of the westerly line of Mill Street, measured at right angles thereto; thence S. 11° 05' W. 126 feet to a point that is 190 feet west of the westerly line of Mill Street, measured at right angles thereto; thence south 17° 15' W. 177 feet, more or less, to an iron pin that marks the intersection of the southerly line of said canal basin with the easterly line of the berme embankment of the Ohio Canal; thence S. 88° 38' E., magnetic bearing, 317.35 feet to the point of commencement, and containing two and four-tenths (2.4) acres, more or less.

For additional description of the abandoned canal basin property herein described, reference is hereby made to Plat No. 1 of G. F. Silliman's survey of the Ohio Canal property through the City of Massillon, Stark County, Ohio, made under the direction of the State Board of Public Works in 1911, and now on file in the Department of Public Works at Columbus, Ohio. Said plat is also numbered 50 in the series of plats of the Ohio Canal surveys south of Cleveland, Ohio."

to John Paul of Massillon, Ohio.

The land is being sold at private sale under the provisions of Section 13971, General Code, at its appraised value of one thousand (\$1,000) dollars.

Finding the said sale is authorized under the provisions of Section 13971, supra, and that the resolution is in proper form and legal, I have entered my approval upon the resolution.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*