The abstract reveals that said Frances McFarland Bonham is the owner, with respect to said land, of a lease for ninety-nine years, renewable forever, granted in 1810 by Miami University, the owner of the fee simple title, to one Merrikin Bond, one of said Bonham's predecessors in the chain of title. Said leasehold estate is subject to a mortgage made in 1914 by Frances McFarland Bonham to the Oxford Loan and Building Association (see p. 36 of abstract). The abstracter's certificate (p. 38, abstract) indicates that said mortgage is for five thousand dollars.

The certificate of the abstracter, dated January 26, 1932, states that "All taxes payable have been paid to date". This statement is somewhat ambiguous inasmuch as it does not clearly disclose whether all of the taxes for the year 1931, which, of course, are now a lien upon said property, have been paid. From said statement, it is inferable that the second installment of the 1931 taxes, payable in June, 1932, have not yet been paid. It would be well to ask the abstracter to clarify said statement.

The proposed deed by said Frances McFarland Bonham is executed in a proper manner, with the release of dower, to convey to the president and trustees of Miami University the interest which said grantor owns in said property.

Encumbrance estimate No. 1574 indicates that there remains in the proper appropriation account a sufficient balance to cover the purchase price of this land.

At your request, I am forwarding the original copy of this opinion, together with the encumbrance estimate and the abstract, to Hon. Joseph T. Tracy, Auditor of State.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4145.

APPROVAL, RIGHT TO IMPROVE BY THE CONSTRUCTION OF BUILDINGS, FENCES AND PENS, LAND IN MILAN TOWNSHIP, ERIE COUNTY, OHIO.

COLUMBUS, OHIO, March 14, 1932.

HON. I. S. GUTHERY, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from your department over the signature of the conservation commissioner requesting my opinion with respect to the authority of the division of conservation to improve by the construction of buildings, fences and pens thereon two certain tracts of land amounting in the aggregate to about twenty-five acres, located in Milan Township, Erie County, Ohio.

The tracts of land above referred to were recently acquired by the conservation council as a gift for the purpose of establishing thereon a refuge for the propagation of certain species of small animals; and pursuant to the requirements of section 1435-1, General Code, the deed conveying these tracts of land was executed to the State of Ohio. The deed conveying said tracts of land to the state contains the following condition in the habendum clause thereof:

"Said premises shall be used by the Conservation Division of Ohio principally for a coon ranch. Said property to revert back to the grantors herein at their option if said land is not used by the State of Ohio for the propagation of wild game."

I assume that it is this provision in the deed which suggests the question made in the communication of the conservation commissioner with respect to the authority of the conservation council to erect buildings and other improvements on this land. More specifically, the question suggested is whether if such buildings and other improvements are erected and constructed on this land, the same will revert with the land to the former owners in case the State of Ohio, acting through the conservation council or other competent authority, should abandon the use of this land for the purpose of propagating wild game. Upon the authority of the decision of the Supreme Court of this state in the case of *Schwing* vs. *McClure,* 120 O. S. 335, I am of the opinion that buildings, fences and pens erected by the conservation council upon this land for use in connection with the maintenance of this land for the propagation of game would not revert with the land to the grantors in case of the abandonment of the land for the purpose above stated. Following the reasoning of the Supreme Court in the case above noted, it may be said that inasmuch as the conservation council would have no authority to erect buildings and other improvements on this land and thereafter convey the same without consideration to another, the conservation council could not accomplish this result indirectly accepting a deed containing a reverter clause under which the land goes back to the grantors.

I am of the opinion therefore that buildings, fences and pens erected and constructed upon this land would remain the property of the State of Ohio in case the land should revert to the former owners thereof under the reverter clause in the deed above referred to.

In this situation I see no objection to the erection and construction of the buildings and improvements here referred to, provided the board of control approves the construction of these improvements and releases the money necessary for the same.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4146.

APPROVAL, NOTES OF NELSONVILLE CITY SCHOOL DISTRICT, ATHENS COUNTY, OHIO—$9,000.00.

COLUMBUS, OHIO, March 14, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.