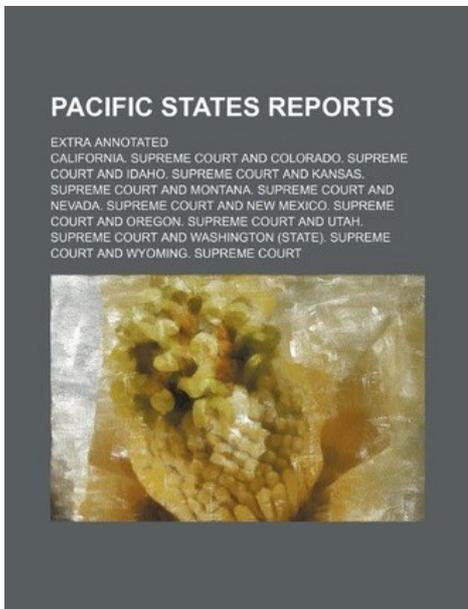


Pacific States Reports (Volume 24) Extra Annotated

California Supreme Court



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1912. Excerpt: ... White-Crow v. White-Wing. try the cause with the rest of the jury, and that the whole twelve were good and lawful men of the body of the county. Other questions have been raised by the record in this case, but as the counsel have not seemed to rely at all upon them, we do not think it necessary to discuss them. The judgment of the District Court will be affirmed. All the justices concurring. Jacob White-crow V. Geobge White-Wing. 1. Judicial Sale: Confirmation. Where, under 449 (Comp. L., 199) a motion is made to confirm a sale, the court should confine itself to an examination of the return of the officer, and if that shall show prima facie that all the requisites of the statutes have been complied with, the sale ought to be confirmed, and the motion cannot be resisted, except on the face of the paper.1 2.: Motion to set aside. But the contesting party, and under 515 (Comp. L., 214), the pereon interested in the real estate, whether a party to the suit or not, may make a motion to set aside a sale at any time before confirmation, and orally, and pending the motion to confirm, and in considering that motion, the court is not confined to the return of the officer, but extraneous facts (as fraudulent conduct of the officer, combination to prevent competition), may be shown to invalidate the sale the court is authorized to see that its process is not abused. 1 See Kahler v. Ball, 2 Km., 154, and OhalUm v. Wise, Id., 188, and notes. An ex-parts confirmation of a sheriffs sale is not conclusive evidence, binding upon all parties that may possibly be affected by it, that the land ordered to be sold by the judgment, was sold, and that it was regularly and legally Bold. (Rice v. Poynter, 15 Kas., 263.) A decision of the court upon a confirmation o...

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