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Supreme Court Decisions

Dicta Editorial Board

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Supreme Court Decisions

No. 14648. *People v. Graham*. Decided February 3, 1941.

The people's appeal from a decision of the Denver District Court quashing an information alleging violation of Sections 174 and 176, Chapter 16, 35 C. S. A., requiring motorist involved in an accident to stop, return, furnish information and give assistance to injured. The motion to quash was sustained below on the ground that the accident occurred in Denver, a home rule city under Section 6, Article XX of the Constitution, and as such had exclusive jurisdiction by existing ordinance over this as a local and municipal affair. Reversed. The offenses charged in the information are not exclusively a local matter. They are of general public concern and come under the general police power of the state. En Banc. Opinion by Justice Bock.

No. 14669. *Elliott v. Denver Joint Stock Land Bank of Denver*. Decided February 3, 1941.

Suit against the grantee of a warranty deed upon an assumption of mortgage indebtedness appearing in such deed. The court finds that the undisputed evidence discloses no consideration running either way between grantor and grantee of such warranty deed. Hence the theory of assumption of the mortgage indebtedness resting as it does in Colorado upon third-party beneficiary doctrines, cannot be sustained; such third-party beneficiary contract requires consideration. Opinion by Justice Bock. Justices Young, Bakke and Knous dissent.

No. 14868. *Industrial Commission v. Colorado State Federation of Labor, et al.* Decided February 3, 1941.

The commission made a finding that the construction of a highway underpass at 46th and Vine in Denver constituted "highway construction" and that rates of wages theretofore established by the commission in another finding were applicable. The District Court, concluding that the true issue before the commission was not the character of the construction but the prevailing wage scale, remanded the matter for further commission hearing. The commission appealed to this court.

HELD: The District Court is affirmed, but in view of the fact that during the pendency of these proceedings the job has been completed and the issue has become moot, the decree of the court is ordered changed

so as to vacate the award of the commission. Opinion by Justice Knous. Justice Burke dissents.

No. 14881. Industrial Commission, et al. v. The Rocky Mountain Fuel Co., et al. Decided February 10, 1941.

A workman taking a bath on the premises of the employer following the close of his day's work was not at the time of the accident performing services within the meaning of the Workmen's Compensation Act. Opinion by Justice Bock.

No. 14905. Craig v. Totive. Decided February 10, 1941.

Upon conflicting evidence judgment upon verdict of jury for plaintiff in assault and battery action not disturbed. Opinion by Justice Knous.

No. 14758. Suple v. People. Decided February 24, 1941.

It is improper to answer a query of a jury in a murder trial that if sentenced to life imprisonment, the defendant would be eligible to parole. Opinion by Justice Hilliard. Justice Bock dissents.

Townsend v. People. Decided February 24, 1941.

Instruction upon the issue of first degree murder by means of torture reviewed and held erroneous and prejudicial. En Banc. Chief Justice Bouck and Justices Bakke and Burke dissent.

No. 14876. French v. Ins. Co. Decided February 24, 1941.

HELD: That a provision on the back of fire insurance policies in fine print conditioning the validity of the coverage upon the fact of ownership of the realty in fee simple, may be and was waived, by facts showing no misrepresentation by assured, no concealment, good faith and careful payment of premiums, together with absence of inquiry by the insurer plus acceptance and retention of the premium, with presumptive knowledge of the condition of the title. En Banc. Opinion by Justice Young.

No. 14612. Peters v. Schillig-Scott Lumber Company. Decided March 3, 1941.

The question of the adequacy of the averment of facts in a complaint to state a cause of action for negligence must be viewed in light of the proposition that where reasonable minds differ on the existence of negligence of a property owner in maintaining his premises, the issue is for a jury, and held reversing the trial court that the complaint is sufficient against a general demurrer. Opinion by Justice Bock.

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CALENDAR

July 17, 18	Colorado Banking Institute, Boulder
July 19, 20	Institute on Trusts, Boulder
September 11	Meeting District Judges, Colorado Springs
September 12, 13	Annual Meeting Colorado Bar Association, Colorado Springs
September 22	Annual Meeting Commissioners on Uniform Laws
Sept. 29-Oct. 4	Annual Meeting American Bar Association, Indianapolis, Indiana