

the statute provides simply that the bond shall be a good and sufficient bond payable to the State of Indiana in the amount fixed by the auditor within certain limitations. It is doubtful whether this provision goes to the extent of requiring a uniform bond to be used. In other words, the auditor is not charged with the duty of preparing the form of the bond and I think that any substantial compliance with the statute would be sufficient.

GOVERNOR'S OFFICE: Real estate, Lake County, State of Indiana has no title to same.

May 15, 1937.

Mr. Dick Heller,
Executive Secretary,
Governor's Office,
State House,
Indianapolis, Indiana.

Dear Sir:

Receipt is acknowledged of your request dated April 23, 1937; the request being as follows:

"Hon. Omer Stokes Jackson,
Attorney General of Indiana,
Indianapolis, Indiana.

Dear Sir:

I understand that H. B. 178, which has become chapter 269 of the Acts of the 1937 General Assembly, authorizes the Governor to issue a patent or deed of conveyance to the American Smelting and Refining Company for certain meander lands located in Lake George in Lake County.

I am attaching an abstract of title to certain of these lands. Will you please give this office an official opinion as to what interest, if any, the State has in and to this real estate, which is in the name of the American Smelting and Refining Company, or Federated Metals Company.

Very truly yours,
Dick Heller,
Executive Secretary."

From the abstract accompanying your request we find the following on the first page thereof:

ABSTRACT OF TITLE
TO

That part of Lot number three (3), or fractional north half of the south east quarter, lying south of the right of way of the Hammond & Blue Island Railway and south west of the center line of Indiana Boulevard; Also Lot number four (4), or fractional south half of the south east quarter; all in section seven (7), township thirty-seven (37) north, range nine (9) west of the second principal meridian, situated in the City of Hammond, in Lake County, in the State of Indiana.

Examination of this abstract for the purpose of determining what, if any, interest the State of Indiana now holds to the land described shows as follows:

That on December 15, 1855, the State of Indiana, by a State patent, conveys to John H. Stiber and John Heider, lot 3 of the S. E. $\frac{1}{4}$ of section 7, township 37 N. R. 9 W. containing 68 $\frac{85}{100}$ acres be the same more or less, situate in Lake County where said lands were offered for sale. In accordance with the provisions of an Act of the General Assembly of the State of Indiana, approved May 29, 1852, entitled, "An Act to regulate the sale of the swamp lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof, in accordance with the condition of said grant" and also of the several Acts supplemental thereto. Signed by the Governor and Secretary of State. Recorded March 18, 1858, Book I, Page 491.

That on November 21, 1854, the State of Indiana, by patent conveys lot 4 of the S. E. $\frac{1}{4}$ of section 7, township 37 N. R. 9 W. containing 61.60 acres be the same more or less. See page 37 of abstract.

Beginning at page 23 of the abstract in the case of State of Indiana, ex rel., v. Barr, Auditor, we find a special finding of facts, in substance as follows:

The court found that "said lake now known as Lake George was insofar as it lies in said township (referring to 37) then meandered.

"That in the year 1874 the Government of the U. S. claiming that they had never been surveyed, sold or patented by

the U. S. Government caused the beds of said Wolf Lake and Lake George within the meander line to be surveyed and platted."

"That all the lands in said sections including that under the water of said two lakes as well as the land outside of said lakes was surveyed land at the time of and before the passage and approval of Act of Congress known as the Swamp Land Act of 1850." (P. 37.)

The court found (p. 39 of abstract) "That the patents from the State of Indiana to George S. Clarke, Aaron N. Hart, Joseph Pollock, James Tully, Martin Nolan and John H. Hull conveyed to the said patentees the fee simple title in and to all of said sections including all the lands under the waters of Lake George and Wolf Lake,"

"That the survey of the beds of said two lakes in 1874 and the patents issued by the United States purporting to convey the lands in the beds of said two lakes and being dated March 1, 1878, were and are now null and void."

In partition suits pertaining to said land as set forth on page 53 of the abstract, the court found that the Forsyths were the legal owners of Lots 1, 2, 3 and 4, being the fractional south half of section 7, township 57 N. R. 9 W.

Page 41 of the abstract reveals as follows:

Anna R. Kean v. John S. Newman, et al., Lake Circuit Court. Cause No. 5919.

May 20, 1913, petition filed alleging that after the original survey, swamp land patents were issued to the State of Indiana for the land abutting on Wolf Lake and Lake George in Lake County, Indiana, and the State conveyed said lands by divers conveyances to various persons; that subsequently the general land office had the dried up beds of said lakes resurveyed, and erroneously opened the same to entry as public lands of the United States; that it has been adjudged by the Supreme Court of the United States in the case of Calumet Canal and Improvement Company v. Anna S. Kean, et al., from the Porter Circuit Court that title to the lands within the beds of said lakes had already passed to the State of Indiana by its swamp land patents.

I conclude that the State of Indiana holds no interest in and to the real estate described and as set out in House Bill 178, which has become chapter 269 of the Acts of the 1937 General Assembly and as further described in the abstract to which this opinion is attached.