

STATEMENT AND CERTIFICATE OF AWARD

HTC-2
(CONTRACT NUMBER; OR, IF NOT NUMBERED, GIVE NAME OF CONTRACTOR)

Date January 12, 1937

Northwest Territory Celebration Commission
(Department or establishment)

(Bureau or office)

Marietta, Ohio
(Location)

METHOD OF OR ABSENCE OF ADVERTISING

(Section 3709 of the Revised Statutes)

1. After advertising in newspapers.
2. (a) After advertising by circular letters sent to _____ dealers.
(b) And by notices posted in public places.
(If notices were not posted in addition to advertising by circular letters sent to dealers, explanation of such omission must be made. The notation on the certificate below must be "2 (a) (i)" or "2 (a)," depending on whether or not notices were posted.)
3. Without advertising, under an exigency of the service which existed prior to the order and would not admit of the delay incident to advertising.
4. Without advertising in accordance with _____
5. Without advertising, it being impracticable to secure competition because of this being only person who could properly execute this work.
(Here state circumstances under which the securing of competition was impracticable)

AWARD OF CONTRACT

- A. To lowest bidder as to price (Expenditures).
- B. To other than the lowest bidder as to price (Expenditures).
- C. To highest bidder as to price (Receipts).
- D. To other than the highest bidder as to price (Receipts).

CERTIFICATE

I CERTIFY that the foregoing statement is true and correct; that the agreement was made in consequence of No. 5 of the method of or absence of advertising and in accordance with award of contract lettered _____, as shown above; that where lower bids (expenditure contracts) or higher bids (receipt contracts) as to price were received a statement of reasons for their rejection, together with an abstract of bids received, including all lower than that accepted in case of expenditure contracts and all higher in case of receipt contracts, is given below or on the reverse hereof or on a separate sheet attached hereto; that the articles or services covered by the agreement (expenditure) are necessary for the public service, and that the prices charged are just and reasonable.

For sculptoring service, designing and supervision of work for Memorial to be erected in Marietta, Ohio and to be dedicated to the first step westward of the United States.



(Signature of contracting officer)

Executive Director
(Title)

NOTE.—This statement and certificate will be used to support all agreements, both formal contracts and less formal agreements of whatever character, involving the expenditure or receipt of public funds. It must be executed and signed by the contracting officer (unless the award is made by or is subject to approval by an officer other than the contracting officer, when execution and signature may be made by such officer).

It is further understood that he will assist and advise, with the State Architect, the plans and designs for the base and related architectural stone work to the Memorial on the Commons. That he will give any assistance that is in his ability in relation to the erection of the Memorial and its completion that may be necessary, without any separate charges.

The Owners on their part agree to pay to the Sculptor the sum of \$15,000 for his work, these payments to be divided in the following manner: \$2,000 on the approval of the sketch model; \$2,000 when the large group has been laid up and definite information communicated to the Commission that the large group has been in hand in its full dimensions; \$5,000 when photographs have been furnished the Commission, proving that the large group has been finished in accordance with the approved plans of the small sketch; the balance on the completion of the work. This balance may be divided as may be convenient to the Commission--one-half of it when the full size model is delivered in Marietta and the balance when the stone work is completed and the full Memorial is completed.

This contract is subject to the W.P.A. project involved being made effective as now promised, and should it not go through, proper adjustment will be made to compensate Mr. Borglum for work done to date.

NORTHWEST TERRITORY CELEBRATION COMMISSION

George White, Chairman

E. M. Hawes, Executive Director

Gutzon Borglum, Sculptor

Witnesses;

(s) Marian Baesel

ORDINANCE NO. 80

to execute and deliver to said the United States of America the necessary instrument or instruments in writing evidencing the grants hereinbefore made.

Sec. 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: January 11, 1937.

Ray M. Beagle,
President.

Attest:

L. N. Harness,
Clerk of Council.

Approved:
January 11, 1937.

J. Morton Harper,
Mayor.

CERTIFICATE:

I, L. N. Harness, Clerk of the Council of the City of Marietta, Ohio, do hereby certify that the foregoing is a true and correct copy of an Ordinance passed by Council at an adjourned meeting held January 11, 1937.

L. N. Harness
L. N. Harness, Clerk of Council.

Marietta, Ohio, January 12, 1937.

Burkhart, who has been in declining health for some time.

Famous Sculptor Finds Suitable Memorial Stone

A huge ledge of sandstone found near Constitution, O., south of Marietta, has been approved by Gutzon Borglum, famed sculptor, as suitable for the memorial he is to carve in commemoration of the Northwest Territory celebration in 1938.

The stone is free from seams and of fine texture with a blue cast. It is expected that the block when freed from its natural setting will weigh about 60 tons.

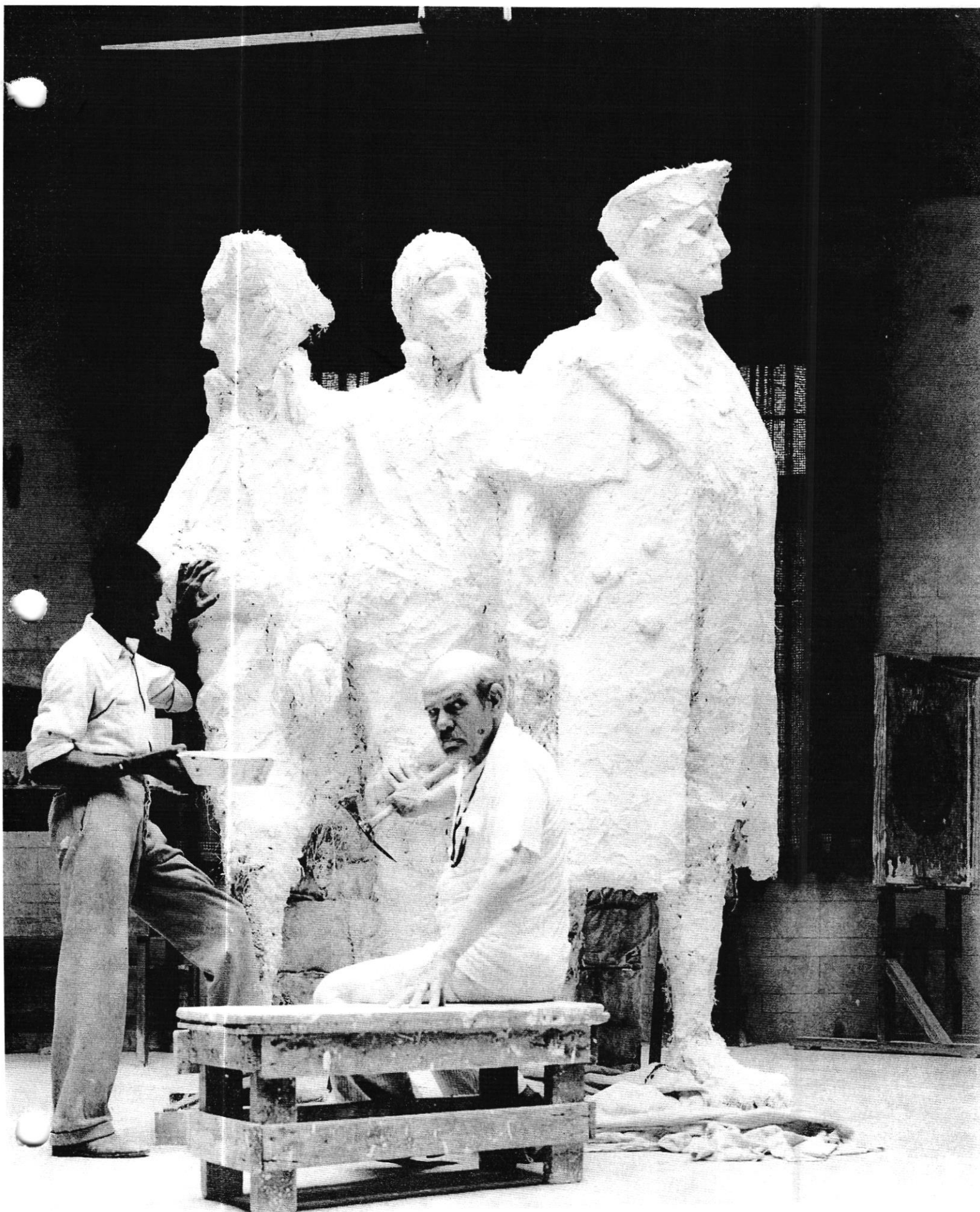
The memorial is to be unveiled on Government day, July 15, 1938 in Muskingum park, Marietta. In addition to the central monument, which will stand on the spot where Gov. Arthur St. Clair was inaugurated and where civil government northwest of the Ohio river was instituted, there will be four stone pylons, carved from the same stone.

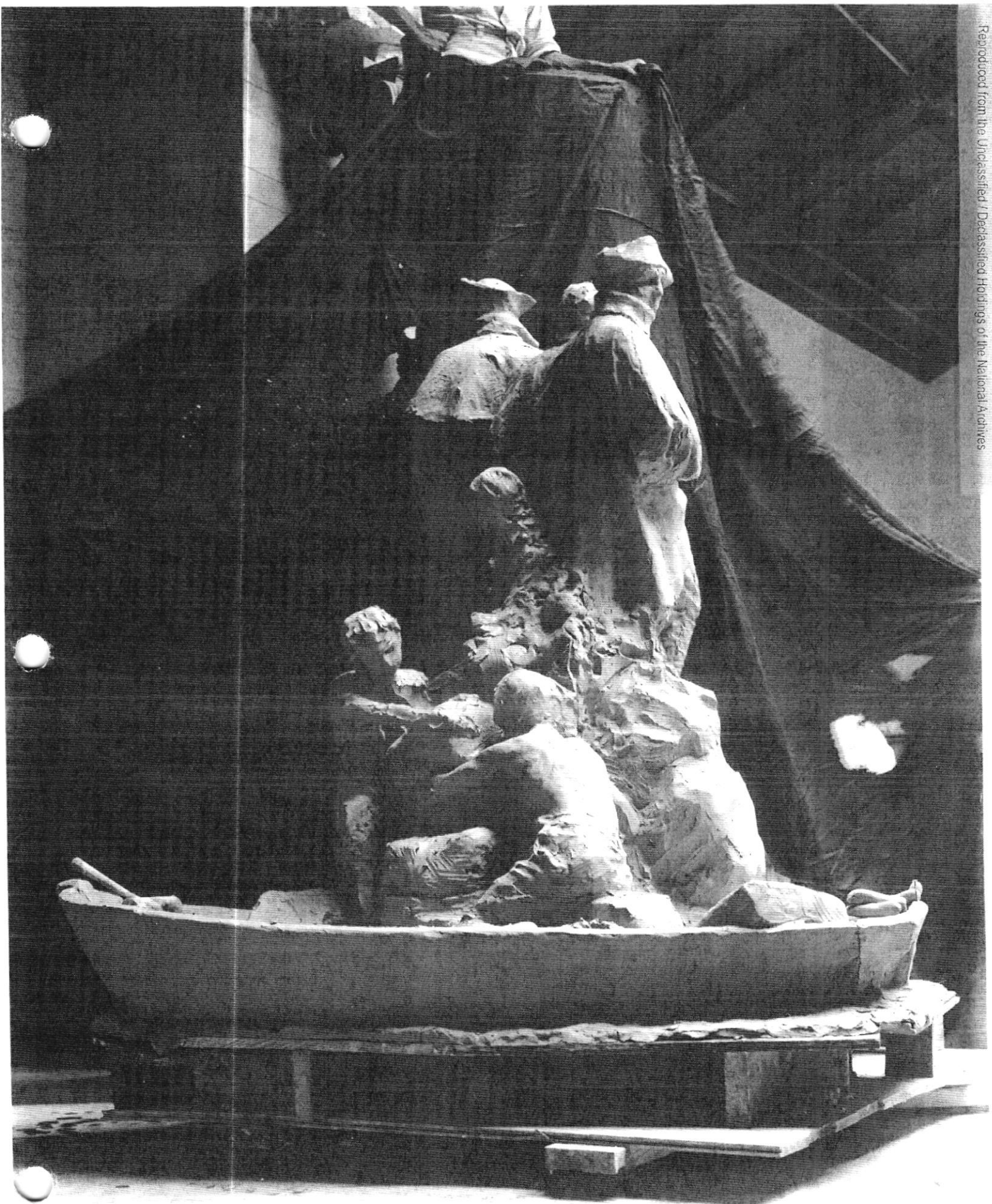
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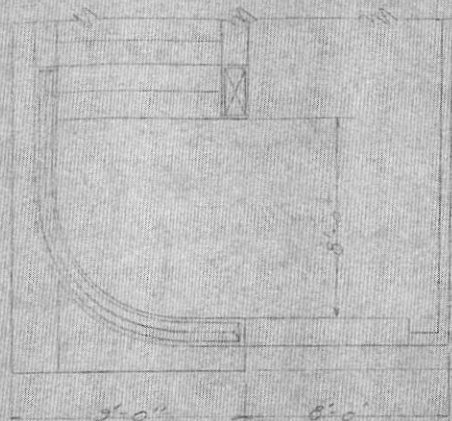
ZANESVILLE SIGNAL

27 February 1937, p. 3, c. 6

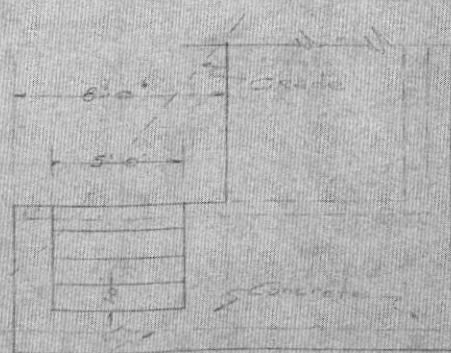




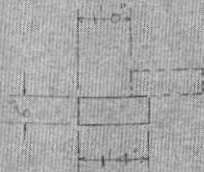




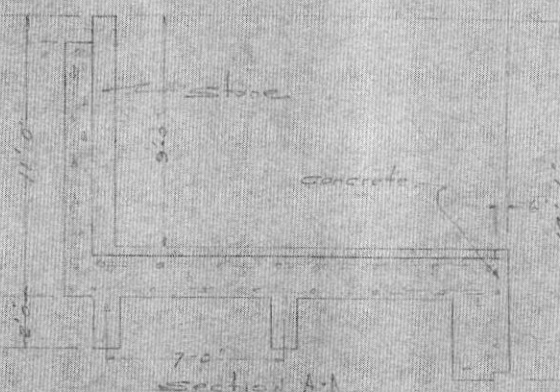
Plan View



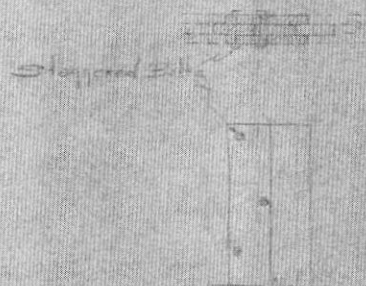
Detail of steps on front porch and back porch



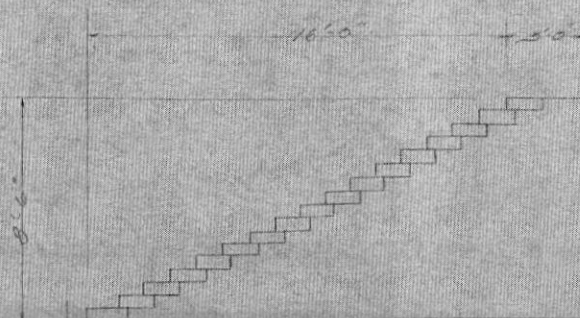
Detail of steps



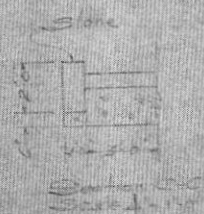
Section A-A



Section B-B



Section C-C



Detail of steps

MUSKINGUM PARK
ESPLANADE
H. E. FRY, ENR.
Scale 1/4" = 1'-0"



GENERAL COUNSEL
TREASURY DEPARTMENT
WASHINGTON

*Mr Tolson -
Don't think until 1938-
probably another
act Congress -
to them own*

MAR 22 1937

Dear Mr. Hawes:

Reference is made to your letter to me, under date of
December 9, 1936, in which you requested my opinion in regard to
the following problems:

- (1) Whether it is necessary that title to land
be in the United States in order that a
"memorial" may be erected thereon by the
Northwest Territory Celebration Commission
or whether it is sufficient that the United
States have an easement or perpetual lease
on the land;
- (2) To whom such "memorial" should be surren-
dered when the Northwest Territory Celebra-
tion Commission goes out of existence in the
latter part of 1938;
- (3) Whether labor necessary for the erection of
the "memorial" should be secured through the
Works Progress Administration or through so-
called "Treasury Relief".

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attn General
Supt of Interior
to give
advice*

Mem

It is understood that the amount of land necessary for the erection
of the "memorial" will be approximately 20 feet square.

I must advise you that I can render no formal opinion in
regard to the first two problems since they involve matters over
which I have no jurisdiction. If the Attorney General or the Comp-
troller General should reach a conclusion contra to mine with regard
to the first problem or if the Solicitor of the Department of the
Interior should express an opinion at variance with mine with regard
to the second question, my opinion would be of no assistance to the
Commission.

However, due to the long delay that has attended the answering of your letter and due to your need for prompt action, I shall attempt informally to comply with your request for my opinion, it being clearly understood that my opinion on the first two questions will be in no way binding on other Government officials.

Section 2 of the Joint Resolution of August 2, 1935, 49 Stat. 511, provides, inter alia:

"It shall be the duty of the [Northwest Territory Celebration] Commission to prepare and carry out a comprehensive plan for the observance and celebration of the one hundred and fiftieth anniversary of the adoption of the Ordinance of 1787 and the settlement of the Northwest Territory."

Section 3(b) provides, inter alia:

"The Commission may make such expenditures as are necessary to carry out the intent and purposes of this resolution, * * *."

The Act of June 22, 1936, 49 Stat. 1603, provides, inter alia:

"For every expenditure requisite for and incident to the performance of the duties of the Northwest Territory Celebration Commission in carrying into effect the provisions of Public Resolution Numbered 41, Seventy-fourth Congress, approved August 2, 1935, including personal services in the District of Columbia and elsewhere; erection of monuments, markers, and memorials; * * *."

It seems clear from the above statutes that Congress has authorized the Northwest Territory Celebration Commission to erect "memorials"

if in the discretion of that Commission such "memorials" seem appropriate for the observance and celebration of the one hundred and fiftieth anniversary of the adoption of the Ordinance of 1787 and the settlement of the Northwest Territory.

I am not aware of any statute that would prevent the Commission from erecting a "memorial" on property not belonging to the United States unless it would be section 355 of the Revised Statutes of 1873, as amended by the Act of June 28, 1930, 46 Stat 828 (U.S.C. title 40, sec. 255). Among other things, that statute provides:

"No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, custom-house, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given."

It is my opinion, however, that the last-quoted statute is probably not applicable to the instant situation. It has been held under various state statutes that a "monument" (and it is assumed that the "memorial" here under consideration would be some kind of "monument") is not a "building" within the meaning of the latter term as it is generally and commonly understood. In re Washington Monument Fund, (Pa. 1893) 26 Atl. 647, 651; Van Baman v. Gallagher, (Pa. 1897) 37 Atl. 832, 834-5; and see Harrel v. Quiring, (Kans. 1928) 264 Pac. 46.

It seems clear, of course, that, if the Northwest Territory Celebration Commission knowingly erects a "memorial" on property

not belonging to the United States or an agency thereof, the "memorial" when completed will belong to the person on whose property it has been erected unless some provision in accordance with the local law is made to keep title to the "memorial" in the United States.

In regard to your second question, it would seem that the disposition of the "memorial" might best be effected under sections 1 and 2 of the Act of August 21, 1935, 49 Stat. 666 (U.S.C., Sup. II, title 16, secs. 461 and 462).

Section 1 of that Act provides:

"That it is hereby declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States."

Section 2 provides, inter alia:

"The Secretary of the Interior (hereinafter referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 hereof, shall have the following powers and perform the following duties and functions:

* * * * *

"(d) For the purpose of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: Provided, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: Provided further, That no such property shall be

acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose."

It will be noticed that under the provisions of the last-quoted section the Secretary of the Interior would be authorized to accept an easement and perpetual lease to the portion of land 20 feet square here in question, if such interest or estate in the land was satisfactory to him.

Furthermore, it is submitted that the problems arising under inquiry (1) might best be solved by cooperation at this time between your agency and the Secretary of the Interior. Section 4 of the Act of August 21, 1935, 49 Stat. 668 (U.S.C., Sup. II, title 16, sec. 464), provides, inter alia:

"The Secretary, in administering this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual."

Such cooperation would have the added advantage of probably avoiding any difficulties that might arise should my opinion, that section 355 of the Revised Statutes of 1873, as amended, does not apply, not be followed by the other officers mentioned above. See in this connection section 2(d), (g), (k), section 4, section 5, and section 7 of the Act of August 21, 1935, 49 Stat. 666 (U.S.C., Sup. II, title 16, sec. 462(d), (g), (k), sec. 464, sec. 465, and sec. 467).

With reference to problem (3), it appears that on July 24, 1935, October 1, 1936, November 11, 1936, and March 6, 1937, the President, acting pursuant to authority vested in him under the Emergency Relief Appropriation Act of 1935, transferred an aggregate sum of \$735,784 to the Procurement Division of the Treasury Department for the purpose of giving "assistance to educational, professional and clerical persons" by "decoration of Federal buildings with painting and sculpture and cooperating where requested with other departments or agencies of the Federal Government in every community where Federal buildings are located and where unemployment exists." (See letters of above-mentioned dates from the President to the Secretary of the Treasury.) It will be noted that the painting and sculpture is to be performed on "Federal buildings". As pointed out above, it seems clear that a "monument" is not a "building". It follows that the funds transferred to the Procurement Division of the Treasury Department by the President cannot be used in connection with the erection of a "memorial" in a park in Marietta, Ohio. I must, therefore, advise you that the labor necessary for the erection of the "memorial" cannot be secured through so-called "Treasury Relief".

In closing, I suggest that, should any legal questions arise in the future, they should be submitted to the Attorney General of the United States through the President.

Very truly yours,

Hermon O. Phillips
General Counsel.

Mr. E. M. Hawes,
Executive Director,
Northwest Territory Celebration Commission,
Marietta, Ohio.

April 1, 1937

Mr. George White
Marietta
Ohio

Dear Governor:

I think it is well to put in written form the present status as to the memorial. You are familiar with the complete design as we have understood it up to this time. I am not sure as to what Mr. Borglum's reaction will be to any changes from that design. You were in the office and heard him say that this was to be a memorial and not a monument, and he has repeatedly opposed the term monument. I personally feel very keenly that this should be an impressive, preeminent memorial. To merely erect a monument in the park is but an extension of the idea back of the very simple tombstone which is now there. To erect a monument looks too much like a mere city effort. It does not befit the importance of what there happened. We would not, in my judgment, and I believe in yours, give enough importance to Northwest Territory if we do not make a thoroughly impressive feature of this memorial.

It must be remembered that in a very real sense we are in competition with other memorials, particularly are we in competition with the United States memorial at Vincennes. That Memorial was erected to George Rogers Clark as having secured the Northwest Territory to the United States. There is a great deal of argument, at least, as to how truly important Clark's efforts were, but I would not take any glory from them. What I am saying is that unless we can get something which is in a sense comparable and competitive, let's not have anything. Let's not accept Marietta as a purely local or minor incident.

You and I are officers of this Commission and we are also citizens of Marietta. I admit, as I know you do, to being anxious to secure for Marietta factors which will be of permanent worth and value. This memorial has been my pet dream. It has been a thing I have longed to see established. But, if we accept a minor thing without all the impressiveness we can give it, I do not think it will do Marietta the good it should do; in fact, will undoubtedly hurt rather than help, and I am personally opposed to it from the standpoint of Marietta and I am opposed, also, to it from the standpoint of spending 20% of our total Commission appropriation.

With the monument group alone we would not be much out of the class of Harrodsburg, Kentucky, which anyone must admit is a purely local and minor and insignificant thing compared to Marietta. The United States Memorial at Harrodsburg cost \$100,000. It wasn't worth it, in my judgment, and I might go further and say privately that I do not think the Clark Memorial is worth \$2,500,000. It must be remembered, however, that we have so far done a unique thing in getting as extensive and impressive memorial at Marietta within the limits of our finances and I really and honestly believe that if carried through along the lines so far discussed we will have something competitive with any national Memorial in the mid-west. By not having to buy the land, our very fortunate deal with Mr. Borglum, our use of local stone--all of these things and others contribute to a net worth far in excess of expenditures.

Now, if we agree upon the premise of having a real memorial rather than a half-way memorial in the shape of a monument, we then come to a consideration of whether Mr. Borglum and Mr. Schooley can devise or will accept an alternative plan rather than that which has so far been discussed. You know just as much as I know as to Mr. Borglum's possible reaction. Mr. Schooley, also an artist, though one with whom I have felt free to discuss the matter, told Mort Harper that there should be either the four pylons as we had discussed them or there should be two--one on each side of the steps going down to the stone group from Front Street. Mr. Schooley opposed the idea of putting pylons only on the Park side of Front Street. The various suggestions from laymen that we put all four pylons on the Park side of Front Street may meet with Mr. Borglum's approval, but I have no thought that it will. To what little artistic sense I have it would be atrocious.

To put two pylons, one on each side of the approach to the stone group, as suggested by Mr. Schooley, would largely defeat the benefits to Marietta as well as reduce materially the impressiveness of the memorial as a whole. If there were two pylons--one on each side of the approach to the stone group--they would be approximately at Scammel Street and Front Street. They would not attract attention materially except from those visitors who happened to drive Front Street. Certainly they would not give the impression of importance which would be given if the visitor passed between the pylons at Wooster Street and again at Front and Putnam.

Front and Putnam Streets is our most dense point of travel in Marietta and the pylons there are the most vital, so far as Marietta's benefits are concerned.

I am personally entirely willing to abide by Mr. Borglum's and Mr. Schooley's decision as to what is artistically correct. I feel that we have hired the best artist we know and if Mr. Borglum and Mr. Schooley feel that some arrangement avoiding pylons on the East side of Front Street is proper, I have not any other word to say. I have been anxious to avoid this coming up to Mr. Borglum because of reasons you well understand. I do not accept the compromising suggestions made

EMH to Mr. George White, April, 1937

page 3

by various people locally, whose judgment as to art I do not think is particularly competent.

It all sums up, regardless of our personal wish for Marietta, we have a responsibility to the nation and to the Commission. We have plenty of use for that money and if we can not get the memorial right and now, because of the resistance of Marietta people, I think we must give earnest thought to using what we can of that money for other Commission purposes. While it would cost us \$4,000 to \$5,000 to get out with Mr. Borglum, that investment would not in a sense be necessarily lost. Some day and some how we might be able to go ahead and complete the Memorial.

I am not recommending that this now be done. The point which seems so important to me is that the Commission should not lend itself to a memorial which does not befit the importance of what here happened. When Mr. Borglum comes, I will appreciate it if you will present this to him when he comes here next. Perhaps my own feelings are somewhat overwrought by what seems to me absurd resistances, and because I am so close to the details of the picture.

Sincerely,

E. M. Hawes
Executive Director

EMH:mb

Brylman File

Memorandum

July 21, 1937

1. Model has arrived and is in the basement of the post-office.
2. Location of monument in park fixed by city surveyor.
3. Removal of band stand determined upon and immediate.
4. Foundation for group determined, drawing and dimensions fixed and given to Revegno and plans agreed upon for monolith concrete foundation.
5. Drawings needed, half size working drawings from Schooley for pylons showing detail for ornament, joints, etc. *Letter written*
6. Arrangements must be made for stone cutters for the pylon work and preparation of the dimension stone for the base of the memorial. *Letter written*
7. Arrangements must be made for at least two (2) stone carvers, Bience is detained on account of illness, his availability uncertain.

MARIETTA, O., July 21—The half-size plaster model of the Memorial to be erected here by the Northwest Territory Celebration Commission has arrived from the Gutzon Borglum studio near San Antonio, Tex. The Memorial will consist of six figures depicting the westward march of pioneers. Borglum came here to supervise preparation of the site in Muskingum Park and to inspect quarrying of the stones to be used in the Memorial.

CHRONICLE-TELEGRAM (Elyria, OH)

21 July 1937, p. 7, c. 1

BORGLUM WORK TO TAKE SHAPE IN MARIETTA, O.

MARIETTA, Ohio. — (U.P.) — Railroad officials have received three huge crates containing the half-size plaster model of the memorial to be erected here by the Northwest Territory Celebration commission.

The memorial will consist of a group of six heroic figures depicting the westward march of the pioneers.

One of the stones being quarried for use in the memorial will weigh 100 tons. The transporting of this stone the eight miles from the quarry to the site will be a major undertaking. WPA labor is being used in the removal of the stone.

Gutzon Borglum, famed sculptor who will execute the memorial, prepared the model at his studio near San Antonio, Tex., and accompanied it here to inspect the quarrying operations and to supervise the preparation of the site where it will be placed.

"The Bouery," now known as Muskingum Park, a river front commons laid out by Marietta's pioneers and dedicated forever for public use, has been chosen as the site. This park was the scene of the inauguration of Gov. Arthur St. Clair on July 15, 1788, and the establishment of civil government in the northwest territory.

INDIAN CAPITAL

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HAMMOND TIMES (Indiana)

02 August 1937, p.14, c.7

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word to describe the show. "Singeational," they call it.

At any rate, it is a fast-moving rhythmical production in which

Borglum In Marietta To Create Memorial

Gutzon Borglum, the famous sculptor, arrived at Marietta Monday to begin work on the Ohio Memorial to pioneers who established the first settlement in the Northwest Territory. Erection of the statue will be a feature of the Northwest Territory sesqui-centennial celebration now in progress.

John P. Schooley, state architect formerly of Zanesville, has designed a base for the Borglum memorial. A broad flagstone esplanade will stretch from Front street to the Muskingum river as a setting for the large statue.

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BUILDING DEPT.

ZANESVILLE SIGNAL
21 September 1937, p. 9, c. 2

November 18, 1937

Mr. Carlson Borglum,
Hotel Lafayette,
Marietta, Ohio.

Dear Mr. Borglum:

As you know, I got home Sunday and it was yesterday before I could get very much action on the subject of your letter of November 13th. I have done what I can and will be glad to do anything else within my power, as you know. The following is what I have done since coming home.

(1) Saw the Mayor, who gave me assurance that he would have dirt for the filling of the park with more speed than he has. He says, now that city trucks are through with the problem of removing fallen leaves, they can give more time to it. Mr. Rovegno tells me that there is no chance to put in the steps until the fill, at least to the point of the approach, is completed and rolled. As wet as it has been, it has been impossible to get the city roller to work because on wet grass it just spins.

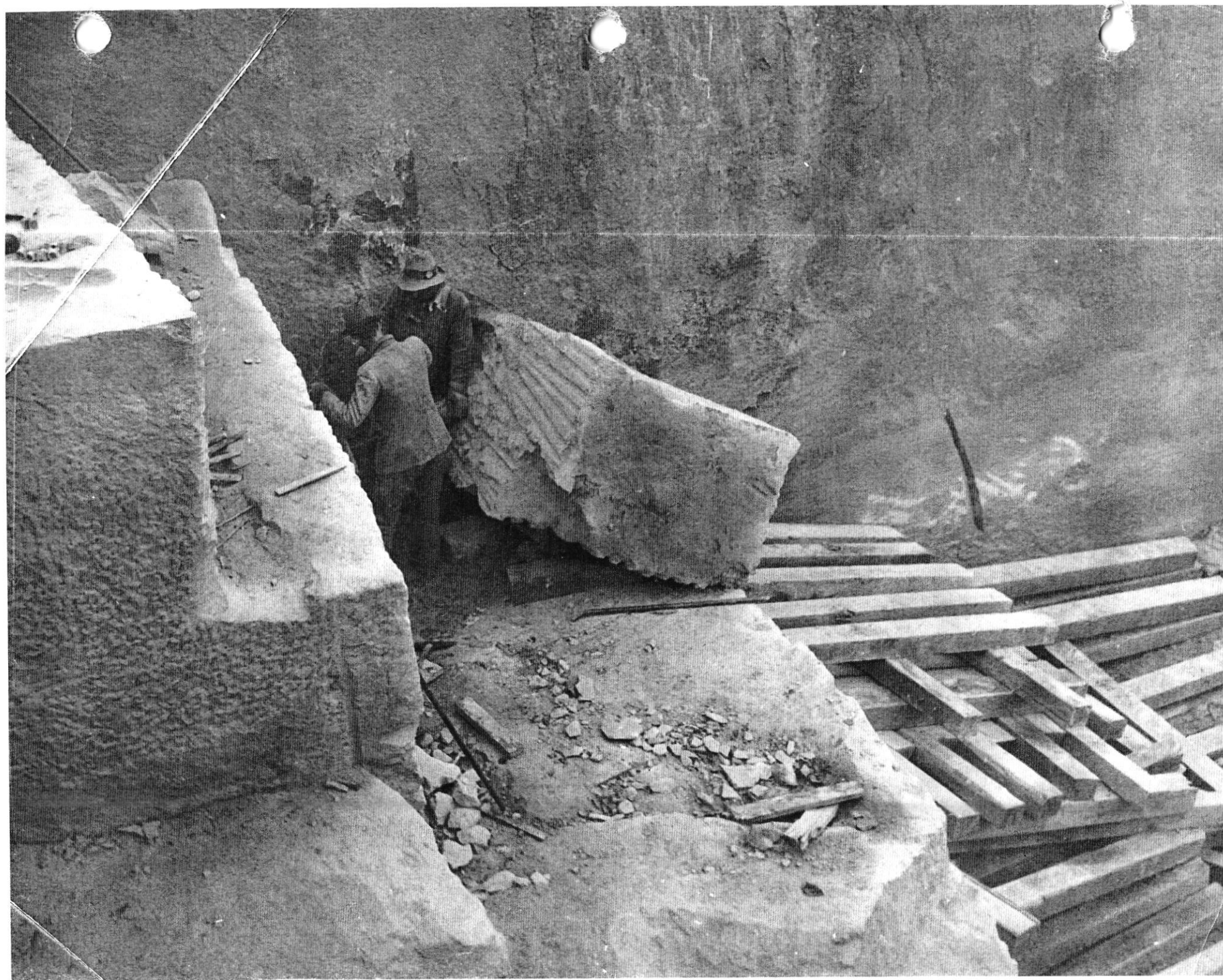
Mr. Rovegno tells me that there are almost no steps ready and he has taken this up to get them so they can be set very shortly.

(2) I have ordered the tools desired on which we had requests out for quotations when I left here.

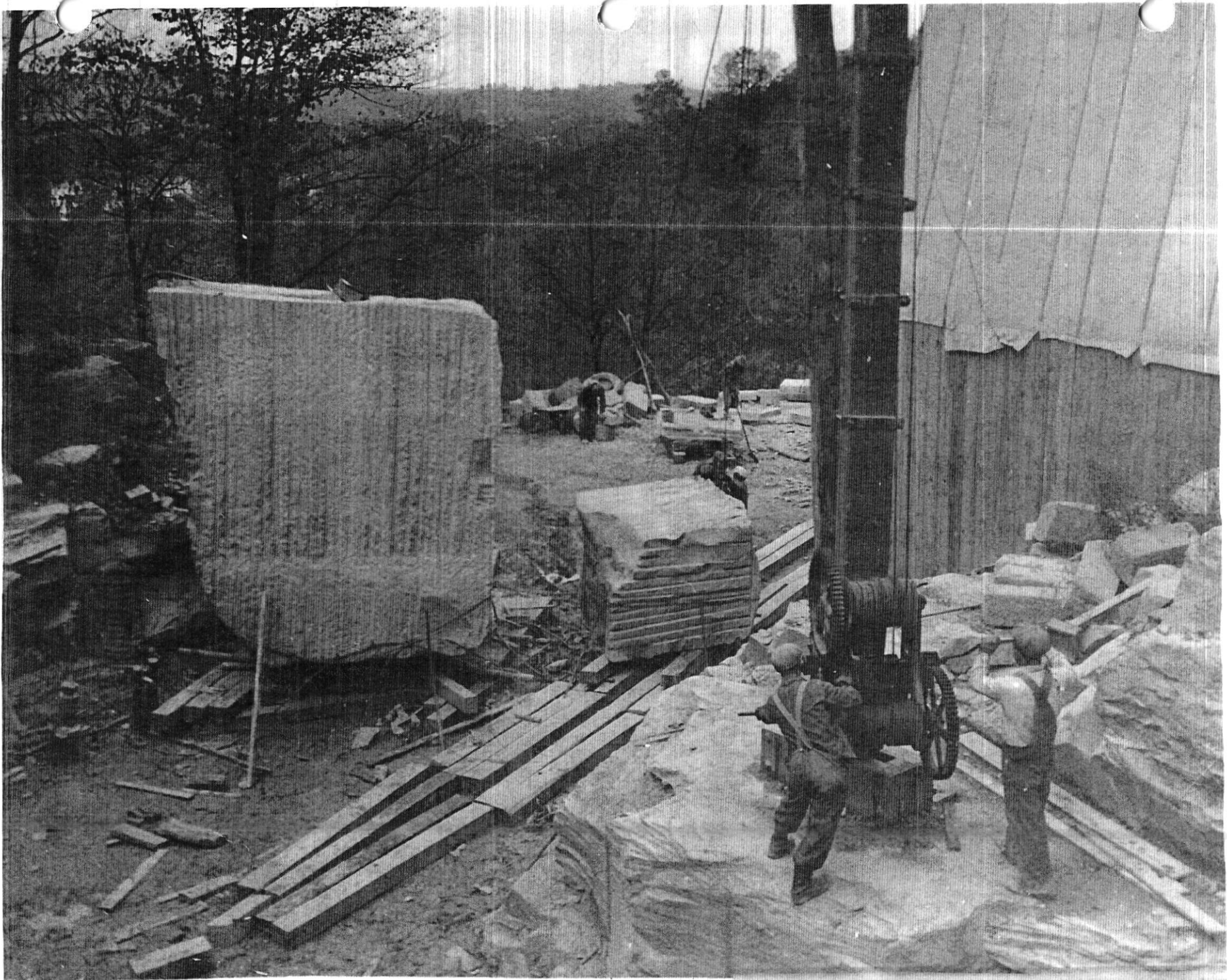
(3) Mr. Rovegno assures me that he will be on the job full time. Apparently there have been some WPA complications which probably you nor I understand. At any rate, he says he can now put in full time.

(4) With reference to Mr. Johnson, this is another of the things which we apparently cannot help so long as we are employing WPA help, upon which we have to depend. The law is that when a contract job is let that shall take WPA help so far as it is available. I have conferred with the National Reemployment Service and they are being just as considerate of us as they can be and still abide by the law. Mr. Johnson is able to make \$24.00 a week on his present job, and so in fairness to him also, he should take the job. Mr. Rovegno tells me that Johnson is not a vital









Authority - and

Instructions for Mr. Reilly

Gus B. Brough

Marietta, Ohio,
December 13,
1937

Hon. George White,
Chairman, Northwest Territory Celebration Commission,
Marietta, Ohio.
Hon. R.H. Hawes, Ex. Director.

My dear Mr. White and Mr. Hawes:

I am leaving early tomorrow morning to spend Christmas with our children. In my place I am leaving Matty Reilly, who has been with me on Mount Rushmore. He is highly trained in the art of pointing and is fully trust worthy in the superintendence of the work I leave in his charge.

within
His task is to point to one to one half inch on the surface of the main group and to direct the carvers in their work. I have instructed him to keep one carver on the eagles. I have made a model of the eagles which will be blocked for two; then one will be changed in the head and wing to avoid duplication.

When I return in January I shall model the second eagle. Meantime I have left instructions not to disturb the second base stone as it lies in the quarry, as I want the carvers (as I have instructed "Matty") to finish as far as stone will allow; then I'll quarry only stone in the dimensions needed and with care not possible in the large block.

About dimension stone, the carver "Miller" knows what is needed, when he puts his mind to it, but so does Matty and I've warned Matty to keep Miller on the eagles and when free of these put him on the lesser work on the big group. Harris, the gang foreman, is a clear headed workman and I should warn every body to let these men alone. Give them tools, coal and men and the work should not slack a bit.

Pete talks about many things he's going to do, but I imagine we will be weeks or months ahead of his plans, as we are today. We are cutting dimension stone for steps and I wish Pete would not lay that stone until I return; his method is bad and I've told him so.

That covers the work and conditions to date. I shall

return early in January if not before and my son will be with me.
I find my own men acquainted with directing and managing this form
of labor are needed in this is to be ready in time.

Sincerely yours,

Gordon Broghman

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