

2183.

APPROVAL, SEVEN LEASES TO STATE LANDS FOR COMMERCIAL PURPOSES.

COLUMBUS, OHIO, June 20, 1921.

HON. JOHN I. MILLER, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I have your letter of May 31, 1921, in which you enclose the following leases, in triplicate, for my approval:

	<i>Annual Rental</i>
To The Diamond Match Co., Barberton, Ohio-----	\$900 00
The Northwestern Ohio Light Co-----	375 00
The Toledo, St. Louis & Western Railroad Company-----	288 00
The Akron & Barberton Belt R. R. Co-----	216 00
The Celina Stearic Acid Co-----	80 00
The Napoleon Hoop Company-----	24 00
Chas. Bentz, Indian Lake-----	10 00

I have carefully examined said leases, find them correct in form and legal, and am therefore returning the same with my approval endorsed thereon.

Respectfully,

JOHN G. PRICE,

*Attorney-General.*

2184.

OHIO PENITENTIARY INVESTIGATING COMMITTEE—AUTHORITY TO FUNCTION PASSED UPON.

1. *The adoption of Senate Resolution No. 58 by the senate on May 27, 1921, was a constitutional exercise of the power conferred upon that body by section 8, Article II, Ohio Constitution.*

2. *The committee appointed under Senate Resolution No. 58, supra, has authority to function until the final or sine die adjournment of the present eighty-fourth general assembly.*

COLUMBUS, OHIO, June 21, 1921.

HON. A. E. CULBERT, *Chairman, Senate Resolution No. 58 Committee, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date relative to Senate Resolution No. 58, was duly received.

As I understand it, the questions you desire answered are, first, whether or not the senate had the power to adopt the resolution mentioned, and second, if it did, whether the committee can function during the present adjournment of the general assembly.

The resolution, according to the senate journal, was duly adopted by the senate of the 84th general assembly on May 27, 1921, and reads as follows:

“Whereas, It is being alleged and persistently rumored that there

are deplorable conditions being permitted to exist in the idle-house of the Ohio penitentiary;

Whereas, Public interest in this institution is such as to warrant full and complete legislative investigation of these alleged deplorable conditions, to the end that if found true the proper remedy may be adopted speedily; and

Whereas, It is reported there are certain positions which may be abolished thus saving to the state of Ohio a considerable sum of money annually; and

Whereas, It is desirable to investigate and look into and examine the manner in which the penitentiary has been conducted; therefore

Be it resolved by the senate, that the president of the senate is hereby directed and authorized to appoint a committee of three senators, who shall have full power and authority to investigate the management of the penitentiary, and to examine into and investigate the conduct and management of such institution generally; and that it be

Resolved, That such committee shall have full power and authority to subpoena witnesses, and compel the production of books, records, papers and documents, and to employ expert accountants, attorneys, stenographers and other assistants necessary to carry on the investigation as herein provided. The committee shall make its investigations and report its findings and recommendations to the present general assembly, or to the governor if the legislature is not in session; and

Be it further resolved, That all the necessary expenses of such committee in connection with the investigation herein provided, shall be paid from the funds appropriated for the expense of legislative committee upon the presentation of itemized vouchers therefor signed by the chairman of such committee."

In *State vs. Guilbert*, 75 O. S., 1, it was held that "The constitution of this state contains no express grant of power to either branch of the general assembly to appoint a select investigating committee for general legislative purposes; and such power is not necessarily implied from the express grants to each house." The case mentioned was decided on October 16, 1906, but since then, to-wit, on September 3, 1912, section 8, Article II, Ohio constitution, was amended so as to expressly provide, among other things, that "Each house \* \* \* shall have all powers necessary \* \* \* to obtain, through committees or otherwise, information affecting legislative action under consideration or in contemplation, \* \* \* and to that end to enforce the attendance and testimony of witnesses, and the production of books and papers."

1. You are therefore advised in answer to the first question, that the adoption of Senate Resolution No. 58 was a constitutional exercise of the power conferred upon the senate by section 8, Article II, Ohio constitution.

2. The authority of the committee appointed under and pursuant to the authority of Senate Resolution No. 58, to function during the present adjournment of the general assembly, is not, in my opinion, open to serious doubt. While *State vs. Guilbert*, supra, and *State vs. Gayman*, 11 C. C. (N. S.) 257 (affirmed without report, 79 O. S. 445) might, in a proper case, be said to support the general proposition that a legislative committee appointed under a resolution cannot function after the adjournment of the general

assembly, it must not be overlooked that the courts in those cases were speaking with reference to final or *sine die* adjournments. See also 1920 Opinions of Attorney-General, Vol. I, page 194, 196. Such an adjournment is not now involved. On the contrary, the adjournment we are dealing with is one effected by the governor in the exercise of the power vested in him by section 9, Article III, Ohio constitution, and in the proclamation issued by the governor the time to which the general assembly has been adjourned is fixed at December 30, 1922. Such adjournment is not a final or *sine die* adjournment in fact; nor could it be in effect, since the date fixed by the governor not only precedes the expiration of the terms of office of the members elected to the present general assembly, but also precedes the time of the commencement of the next regular session on the first Monday in January, 1923. See section 25, Article II, Ohio constitution, fixing time of the commencement of the regular sessions of the general assembly.

You are therefore advised in answer to the second question that the committee appointed under senate resolution No. 58 is authorized to function until the final or *sine die* adjournment of the present general assembly.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

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2185.

APPROVAL, ABSTRACT TO 10.66 ACRES OF LAND IN ERIE TOWNSHIP, OTTAWA COUNTY, OHIO, WHICH FORMERLY BELONGED TO THE OHIO RIFLE RANGE ASSOCIATION.

COLUMBUS, OHIO, June 22, 1921.

HON. GEORGE FLORENCE, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—You have submitted to this department an abstract which was certified to by A. L. Duff, attorney and abstractor, January 27, 1920, and further continued by the same person June 16, 1921, and inquire as to the status of the title to the following described premises as disclosed by said abstract:

“Being the east half of the southeast quarter of fractional section twenty-one (21), town seven (7), range sixteen (16), Erie township, Ottawa county, Ohio, lying north of the county road, excepting the west 3 342-1000 acres thereof; said 3 342-1000 acres being one hundred and twenty-eight (128) feet wide east and west measured from and at right angles to the west line of the east half of said southeast quarter, said tract containing 10 66-100 acres of land.”

You are referred to an opinion of this department addressed to your predecessor under date of March 22, 1920, (found in Opinions of Attorney-General for that year, Vol. I, p. 316), which approved the title to the premises described as of the date of the abstract as being in the name of Frank Holt, trustee. In the certificate dated June 16, 1921, it is stated that there are no matters of record affecting the title to said premises since the date of said abstract. Said continuation discloses that the taxes for the year 1920 have