

"The action was brought below by the State of Ohio, for the use of Anna Dickson, against E. Hazzard et al., on a bond given by Hazzard in a bastardy proceeding. The exceptions are all based on the same theory of the case. It was claimed, in the first place, that an action could not be instituted by the mother against the putative father in the name of the state without it appearing that the State of Ohio, by its counsel, prosecuted the suit. Another objection was made, namely, that no entry appeared upon the minutes of the court continuing this recognizance from the November term of 1878 to the following term, at which defendant was convicted, and that the condition of the bond was therefore broken. The Supreme Court has decided that an action upon a bond of this character must be brought by the State of Ohio, the state being the sole obligee in the bond. The state, however, has not a scintilla of interest in the bond, but stands in the position of a naked trustee for the benefit of whom it concerns. It would be imposing upon the Attorney General and upon prosecuting attorney duties, which it would be almost impossible for them to perform, to bring suit upon all bonds in which the state is obligee. We see no objection to the party who has a real interest in the bond bringing an action in the name of the state without showing direct authority upon the part of the state to bring the suit."

In view of the authorities cited herein, I am of the view that an action upon a recognizance given for the appearance of a defendant in a bastardy proceeding may be brought by the prosecuting attorney in the name of the State of Ohio. However, when a judgment has been obtained in the bastardy proceeding against the putative father and the amount of such judgment is equal to, or greater than the amount of the recognizance given for the appearance of the defendant the claimant may institute an action on such recognizance in the name of the state on her relation.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1825.

APPROVAL, BONDS OF CARROLL VILLAGE SCHOOL DISTRICT, FAIR-FIELD COUNTY—\$3,000.00.

COLUMBUS, OHIO, May 3, 1930.

Industrial Commission of Ohio, Columbus, Ohio.

1826.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ADDIE P. BOYER IN NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, May 5, 1930.

HON. CARL E. STEEB, *Secretary, Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication sub-

mitting for my examination and approval a corrected abstract of title to two certain tracts of land owned of record by one Addie P. Boyer in Nile Township, Scioto County, Ohio, and more particularly described as follows:

"FIRST TRACT: Being a part of Surveys Nos. 15391 and 15450 V. M. L.

BEGINNING at a hickory on a ridge, corner to G. F. McCormick's land;

Thence N. 124½ poles to a stake;

Thence N. 65 deg. 30 min. E. 5 poles to a hickory and two small pines on top of a ridge;

Thence S. 57 deg. 30 min. E. 12.60 poles to a pine on the ridge;

Thence N. 71 deg. 45 min. E. 11.06 poles to a hickory and jack oak;

Thence N. 61 deg. E. 18 poles to a jack oak on a point;

Thence N. 66 deg. 30 min. E. 19.07 poles to a white ash on a point;

Thence S. 79 deg. E. 10 poles to a black ash on a point;

Thence N. 67 deg. E. 16 poles to a stake from which a white oak 13 inches in diameter bears S. 3 deg. W. 9 links;

Thence N. 61 deg. E. 52 poles to a stake in the line;

Thence S. 196 poles to a stake in the line;

Thence S. 45 deg. W. 4 poles to a pine on the line of said G. F. McCormick's land;

Thence with said McCormick's line N. 61 deg. W-12 poles to 2 small pines on a point of a ridge and along the divide between Grass Lick and McAtea Run to a large pine;

Thence N. 32 deg. W. 18.2 poles to a pine and chestnut oak;

Thence N. 80 deg. W. 13 poles to a double chestnut oak;

Thence S. 67 deg. W. 34.44 poles to a black oak;

Thence N. 45 deg. W. 19 poles to a stake and small locust;

Thence W. 25 poles to the beginning;

CONTAINING 120 acres of land and being in said Survey Nos. 15391 and 15450.

SECOND TRACT: Situated in said County, Township, and State, bounded and described as follows:

BEGINNING at a point, being the N. E. corner of the first tract above described and the N. W. corner of a 110 acre tract owned by Michael W. Swearingen and being also the point where said two tracts corner with La-bold's lands;

Thence S. with the eastern boundary line of said first tract and the western boundary line of said 110 acre tract to a point; being the S. E. corner of said above described First Tract and the S. W. corner of said 110 acre tract;

Thence in an easterly direction following the southerly boundary line of said 110 acre tract as said boundary line is described in the deed for the said tract from George W. Pierce and wife to Anna C. E. Cour (said line being also the north line of land owned by William Tipton) to a point. Thence where a straight line drawn from the beginning corner of this tract (said straight line to be a boundary line of this tract) will cut off 40 acres from said 110 acre tract;

Thence from said point in a northwesterly direction following the aforesaid straight line to the beginning;

CONTAINING: 40 acres of land off of said 110 acre tract and being part of Surveys Nos. 15391 and 15450, V. M. L."

An examination of said abstract of title shows that there is contained therein

information which corrects the objections noted in Opinion No. 1785 on the original abstract of title submitted, which opinion was directed to you under date of April 16, 1930.

I am of the opinion upon the abstract of title as now submitted, that said Addie P. Boyer has a good and indefeasible fee simple title to the above described tracts of land free and clear of all encumbrances except the taxes for year 1930, undetermined, which attached as a lien on said lands on the day preceding the second Monday in April, 1930. Inasmuch, however, as the warranty deed of said Addie P. Boyer tendering this property to the State of Ohio subject to the approval of the Attorney General as to her title to this land, was delivered to the authorized agents of the state on or about February 10, 1930, prior to the time when the taxes for the year 1930 became a lien on said premises, I am inclined to the view that when the transaction relating to the purchase of this property is closed and this deed is submitted to the county auditor for transfer that the above described property should be transferred to the tax exempt list so far as the taxes for the year 1930 are concerned.

Upon examination of the warranty deed for the above described property tendered by said Addie P. Boyer, I find that the same has been properly executed and acknowledged by said grantor and by her husband, George W. Boyer, and that said deed, as to form, is sufficient to convey said property to the State of Ohio by fee simple title free and clear of all encumbrances whatsoever.

An examination of encumbrance estimate No. 127, submitted as a part of the files relating to the purchase of this property, shows that there are sufficient balances in the proper appropriation account to pay the purchase price of said property, which is the sum of twelve hundred dollars (\$1,200.00). It is noted further that said sum of twelve hundred dollars (\$1,200.00) has been released by the controlling board in accordance with the provisions of Section 11 of House Bill No. 510, enacted by the 88th General Assembly.

I am herewith returning to you, with my approval, said corrected abstract of title, warranty deed, encumbrance estimate No. 127, controlling board certificate and other files relating to the purchase of the lands above described.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1827.

APPROVAL, LEASE TO LAND IN MUSKINGUM COUNTY, FOR OIL AND
GAS PURPOSES—WILLIAM S. FORAKER.

COLUMBUS, OHIO, May 6, 1930.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination, lease in duplicate, between Joseph T. Tracy, Auditor of State, acting as State Supervisor of School and Ministerial Lands, as lessor, and William S. Foraker, as lessee, covering 49 acres of land located in Section 15, Township 15, Range 14, Muskingum County, for oil and gas purposes.

My examination of the same reveals that said lease is proper as to form, and properly executed, and I am therefore returning the same to you, with my approval thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.