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portance, he would like to have him do so, he declared. The rules should be remedied, Judge Richmond thought. Apropos of judicial salaries, Judge Richmond said that he had investigated the matter himself and advocated increases in these salaries but that the most effective argument advanced against the proposed amendment was that no other state allowed pensions to retired judges. —*J. C. S.*

The Torrens Law

By B. M. Webster, Esq.
of the Denver Bar

Few systems have been reformed from within. Precedent is a powerful factor. The old system of registration of title papers and examination therefrom is cumbersome. The examination and reexamination of titles in a populous and growing community, with property rapidly changing hands, is a wasteful expenditure of energy.

Robert Torrens, commissioner of customs in Australia, saw this. He was familiar with the registration of ships, and the certificate of title provided under the Shipping Acts, showing the ownership thereof, undivided interests therein, and all liens and claims thereon. Upon becoming a register of deeds, he devised the system of land registration under judicial decree which bears his name, and which is the basis of practically all registration of title legislation since that date.

The first Act was passed in South Australia, in 1858. With the favorable introduction of the law under the personal supervision of Torrens, it gained rapidly in popularity and soon came into very general use.

Our own law was passed in 1903. The measure was introduced by Senator Taylor, who for many years past has been an able representative of this state in Congress. Similar laws have been passed in many of the states. The law has been favorably received and generally used only in the states of Massachusetts and Minnesota, and in Cook County, in the State of Illinois.

As originally devised, the law was not intended to provide a way to perfect defective titles. It was a plan to simplify the buying and selling of land by means of a certificate of title, which would show ownership and all interests therein, and against the same, without an examination of title. Under such a system, one should be able to transfer title to land almost as readily as shares of stock, by the transfer of a stock certificate. Our present automobile registration law is framed upon somewhat the same basis.

Such a departure from the time worn procedure to which we are all accustomed can only be accomplished by study on the part of the legal profession and the education of laymen. The general and favorable acceptance of such a law can only come as a result of intelligent explanation of its benefits through lawyers and officials who are favorable to it, or as a necessity to relieve intolerable conditions which have arisen under the old system,—or, possibly, as a result of compulsory legislation.

It is my understanding that, after the great fire in Chicago, there was but one set of abstract books remaining, and that the exactions of the company owning them were so onerous that the registration law was adopted

by a vote of that county—as provided by the Illinois Act—as a means of relief.

In the eastern part of this state, many of the titles became badly involved following the panic of 1893. Great areas of land were abandoned by settlers, who left no trace of their whereabouts. Companies and individuals who had purchased tax certificates thereon, and who had made loans on such lands failed, and the certificates and loan papers had practically no value. They were tucked away in drawers and boxes and sometimes handled by traders at so much per bundle, or box,—something like the stacks of old magazines on the counters of the second hand bookstores. The Torrens Act has been most helpful in clearing up that situation. It will possibly be a matter of surprise to most of you to know that, in the counties of Logan, Phillips, Washington and Yuma combined, there have been a total of eleven hundred proceedings, involving some two hundred thousand acres of land. In a number of the other eastern counties the law has been very considerably used. Although the assurance funds are still small there has never been a claim against the fund in any of said four counties.

In those counties registered titles are generally accepted and the writer does not know of a single instance in which such a title has been declined by a purchaser. Although prejudiced against registered titles, many of the larger loan companies are now accepting such titles.

In this state, we have no law providing for the bonding of abstracters. Anyone, regardless of integrity, qualifications, or financial responsibility, can embark in the making of abstracts. An eastern purchaser of Colorado land once said to the writer, upon being presented with a certificate of title under the registration law, "I think I would rather take a certificate of title issued under Court decree than depend upon an abstract made by an abstracter whom I know nothing about, and who, under your law, has no bond".

It is an interesting fact that attorneys and laymen who are familiar with registration procedure and the handling of registered land are uniformly favorable to it.

The constitutionality of our law was passed upon in the case of People -v- Crissman, 41 Colo. 450.

Under our law, title can be registered against the world. In White -v- Ainsworth 62 Colorado 514, a registered title was held good against attack by minors, and it was also therein held that registration against all unknown claimants does not constitute the taking of property without just compensation.

The limitation within which the proceeding can be attacked is fixed by statute as ninety days, from the entry of decree.

Registered property is conveyed, encumbered and dealt with as if it had not been registered.

All instruments are retained in the office of the registrar. Thus, in event of mistake or forgery, the original instruments are available for inspection.

An assurance fund of one-tenth of one per cent. of the assessed value of the property registered is provided for the reimbursement of any one who, under the terms of the Act, has been wrongfully dispossessed of property by the registration of a title.

Under the registration laws of some states, upon a conveyance, registration is compulsory.

Space will not permit discussion of the advisability of such a requirement. Such a provision would have advantages. It would force the issue of the

acceptance and use of the law, or would result in its repeal.

Most Denver attorneys know we have such a law. Few know much more than that about it. In this county, there have been only thirteen proceedings in the twenty-three years the law has been on our statute books.

Query: Does this meager use of the law in this county mean: (a) That registration of title under the law is not practicable from the viewpoint of both the profession and the layman; (b) or that failure to make use of it is the result of the constitutional conservatism of the profession; (c) or may it be attributed to mental inertia? Perhaps the lack of use may be attributed to all three reasons, and may it not be sometimes difficult to place the line of distinction between the latter two.

Tax Sales and Tax Titles in Colorado

By JOHN F. MAIL, Esq.
of the Denver Bar

In the construction of the revenue laws of Colorado, the Supreme Court early in its history adopted two rules of construction.

The first is that revenue laws or enactments for the levy, assessment and collection of taxes shall be construed liberally in favor of the State and against the tax-payer and his property to the end that the State may acquire a revenue with the least possible trouble and expense. That is to say, all doubtful questions of taxation so far as the levy and assessment are concerned are resolved in favor of the taxing power.

On the other hand, when we come to the sale of lands (I am not here considering the sale of personalty at all) for delinquent taxes, the rule which the Supreme Court adopted early in its history is the rule in every State in the Union and is the rule enforced by the Supreme Court of the United States. That is, the power to divest one of title to his property by a sale thereof for taxes is a power that will be construed with the utmost strictness against the taxing power and against the person purchasing at a tax sale. This is to the end that while the State will exercise relentlessly its power to procure a revenue sufficient for the needs of the State, it will bear upon the taxpayer as lightly as possible and take advantage of every technicality to the end that he may not lose his property and be divested of his title for a grossly inadequate consideration. But even here the legislature and the courts, while they give him almost every opportunity to pay the tax without losing his property, always insist that before his property is entirely free of the lien, he must pay the tax with a rate of interest sufficient to induce persons to pay it for him by tax sale purchase in the first instance to the end that the State may have its revenue.

Originally in the history of modern taxation there was no limit upon the power of the State to tax; and out of this principle grew the maxim that the power to tax is the power to destroy. But that power to destroy is withheld by the people of Colorado in their constitution from the legislative body, and while the power to tax in this State is exceedingly great, it has its constitutional limitations, which it is not necessary here to discuss.