

In substance you inquire whether, in Opinion No. 2380, under date of July 23, 1928, and addressed to you, my prior opinion No. 1182, dated October 21, 1927, and addressed to the Commissioner of Prohibition of Ohio, was modified.

Opinion No. 1182 was referred to and the syllabus thereof quoted in the opinion addressed to you. Thereafter in that opinion reference was made to the case of *Boyer vs. State of Ohio ex rel.*, decided May 9, 1928, by the Supreme Court and reported in Ohio Bar Association Report for July 10, 1928, and voluminous quotations therefrom were made. The language of the Supreme Court was explicit and clear on the point under consideration, and in view of this holding I expressed my opinion in the following language:

"In view of the case of *Boyer vs. State ex rel. Halyburton, supra*, it is my opinion that a person, who is imprisoned under process for fine, penalty or costs, in a criminal proceeding, if sentenced to remain imprisoned until such fine, penalty or costs are paid, or secured to be paid, or he is otherwise legally discharged, is not entitled to the benefit of the discharge provided by Section 11150, General Code. Such prisoner may only be released by pardon, paying or securing the payment of such fine, penalty and costs or by allowing a credit upon the fine and costs at the rate of one dollar and a half per day for each day's imprisonment. However, in the event the magistrate should impose a fine and costs without ordering such person to be imprisoned until such fine and costs are paid, and the accused be taken into custody upon execution, as provided by Section 13718, General Code, to be confined in jail until such fine and costs are paid, or secured to be paid, or he is otherwise legally discharged, in such case the prisoner, after serving sixty days, would be entitled to the benefit of the insolvency act and might secure his discharge as provided by Section 11150, General Code, inasmuch as the judgment of the magistrate did not require his imprisonment until the fine, penalty or costs be paid."

The language of the Supreme Court is clear and I attempted to be equally clear in my recapitulation of the rule deduced, in view of that case. Manifestly this rule is in part inconsistent with the language appearing in my prior Opinion No. 1182, and in so far as such an inconsistency exists, the prior opinion should be disregarded.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2588.

BILL OF SALE—FORMS FOR USED MOTOR VEHICLES.

SYLLABUS:

Discussion of the proper blank forms for the sale of used motor vehicles.

COLUMBUS, OHIO, September 17, 1928.

HON. CHALMERS R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—I have just received from The H. J. Chittenden Company of Toledo, Ohio, the following communication:

"I am enclosing blank form for sale of used motor vehicle which is being printed here and bears the stamp of approval of the Attorney General in 1923.

The form we have printed, differs from this in that it has blanks for the insertion of the various owners, through whose hands the car has passed from the time of its original sale by the manufacturer's distributor.

Our construction of 6310-7, found on page 468 of the 1925 Session of Laws, Volume III, is to the effect that this additional information must be incorporated in the bill of sale. Users of the bill of sale have preferred this short form, and if it has your approval, we will be glad to change our form accordingly but do not want to print a form to put on the market which does not comply with the requirements of the statute as construed by you. May we hear from you?"

As stated in the letter, the blank form of bill of sale which is enclosed has no blank spaces for the insertion of the names and addresses of the various previous owners in the chain of title. This form is one which was approved by the Attorney General in 1923 and was in conformity with the requirements of Section 6310-7 of the General Code in its then existing form. This section of the Code was, however, amended in 1925 and, in its present form, the section requires this information.

I need not go into detail as to the present requirements of the section, since my predecessor, in Opinions of the Attorney General for 1925, at page 415, approved the form of bill of sale for use under the law in accordance with its present requirements. It is scarcely necessary to add that the use of the old form should not now be permitted, and it would perhaps be well for you to notify the Clerk of Courts of Lucas County to this effect.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2589.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF THE HEIRS OF LEVI ZIMMERMAN, IN HANOVER TOWNSHIP, ASHLAND COUNTY, OHIO.

COLUMBUS, OHIO, September 18, 1928.

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

DEAR SIR:—This is to acknowledge receipt of abstract of title and warranty deed covering a certain tract of 200 acres of land in Hanover Township, Ashland County, Ohio, belonging to the heirs at law of Levi Zimmerman, who died in 1915, the property in question being more particularly described as follows:

"Being the east half of the southwest quarter; the west half of the southeast quarter and the northeast quarter of the southeast quarter of Section 8, Township 19, Range 16."

As pointed out in Opinion No. 2027 of this department, addressed to you under date of April 28, 1928, there are a number of defects existing in the record title of 160 acres of the above described lands, all of which occurred prior to the year 1869. As noted in said former opinion, the defects in the record title to this land are as follows: