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**DICTA**

**VOLUME 28**

**1951**



# DICTA

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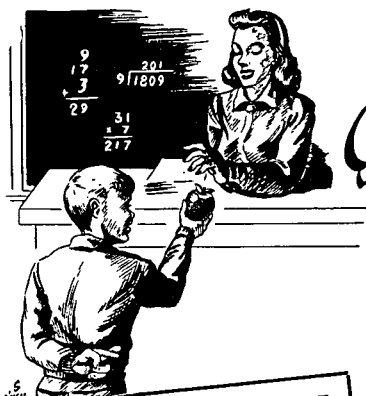
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United States) which is junior to the deed of trust about to be foreclosed, consideration should be given to the advisability of the foreclosure being made by an action in court rather than by sale by the Public Trustee. This is because the United States has, by U.S.C.A. Title 28 sec. 2410, given its consent to be made a party to such a court action and because, under the provisions of that section, the judicial sale of the property in such action will have the same effect respecting the discharge of the property from the lien or encumbrance held by the United States as it would have if such lien or encumbrance were held by an individual or a private corporation. It is to be noted that said sec. 2410 provides that, where the sale of real estate in such action is made to satisfy a lien prior to that of the United States, the United States shall have *one year* from the date of sale within which to redeem.

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## SUPREME COURT AMENDS RULE

### IN THE SUPREME COURT OF THE STATE OF COLORADO

Rule 118 (c) is hereby amended to read as follows:

A petition for rehearing shall bear the cover endorsement prescribed in Rule 115 (h), the name of the justice who wrote the opinion, and shall state whether the decision was en banc or in department. It may be filed within 15 days after the filing of the opinion of the court, and shall briefly state the points claimed to have been over-looked or misapprehended by the court with proper references to the particular portion of the record and briefs relied upon. Such petition may be printed, mimeographed or type-written and shall not contain more than three pages without consent of the court, and be accompanied by seven legible copies thereof. In no case will any argument be permitted in support of such petition. If argumentative matter is contained therein, the petition may be stricken. No answer will be permitted and no action will be taken save to grant or deny the rehearing. The filing of such petition shall suspend proceedings under the decision until the petition is disposed of, unless the court shall direct otherwise. This amended rule to be applicable to all opinions of this court announced on or after November 19, 1951.

Adopted November 15, 1951.

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## HAVE TIMES CHANGED?

An historian of the Denver Bar Association, once wrote of an annual Banquet held by this Association, "In 1921 Albert J. Beveridge of Indiana, speaking on the subject 'John Marshall,' held the attention of his audience four hours and, had he so desired, could have held it until daylight."

## FORMS COMMITTEE PRESENTS STANDARD PLEADING SAMPLES TO BE USED IN FORE- CLOSURES THROUGH PUBLIC TRUSTEE

Royal C. Rubright, General Chairman  
Forms Standardization Committee  
Colorado Bar Association:

Your Sub-Committee on District Court forms submits herewith a portion of the samples to be used in proceedings under Rule 120 and foreclosure by the Public Trustee. These samples are not complete because of the limitation of available space. In the January, 1952, issue of *Dicta* samples will be presented to complete this set; it is believed, however, that the samples submitted at this time will be all that are necessary in most cases to conduct a foreclosure up to the sale and issuance of a Certificate of Purchase.

Because of Mr. Morris' article, published in this same issue of *Dicta*, specific references to said article will be used in lieu of extensive footnotes.

Your Committee has been gratified by the response of the members of the Bench and Bar to the Determination of Interests samples heretofore presented in the August, 1951, issue of *Dicta*. Comments, criticisms and suggestions relating to the work of the Committee are again solicited.

DONALD M. LESHER.

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER,  
STATE OF COLORADO

CIVIL ACTION NO. Y-711, DIV. 11.

IN THE MATTER OF THE AP-  
PLICATION OF *DARIUS DEX-*  
*TER GRTHVLM*<sup>1</sup> FOR AN OR-  
DER AUTHORIZING THE PUB-  
LIC TRUSTEE OF THE *CITY*  
*AND COUNTY OF DENVER*,  
STATE OF COLORADO, TO  
SELL CERTAIN REAL ESTATE  
UNDER A POWER OF SALE  
CONTAINED IN A DEED OF  
TRUST.

MOTION FOR ORDER  
AUTHORIZING SALE<sup>2</sup>

<sup>1</sup> It will be noted that, at the time Determination of Interests samples were presented, the Committee pointed with pride to the fact that the names used therein all had meanings. Where the name of the patriarch of the Grthvlm family, Alfonso Abiathar, meant "willing father of plenty," the name of the present petitioner, Darius Dexter, means "fortunately possessing wealth." (Per.)

(1) *DARIUS DEXTER GRTHVLM*, the petitioner, represents that he is the owner and holder of a note executed by *MANASSEH MSQPBZD* and *MINNIE MSQPBZD*, dated *April 18, 1948*, in the original principal sum of *Eight Thousand Dollars*, which note is secured by a deed of trust dated *April 18, 1948*, and recorded *April 20, 1948*, at Page 897 of Book 97346 of the records of the Clerk and Recorder of the *City and County of Denver*, State of Colorado.<sup>3</sup>

(2) The deed of trust grants a power of sale to the Public Trustee of said county; said indebtedness secured thereby is in default; and petitioner desires to foreclose the same and to file with said Public Trustee notice of election and demand for sale pursuant to the statutes in such case made and provided.

(3) The property described in said deed of trust is described as follows:

*Lot 1, Block 1, Lake Clozer Subdivision,*<sup>4</sup> situated in the *City and County of Denver*, State of Colorado.

(4) An order of court is required authorizing a sale under the power of sale contained in said deed of trust.

(5) At the time of the execution of the above described note, the signers thereof were *not* in, or had not been ordered to report for induction in the military service of the United States, or of any nation with which the United States may be allied, in the prosecution of any war in which the United States is engaged,<sup>5</sup> and all of the persons named in paragraph (6) hereof *are not in or have not been ordered to report for induction in such military service, and were not in such military service during the preceding three months, because said persons are, and have been during said three months' period, gainfully employed in civilian pursuits as civilians.*<sup>6</sup>

(6) The names of all persons who were the grantor, or grantors, in such deed of trust and those persons who appear to have acquired a record interest in such real estate, subsequent to the recording of such deed of trust, whether by deed, mortgage,

---

<sup>3</sup> This procedure is to be used whenever it is desired to foreclose, by Public Trustee's sale, a Deed of Trust containing a power of sale. Procedure under Rule 120, Colorado Rules of Civil Procedure is necessary because of Section 302 (3) of the Soldiers and Sailors Civil Relief Act of 1940. Because this is an *ex parte* proceeding, no military affidavit need be filed, nor is it required that any attorney be appointed. See Mr. Morris' article, pages 440 and 444.

<sup>4</sup> Rule 120 (a) requires that the motion shall describe the instrument containing the power, the property to be sold, and the persons having an interest therein.

<sup>5</sup> To the best of the Committee's knowledge, this subdivision is fictitious.

<sup>6</sup> For a definition of military service, see Mr. Morris' article, pages 443, 444.

<sup>6</sup> A statement in the motion concerning military service is very important. For a full discussion of this matter, see Mr. Morris' article, pages 442, 443.



judgment or any other instrument of record,<sup>7</sup> and the address of each such person as such address is given in the recorded instruments of writing, are as follows<sup>8</sup>:

<i>Manasseh Msqpbzd</i>	<i>33 Thurt Street, Denver, Colorado</i>
<i>Minnie Msqpbzd</i>	<i>33 Thurt Street, Denver, Colorado</i>
<i>Valentine Victor</i>	<i>Golden, Colorado</i>
<i>Public Trustee</i>	<i>City &amp; County of Denver, City &amp; County Building, Denver, Colo.</i>
<i>Tabitha Theodora</i>	<i>Address unknown<sup>9</sup></i>

WHEREFORE, petitioner moves for an order fixing a time and place for the hearing of this motion, and for a further order authorizing a public trustee's sale under the power contained in said deed of trust.

*Silvester Hasede*  


---

 Attorney for Petitioner  
*First Majestic Equitable Bldg.*  
*Denver, Colorado*  


---

 Address

Address of Petitioner:  
*22 Tughe Street*  
*Choo Choo, Colorado*

*Dylryt 004U*  


---

 Telephone

STATE OF COLORADO

*CITY AND COUNTY OF DENVER* } ss.

The undersigned, in behalf of the petitioner, being duly sworn, says: that the facts set forth in this motion are true.<sup>10</sup>

*Silvester Hasede*  


---

 Attorney for Petitioner.

Subscribed and sworn to before me this *16th day of November, 1951.*

(SEAL)

*Uriah Urban*  


---

 Notary Public.

My commission expires *November 15, 1955.*

<sup>7</sup> The wording of the May 17, 1951 Amendment to Rule 120, effective August 17, 1951.

<sup>8</sup> The addresses to be stated in the motion are the same as those to which the Public Trustee must mail notice (Chapter 40, 1935 C.S.A., Section 64). If an address is given in the recorded instrument, this address must be stated; if only a County and State are given, the County Seat must be stated.

<sup>9</sup> If the recorded instrument of writing does not state an address, no copy of the notice need be mailed to the particular person whose address is not so given.

<sup>10</sup> See Mr. Morris' article, pages 441, 442, for requirements of verification.

(USE CAPTION)

IN THE MATTER OF THE APPLI-  
CATION OF *DARIUS DEXTER*  
*GRTHVLM* FOR AN ORDER AU-  
THORIZING THE PUBLIC TRUS-  
TEE OF THE *CITY AND COUNTY*  
OF *DENVER*, STATE OF COLO-  
RADO, TO SELL CERTAIN REAL  
ESTATE UNDER A POWER OF  
SALE CONTAINED IN A DEED  
OF TRUST.

ORDER FOR HEARING.

On the application of the petitioner,  
IT IS HEREBY ORDERED THAT *Thursday*, the *Sixth* day  
of *December*, 1951, at the hour of 10:00 o'clock A. M.<sup>11</sup> is hereby  
fixed as the time for hearing on said motion and Division 11 of  
the District Court in the *City and County Building* at *Denver*,  
Colorado is designated as the place for such hearing; that notice  
be given by the Clerk of this Court as provided by Rule 120 of  
the Rules of Civil Procedure.

DONE IN OPEN COURT this *19th* day of *November*, 1951.

BY THE COURT:

Zadok Zedekiah

Judge.

(USE CAPTION)

IN THE MATTER OF THE APPLICATION  
OF *DARIUS DEXTER GRTHVLM* FOR AN  
ORDER AUTHORIZING THE PUBLIC  
TRUSTEE OF THE *CITY AND COUNTY* OF  
*DENVER*, STATE OF COLORADO, TO SELL  
CERTAIN REAL ESTATE UNDER A POW-  
ER OF SALE CONTAINED IN A DEED OF  
TRUST.

NOTICE

THE PEOPLE OF THE STATE OF COLORADO TO THE  
GRANTORS IN THE DEED OF TRUST DESCRIBED  
HEREIN AND TO THOSE PERSONS WHO APPEAR TO  
HAVE ACQUIRED A RECORD INTEREST IN THE REAL  
ESTATE THEREIN DESCRIBED, SUBSEQUENT TO THE  
RECORDING OF SUCH DEED OF TRUST,<sup>12</sup> GREETING:

<sup>11</sup> The hearing shall be at least ten days after the Clerk's mailing and posting of notice.

<sup>12</sup> Although printed copies of notice are used for mailing in the Public Trustee's proceedings, the attorney should furnish the Clerk of the Court sufficient typewritten copies for mailing and posting under Rule 120 proceedings. It should be noted that the notice is directed to the same persons named in the motion, not, as was formerly required, to those persons who have "any record interest". Accordingly it is not necessary to name or to give notice to a prior lienor.

Notice is hereby given that *Darius Dexter Grthvml* has filed his motion with this Court seeking an order of this Court authorizing a Public Trustee's sale under a power of sale contained in that certain deed of trust executed by *MANASSEH MSQPBZD* and *MINNIE MSQPBZD* to the Public Trustee to secure a promissory note of even date therewith in the original principal sum of \$7,000, which deed of trust is dated *April 18, 1948*, and recorded *April 20, 1948*, at page 897 of Book 97346 of the records of the Clerk and Recorder of the *City and County of Denver*, State of Colorado.

The description of the property sought to be sold is as follows:

*Lot 1, Block 1, Lake Clozer Subdivision*, situated in the *City and County of Denver*, State of Colorado.

The time for hearing on said motion has, by order of this Court, been fixed at 10:00 o'clock A.M., *Thursday, the Sixth day of December, 1951*, in Division 11 of the above designated Court at *Denver, Colorado*, when and where the above persons in interest may appear if they so desire.

Dated at *Denver, Colorado*, this *19th* day of *November, 1951*.  
(SEAL)

*Hezekiah Hosea*

\_\_\_\_\_  
Clerk of the District Court.

(USE CAPTION)

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE *CITY AND COUNTY OF DENVER*, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

CERTIFICATE OF MAILING AND POSTING OF NOTICE

I hereby certify that I have this day mailed a copy of the Notice issued by me in this proceeding, with postage prepaid thereon, to each person hereinafter named at the address hereinafter set opposite their names, to-wit:

<i>Manasseh Msqphzd</i>	<i>33 Thurt Street, Denver, Colorado</i>
<i>Minnie Msqpbzd</i>	<i>33 Thurt Street, Denver, Colorado</i>
<i>Valentine Victor</i>	<i>Golden, Colorado</i>
<i>Public Trustee</i>	<i>City and County of Denver, City and County Building, Denver, Colorado</i>

And I hereby further certify that I have this day posted a copy of said Notice in a prominent place in my office.<sup>13</sup>

Dated *November 20, 1951*.

*Hezekiah Hosea*

\_\_\_\_\_  
Clerk of Said Court.

(SEAL)

<sup>13</sup> See Mr. Morris' article, page 442.

STATE OF COLORADO }  
*City and County of Denver* } ss.

NOTICE OF ELECTION AND DEMAND  
 FOR SALE BY PUBLIC TRUSTEE <sup>14</sup>

To the Public Trustee in the *City and County of Denver*, State of Colorado, aforesaid:

WHEREAS, on the *18th* day of *April*, 1948, *Manasseh Msqpbzd and Minnie Msqpbzd* of the *City and County of Denver*, State of Colorado, did make, execute and deliver to the Public Trustee of the *City and County of Denver*, State of Colorado, *their* certain Deed of Trust, which was duly record on the *20th* day of *April*, 1948, in Book 97346 at page 897 of the records in the office of the Clerk and Recorder of said *City and County of Denver*, to secure to *DARIUS DEXTER GRTHVLM*, the payment of the sum of *Eight Thousand & 00/100* Dollars, upon the terms and conditions in said Deed of Trust contained; said Deed of Trust covering the following described real estate, situate in the *City and County of Denver*, Colorado, to-wit:

*Lot 1, Block 1, Lake Clozer Subdivision.*

And WHEREAS, default has been made by the said *Manasseh Msqpbzd and Minnie Msqpbzd*, and all persons claiming by, through or under *them in the payment of principal installments and other payments provided in said Deed of Trust* <sup>15</sup> secured thereby, and the covenants in said Deed of Trust have been violated:

AND WHEREAS, the undersigned is now the owner and holder of the indebtedness secured by said Deed of Trust;

AND WHEREAS, the said Deed of Trust provides that upon default in any of the payments of principal or interest secured thereby, or upon a breach or violation of any of the covenants or conditions of said Deed of Trust, the holder of said indebtedness may declare the whole of said indebtedness due and payable and the premises may be sold with the same effect as if said indebtedness had matured, by reason whereof and of the default above mentioned, the undersigned has elected to declare and does hereby declare, the entire indebtedness secured by said Deed of Trust due and payable and does hereby request and demand that the premises in said Deed of Trust described be sold for the payment of such entire indebtedness, and interest thereon, and the costs and expenses of sale.

NOW THEREFORE, You are hereby notified that the undersigned, as the owner and holder of the indebtedness secured by

<sup>14</sup> It is not necessary that the Order for Sale be entered by the District Court before the Notice of Election is given the Public Trustee. The law requires only that said Order be entered before the actual Public Trustee's sale occurs. The Rule 120 proceedings and the Public Trustee proceedings may be conducted at the same time. The attorney saves at least one month's time in this manner. See Mr. Morris' article, page 445.

<sup>15</sup> Here, describe particular default.

said Deed of Trust, declares a violation of the covenants of said Deed of Trust and elects to advertise the property therein described for sale, and hereby demands that you, as Public Trustee named in said Deed of Trust, do forthwith proceed, as provided by law and according to the terms of said Deed of Trust, to give notice, to advertise for sale, and to sell the premises and property in and by said Deed of Trust described and conveyed, for the purpose of paying the indebtedness thereby secured and all costs and expenses of making such sale.

WITNESS, my hand and seal this 20th day of November, 1951.<sup>16</sup>

Darius Dexter Grthvlm

Denver, Colorado, November 20, 1951

SETH SIGISMUND, Public Trustee,<sup>17</sup>  
City and County of Denver,  
Denver, Colorado.

Dear Sir:

Whereas, by virtue of a certain Deed of Trust, recorded April 20, 1948, in book 97346, at page 897 of the records of the Recorder of the City and County of Denver, State of Colorado, Manasseh Msqpbzd and Minnie Msqpbzd conveyed to you as Public Trustee, certain property therein described; and whereas, on account of violation or default in the covenants thereof, you have been presented with written demand for sale of said property, under said Deed of Trust:

Therefore, you will please mail notices to the following parties at the respective addresses given:

<i>Manasseh Msqpbzd</i>	at	<i>33 Thurt Street, Denver, Colorado</i>
<i>Minnie Msqpbzd</i>	at	<i>33 Thurt Street, Denver, Colorado</i>
<i>Valentine Victor</i>	at	<i>Golden, Colorado</i> <sup>18</sup>

Very truly yours,

Darius Dexter Grthvlm

The Owner and Holder of the  
Indebtedness Secured by  
Said Deed of Trust.

<sup>16</sup> The Notice of Election and Demand for Sale should be delivered to the Public Trustee in duplicate.

<sup>17</sup> This letter of transmittal to the Public Trustee is the very heart of the Public Trustee's procedure. For a full discussion of this matter see Mr. Morris' article, pages 447 to 451.

<sup>18</sup> If the recorded instrument gives only the County and State, notice should be mailed to the County Seat.

NOTICE OF PUBLIC TRUSTEE'S SALE <sup>19</sup>

WHEREAS, *Manesseh Msqpbzd and Minnie Msqpbzd* by deed of trust, dated the 18th day of April, 1948, which is recorded in book 97346, page 897, of the records in the office of the Clerk and Recorder of the City and County of Denver, Colorado, duly conveyed to the Public Trustee in and for the City and County of Denver, Colorado, the following described real estate in the City and County of Denver, Colorado, to-wit:

*Lot 1, Block 1, Lake Clozer Subdivision*

which deed of trust was made to secure the payment of their promissory note of even date with said deed of trust, for the sum of *Eight Thousand and 00/100 (\$8,000.00)* dollars, payable to the order of *Darius Dexter Grthvlm*, with interest thereon at 4 per cent, per annum, interest payable *monthly* as is more particularly set forth in said deed of trust, reference to which is hereby made for greater certainty, and

WHEREAS, The said *Manasseh Msqpbzd and Minnie Msqpbzd* and all persons, claiming by, through, or under them, having defaulted in the payment of *monthly installments of principal and interest in the amount of \$59.20, together with all other payments as provided in said Deed of Trust* and the legal holder of said note, having elected on account of said default to declare said note due and payable, *in full, together with interest thereon, attorney's fees, and other costs as provided in said note and Deed of Trust,*

NOW, THEREFORE, at the written request of *Darius Dexter Grthvlm*, the legal holder of said note, pursuant to law, I, the undersigned Public Trustee in and for the City and County of Denver, Colorado, do hereby give notice that I will, at the hour of 10 o'clock in the forenoon of *January 9, 1952*, at the *Bannock Street* main entrance to the City and County Building in the City and County of Denver, and State of Colorado, sell at public auction, to the highest and best bidder for cash, the said described premises, and all the right, title and interest of the said *Manesseh Msqpbzd and Minnie Msqpbzd*, their heirs and assigns therein, for the purpose of paying the *unpaid principal indebtedness and accrued interest thereon, together with attorney's fees and other costs as provided in said Deed of Trust and promissory note,*<sup>20</sup> and the cost and expenses of executing this trust, and will deliver to the purchaser a certificate of purchase as provided by law.

Dated at Denver, Colorado, *November 21, 1951.*

*Seth Sigismund*

Public Trustee in and for the  
City and County of Denver,  
Colorado.

<sup>19</sup> See Mr. Morris' article, page 446, for general discussion; also page 447 for discussion on Publication of Notice.

<sup>20</sup> Some Public Trustees request that the exact amount of unpaid principal indebtedness be stated at this point. Because a complete accounting will be necessary at the time of the sale, it does not seem essential that such amount be stated in the notice.

(USE CAPTION)

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE *CITY AND COUNTY OF DENVER*, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

ORDER AUTHORIZING SALE <sup>21</sup>

This matter having come on to be heard:

THE COURT DOTH FIND that the matters stated in said motion are true; that the provisions of Rule 120 of the Rules of Civil Procedure have been fully complied with; and that said motion should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that a sale of the hereinafter described real property by the Public Trustee in the *City and County of Denver*, State of Colorado, under a power of sale, pursuant to statute and to the provisions of that certain deed of trust executed by *Manasseh Msqpbzd and Minnie Msqpbzd* to the Public Trustee, dated *April 18, 1948*, securing the original principal sum of *\$8,000.00*, recorded *April 20, 1948*, at Page *897*, in Book *97346* of the records of the Clerk and Recorder of the *City and County of Denver*, State of Colorado, and covering the following described real estate:

*Lot 1, Block 1, Lake Clozer Subdivision, situated in the City and County of Denver, State of Colorado,*

be and the same hereby is authorized by this Court.

It is further ordered that a return of such sale be made to this Court for its approval.

DONE IN OPEN COURT this *6th* day of *December, 1951*.<sup>22</sup>

BY THE COURT:  
*Zadok Zedekiah*  
\_\_\_\_\_  
Judge.

CERTIFICATE OF PURCHASE <sup>23</sup>

STATE OF COLORADO, }  
*CITY AND COUNTY OF DENVER* } ss.

I, *SETH SIGISMUND*, as the Public Trustee in said *City and County of Denver*, State of Colorado, do hereby certify that, default having been made in the terms, conditions and covenants of the deed of trust hereinafter referred to, in the manner stated in the trustee's notice of sale, hereinafter made a part hereof, and

<sup>21</sup> Rule 120 (c) provides that "no motions or pleadings shall be required or permitted to be filed by anyone other than the person who filed the motion for the order authorizing the sale".

<sup>22</sup> As to whether or not the Court may consider the merits of any defense, see Mr. Morris' article, pages 444, 445.

<sup>23</sup> See Mr. Morris' article, page 454, for general discussion.

*DARIUS DEXTER GRTHVLM* the beneficiary under said deed of trust and the legal holder of the indebtedness secured thereby, having, in writing, notified me of such default, and having declared a violation of the covenants of said deed of trust, in that respect, and having elected to advertise the property therein described for sale, and the said *DARIUS DEXTER GRTHVLM* having filed notice of such election and demand for sale in writing with the undersigned on the 20th day of November, 1951, I did, in accordance with the terms of sale specified in that certain deed of trust, wherein *MANASSEH MSQPBZD* and *MINNIE MSQPBZD* are grantors, and which is dated the 18 day of April, 1948, and which was recorded on the 20th day of April, 1948, in book 79346 at page 897 of the records in the office of the Clerk and Recorder of the City and County of Denver, Colorado, duly advertise the premises described in said deed of trust, and also hereinafter described, and all the right, title and interest of the said *MANASSEH MSQPBZD* and *MINNIE MSQPBZD*, their heirs and assigns therein, for sale, at public auction, for the highest and best price the same would bring in cash, said sale to take place at the hour of 10:00 o'clock in the forenoon on the 9th day of January, 1952,<sup>24</sup> at the Bannock Street main entrance of the City and County Building, in the City and County of Denver, in said State of Colorado, in the manner and for the purposes stated in said deed of trust; a notice of which sale was published in the *DENVER CLARION*, a newspaper of general circulation printed and published in said City and County of Denver, once each week for a period of not less than four weeks,<sup>25</sup> proof of publication of which notice of sale is herein incorporated and made a part of this certificate of purchase.

(ATTACH PROOF OF PUBLICATION)

I further certify that, at the time required by law, I securely pasted such notice of election, and also printed copy of said notice of sale, in a book kept by me for that purpose; that I recorded a copy of said notice of sale upon receipt of same; and that I mailed (postage prepaid at the postoffice in Denver, Colorado) a copy of the printed notice of sale, within ten days from the date of the first publication thereof, to the grantor at the address given in the said trust deed, to *MANASSEH MSQPBZD* at 33 Thurt Street, Denver, Colorado, and to *MINNIE MSQPBZD* at 33 Thurt Street, Denver, Colorado, as the record owners of the equity of redemption in the said premises and to each of the following persons, at the following addresses, to-wit:

To *VALENTINE VICTOR*, Golden, Colorado

<sup>24</sup> In the event an adjournment or postponement is necessary, see Mr. Morris' article, page 453.

<sup>25</sup> If the Deed of Trust provides a longer period of publication than 4 weeks, such longer period must be complied with. Publication may not be for less than 4 weeks.



I further certify that, at the time and place, and on the terms, stated in said notice of sale, and pursuant thereto, and by virtue of said deed of trust and the law in such case made and provided, I sold and disposed of the following described premises, and all the right, title and interest of the said *MANASSEH MSQPBZD and MINNIE MSBQPBZD*, their heirs and assigns therein, at public auction, to the highest and best bidder, for cash, and that, at the said sale *DARIUS DEXTER GRTHVLM* was the highest and best bidder for the same, and bid and paid therefor the sum of *Seven Thousand Nine Hundred Eighty-three and 24/100 (\$7-983.24)* Dollars, and that the same were then and there struck off and sold to the said *DARIUS DEXTER GRTHVLM*, said premises being described as follows, to-wit:

*Lot 1, Block 1, Lake Clozer Subdivision,*

situate in said *City and County of Denver*, and State of Colorado; and that the said premises were sold *January 9, 1952*, that I have entered, in a book kept by me for that purpose, a record of the name of the person executing such deed of trust, the date thereof, a brief description of the property therein described, the date of sale, the name of the newspaper printing the said notice of sale, the name of and last postoffice address of the said purchaser at such sale, and the amount at which such property was sold.

I further certify that unless said property be redeemed *DARIUS DEXTER GRTHVLM* will be entitled to a deed for said premises, sold to *him* as aforesaid, and for all the right, title, interest, benefit and equity of redemption of the said *MANASSEH MSQPBZD and MINNIE MSQPBZD*, their heirs and assigns therein, immediately after the expiration of the periods of redemption provided by law.<sup>26</sup>

Given under my hand and seal at the *City and County of Denver*, and State of Colorado, this *9th* day of *January, 1952*.

SETH SIGISMUND

As the Public Trustee in and for the said *City and County of Denver*, Colorado.

STATE OF COLORADO, }  
*City and County of Denver* } ss.

The foregoing instrument was acknowledged before me this *9th* day of *January, 1952*, by *Seth Sigismund*, Public Trustee in said *City and County of Denver*, Colorado.

Witness my hand and official seal.

My commission expires *November 21, 1952*.

URIAH URBAN

Notary Public.

(SEAL)

<sup>26</sup> Chapter 40, C.S.A., Sections 158, 159.

(USE CAPTION)

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE *CITY AND COUNTY OF DENVER*, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

RETURN OF  
SALE <sup>27</sup>

COMES NOW the applicant above named by *Silvester Hasede* his attorney and represents:

(1) Pursuant to order of this Court heretofore entered the following described property, to-wit:

*Lot 1, Block 1, Lake Clozer Subdivision*, situate in the *City and County of Denver*, State of Colorado, was sold at public auction on the *9th* day of *January*, 1952, in accordance with published notice of sale, by the Public Trustee of the *City and County of Denver* and State of Colorado, pursuant to that certain deed of trust dated *April 18, 1948*, and recorded *April 20, 1948*, at Page 897 in Book 97364 of the records of the Clerk and Recorder of the *City and County of Denver*, State of Colorado.

(2) At said sale, the above property was struck off and sold to *Darius Dexter Grthvml* for the sum of \$7,983.24.

WHEREFORE, said applicant presents this return of sale and prays for an order of this Court approving the same.

Dated this *14th* day of *January*, 1952.

*Silvester Hasede*

Attorney for Applicants.

(USE CAPTION)

IN THE MATTER OF THE APPLICATION OF *DARIUS DEXTER GRTHVLM* FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE *CITY AND COUNTY OF DENVER*, STATE OF COLORADO, TO SELL CERTAIN REAL ESTATE UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

ORDER  
APPROVING  
SALE <sup>28</sup>

THIS MATTER having come on to be heard:

THE COURT DOETH FIND that the matters stated in the return on file herein are true.

IT IS THEREFORE ORDERED, ADJUDGED AND DE-

<sup>27</sup> Although attorneys occasionally request the Public Trustee to execute this return, it is considered better practice if the return be executed by the petitioner or his attorney. Rule 120 does not require that it be done one way or the other.

<sup>28</sup> This order will not be required or proper if the Public Trustee's Notice of Election is withdrawn before sale. Samples of withdrawal of Notice of Election and other incidental instruments will be presented in a subsequent report.

CREED that the sale held on the 9th day of January, 1952, by the Public Trustee of the City and County of Denver, State of Colorado, pursuant to that certain deed of trust dated April 18, 1948, and recorded April 20, 1948, at Page 897 in Book 97346 of the records of the Clerk and Recorder of the County of Denver and State of Colorado, whereat Darius Dexter Grthvln, having made the best bid, purchased said property for the sum of \$7,983.24, and said return of sale be and the same are hereby approved and confirmed.

DONE IN OPEN COURT THIS 14th day of January, 1952.

BY THE COURT:

Zadok Zedekiah

Judge.

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ASSIGNMENT OF CERTIFICATE OF PURCHASE

FOR VALUABLE CONSIDERATION, the receipt whereof is hereby acknowledged, the undersigned hereby transfers, assigns, sets over and conveys to JABEZ JAIRUS JULIAN, his heirs and assigns forever, all right, title and interest in and to the certificate of purchase dated January 9, 1952, and the premises described as LOT 1, BLOCK 1, LAKE CLOZER SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Witness my hand and seal this 20th day of February, 1952.

DARIUS DEXTER GRTHVLM

STATE OF COLORADO }  
CITY AND COUNTY OF DENVER } ss.

The foregoing assignment was acknowledged before me this 20th day of February, 1952, by DARIUS DEXTER GRTHVLM.

Witness my hand and official seal.

My commission expires November 21, 1955.

URIAH URBAN

Notary Public.

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NEW RADIO SERIES

A series of fifteen minute Radio programs entitled "You and the Law" may now be heard each Wednesday evening at 9:30 over Radio Station KLZ. This marks the third year the Colorado Bar Association has sponsored this series.

All programs have been written and produced in Denver by the Rocky Mountain Radio Council under the direction of the Subcommittee on Radio of the Colorado Bar Association. The program is being broadcast in seven other states under the auspices of local bar associations by arrangement with the Radio Subcommittee. These sales to other bar associations largely offset the program production costs and radio time has been donated as a public service.

## ADDITIONAL REPORT OF FORMS COMMITTEE

Since the standard pleading samples to be used under the 1951 Determination of Interest Statute were published in the August, 1951, issue of *Dicta* it has been called to the attention of the Committee that certain amendments should be made thereto. The following are therefore submitted and recommended by the Committee:

1. The Notice as published on page 307 of the August, 1951, *Dicta*, should be amended by inserting the word "other" between the words "all" and "persons" in the fourth line thereof, so that the Notice will read as follows: "To (named persons) heirs at law of ..... Deceased, to all *other* persons who are or claim to be heirs of said decedent . . ." This correction is deemed necessary to comply strictly with the statutory form of notice.
2. Footnote 14, shown at page 306, should be amended by adding the following: "There is no statutory requirement for an Order for issuance of notice, for publication thereof, and for service by mail. Your Committee feels that if such Order were omitted the proceedings would be perfectly proper. The above sample is presented, however, for the convenience of those attorneys who feel that the inclusion of the Order is better practice."
3. An additional alternative phrase should be submitted by the Committee to be used in place of the fifth line of text from the bottom of page 305 to provide for the factual situation where there has been no conveyance of the real property since the decedent's death. The phrase at the present time reads as follows: "And that petitioner is the record owner thereof." In the event that the proceeding is brought by one of the heirs who as a matter of fact has not received conveyances from other heirs, this phrase could read as follows: "And that decedent at the time of his death was the record owner thereof." Your Committee feels that the proposal of this alternative phrase is necessary because in a great many instances the proceedings will be brought by one or more of the heirs in order to determine their rights in the real property.

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### REFERRAL LAWYERS NEEDED

The Legal Service Committee requests that all lawyers who have been in military service and are willing to assist persons now in the armed forces advise the Bar Association office of their former branch of service, rank and principal duties. The Committee's function, as part of a national program, is to refer military personnel to reliable, competent and sympathetic counsel who will give due consideration to the service man's ability to pay for the service needed.

## WANTED BY THE EDITOR

In December, 1923, a four page bulletin captioned "The Denver Bar Association Record" was distributed. This publication represents Volume 1, Number 1, of *Dicta* and has grown in size and been published each month since. The name *Dicta* was first adopted with the November, 1928, issue which was Volume 6, Number 1.

No known copies are now extant of any numbers of volumes 1, 2 and 5. Also missing are numbers 1, 2, 5 and 6 of volume 3 and numbers 8, 9, 10 and 11 of volume 4. If any reader can locate these issues in his office or library please communicate with the Editor of *Dicta* at 319 Chamber of Commerce Building in Denver. Your cooperation will be appreciated and arrangements will be made to purchase or reproduce any missing issues located.

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## NEW TREASURY DEPARTMENT REGULATION

Acting Secretary of the Treasury E. H. Foley has announced changes in the regulations governing the enrollment of persons for practice before the Treasury which will permit the Department to maintain a closer supervision over enrollees.

All enrollment cards which shall have been issued to persons enrolled to practice before the Treasury Department prior to January 1, 1952, shall be void after March 31, 1952. An enrollee holding a void card shall promptly surrender it to the Committee on Practice. Application for issuance of a renewal card may be made at any time between January 1, 1952, and June 30, 1952.

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## BOOK TRADERS CORNER

A complete set of the Colorado Reports and Colorado Appeals is offered for sale by Blood, Silverstein and Torgan, 728 University Building, Denver.

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