

January 1926

## Recent Trial Court Decisions

Denver Bar Association Record

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### Recommended Citation

Recent Trial Court Decisions, 3 Denv. B.A. Rec. 25 (1926).

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## Recent Trial Court Decisions

and mortgages,—fictitious of course, and which bore a recorder's stamp of the County in question, which recorder's stamp was forged but was identical with the genuine one used in that County,—but as heretofore stated, the instance in question is believed to be the only case, in recent years at least, of fraudulent abstracts.

There are no restrictions in our law with reference to abstract companies or requirements that they must furnish bonds as is so often the case in other States, and yet the abstracts which have been furnished to the legal profession have been, in the opinion of the writer, far above the average of other commonwealths.

Further, the people of this State are apparently satisfied because they have not seen fit, generally, to insure their

farm titles nor to have their title registered under what is known as the Torrens Land Act. This Act, known in our statutes as Registration of Land Titles and which may be invoked at the option of the landowner, was first passed some twenty-three years ago.

In a majority of the Counties of the State, there is not a registered title and in practically all of the large Counties, all of the registered titles may be counted upon the fingers of one hand,—which brings us back to the observation that the average hard-working abstractor in this State and the underpaid lawyer, who has examined that abstract, are entitled to no small gratitude from the public for the stability and validity of the average record title in Colorado.

## *Recent Trial Court Decisions*

*(Editor's Note.*—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the Courts having no material for the current month will be omitted, due to lack of space.)

### *Denver District Court*

DIVISION V                      JUDGE SACKMAN

**Tenants in Common—Deeds of Trust—  
Redemption—Contribution.**

**Facts:** Partition—Plaintiff and defendant are tenants in common of real

estate subject to Deed of Trust to the Public Trustee, securing note of \$12,500. After institution of suit, Deed of Trust is foreclosed and property sold thereunder for \$25,000. Defendant demands and receives of the public trustee his share of the surplus. Plaintiff redeems. Plaintiff files a Supplemental bill setting up the foregoing facts and praying title to the whole estate be decreed in him. Upon demurrer to the Supplemental bill.

Held: Demurrer sustained.

**Reasoning:** The redemption of one tenant in common inures to the benefit of the other. The non-redeeming co-tenant is not estopped by the acceptance of his share of the proceeds of the sale. The tenant redeeming is entitled to contribution from his co-tenant. To secure this he has a lien on the co-tenant's share in the premises which lien after demand and refusal of contribution may be enforced by suit to foreclose and sale as if upon

execution with the usual statutory equity of redemption.

Martin vs. Stock, No. 92350.

**Divorce—Alimony—Conclusiveness  
of Decree.**

Facts: Upon motion to set aside decree and orders, previously entered for temporary and permanent alimony, it appeared that the same had been entered upon due process and with full jurisdiction, and that the trial was uncontested. Alimony being in arrears over a considerable period, a showing in fact is made in support of the motion, and for future modification.

Held: The decree might be modified as to future effect but no relief could be had as to alimony past due.

Reasoning: Decrees and orders relative to alimony, so far as the same relate to installments past due, are as conclusive as against attack as any other form of judgment; but the continuing nature of an alimony decree is such as to warrant its modification as to prospective operation upon proper showing.

Watson vs. Watson, No. 90090

**Judgments—Defaults Set Aside—  
Tender of Costs.**

Facts: A default judgment having been taken, was set aside, the order allowing five days to answer and requiring the payment of docket fee and costs. The defendant filed the answer and paid the docket fee but not the costs. Upon and after motion for new default, defendant tenders costs in open court.

Held: No default. Costs ordered paid forthwith.

Reasonings: Code, section 75, and the Court's order relative to payment of costs held not mandatory as to time. The party setting aside default may protect his status by payment of the

same upon hearing of motion for new default.

Bank vs. Parkhurst, No. 9340

**Process—Extradition—Exemption  
for Service.**

Facts: The defendant, a resident of Texas being a fugitive from Colorado Justice, was arrested on criminal complaint here and brought into this State by process of extradition and put under bond to appear. At the trial he was served with summons in a civil case. Upon motion to quash.

Held: Service of summons would be quashed.

Reasoning: Non-resident brought into another State against his will and by force of law alone, is exempt from service while in such State solely on such grounds.

Plettner vs. Dickson, No. 88540

**“Bar.” Sinister?**

There's a false association  
In this “Bar.” abbreviation;  
If it meant but “Barrister,” we  
would't mind,  
But for “Barleycorn” and “Barrel”  
To be given this apparel  
By the dictionary seems a bit unkind.  
—J. C. S.

**Wild Oats for All**

Mother (coming in at 2 A. M.)—  
“You needn't have waited up for me,  
Ysobel. I have my own latchkey.”  
Ysobel—“I know, mother, but some-  
body had to let Grannie in.”—*London  
Opinion.*

**An Obvious Distinction**

Judge: “You are charged with being a deserter from your wife. Is this true?”

Prisoner: “No, judge; not a deserter; a refugee.”

*Prima Facie Evidence*

Mrs. Carney rushed into her living-room. "Oh, Walter," she cried, as she panted for breath, "I dropped my diamond ring off my finger and I can't find it anywhere."

"It's all right, Olive," said Walter; "I came across it in my trousers pocket."—*Pittsburgh First.*

*No Further Inducement*

A prominent New Orleans man aboard a ship leaving New York for Europe called the steward and asked: "Are we outside the twelve-mile limit?"

The steward said they were.

"Can I get anything I want—cocktails, whisky, wine—anything without violating the law?"

He was told that he could.

"Then bring me a lemonade."—*New Orleans States.*

*Unanimous Jury*

At an inquest on a case of suicide recently held in England the verdict was as follows: "The jury are all of one mind—temporarily insane."

*Writ of Error*

On the cover for September  
There was "August" but remember  
'Twas our most pretentious issue, so  
we trust,

You at least enjoyed the reading,  
And the word was not misleading  
For we had a few contributors *august.*

—J. C. S.

*Quite Solid*

A .45-caliber revolver had been fired at him, the bullet penetrating his skull and entering the woodwork.—*Tampa paper.*

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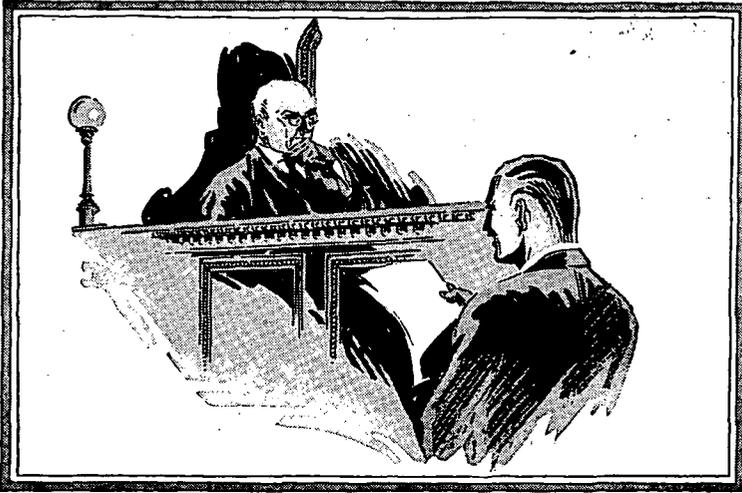
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# RECORD

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P U B L I S H E D M O N T H L Y

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VOL. III

DENVER, NOVEMBER, 1926

No. 11

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## Leading Articles

### TITLE INSURANCE POLICIES

BY HERBERT BECKER, ESQ.

*Vice President of Chicago Title and Trust Company*

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### THE BUSINESS MAN AND THE LAW

BY HON. CHARLES C. BUTLER

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### A PURPOSEFUL TALE

BY L. F. TWITCHELL, ESQ.

*of The Denver Bar Association*

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### BUILDING AND LOAN ASSOCIATIONS

BY LUKE J. KAVANAUGH, ESQ.

*of The Denver Bar Association*

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### PROPOSED CONSTITUTIONAL AMENDMENTS

BY LEGISLATIVE COMMITTEE

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NEXT REGULAR MEETING, Monday, November 1, 1926, 12:15 P. M.,

Chamber of Commerce Dining Room

The Mussolini Government and its activities will be discussed by the Honorable George F. Dunklee, who has recently returned from a trip to Italy.

The Canadian Bar Association and its recent annual meeting will be discussed by Mary F. Lathrop, an official delegate of the American Bar Association to that meeting. Musical entertainment will be provided.

Adjournment Promptly at 1:45—BE ON TIME

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