

## A RULING OF NOTE

**COMPLAINT IN THE SUIT AGAINST NICKY ET AL KNOCKED OUT.**

## BRITANNIA STOCK INVOLVED

**Judge Knowles Holds That One Cannot Be Held Legally Responsible for Failure to Deliver Something He Does Not Possess.**

In the United States court today Judge Knowles sustained the demurrer of two of the defendants to the complaint in the case of Charles A. Moore vs. George R. Nickey, the Britannia Mining company and others and dissolved the order restraining and enjoining the defendants from encumbering the Britannia stock pending the trial of the action.

In passing upon the document the judge did not confine himself to the simple sentence, "the demurrer is overruled," but handled the matter along the lines of an opinion. The decision is an important one, as it clearly demonstrates that a man cannot legally contract to deliver to another something he does not possess at the time the contract is made although he may acquire that something later on.

In the complaint Moore alleges that in 1882 he entered into an agreement with J. J. Nickey and Joseph O. Hudnut by which he was to acquire from them some shares of stock in the Britannia Mining company. He alleges that he gave the parties a promissory note for \$5,000 which bore the signatures of Theobald Switzer and himself; that the note was in payment for the proposed shares of stock; that he never received the promised shares.

**Suit Brought to Recover.**  
The suit was commenced a short time ago and was instituted for the purpose of compelling the defendants, some of whom, it is claimed, succeeded to the stock owned by J. J. Nickey, to fulfill the terms of the J. J. Nickey and Hudnut agreement. Pending the hearing of an order to show cause why the defendants should not be prevented from disposing of the stock or encumbering it in any way, the defendants were restrained and were to have shown cause today.

In the meantime, however, the defendants filed a demurrer, which was argued and taken under advisement by the judge until today.

Just before the hearing on the temporary injunction was called the judge passed upon the demurrer in the manner stated.

In rendering his decision Judge Knowles stated the complaint showed that at the time J. J. Nickey and Joseph O. Hudnut entered into the contest with Moore they did not possess that which they agreed to give him in exchange for his \$5,000 note; that they had a lease and bond on the Britannia quartz claim, but did not secure title to it until June of 1883, which was several months subsequent to the time the agreement or contract was entered into between the parties; that they therefore had nothing to give Moore.

The contract, it seems, was made September 30, 1902, but the Britannia company was not organized until January 7, 1893, and the title of the Britannia claim did not pass into the possession of Nickey and Hudnut until June of that year.

J. J. Nickey, who was a brother of George R. Nickey, died in Texas a few years ago and, according to reports, no administrator for his estate has ever been appointed. The stock held by him in the Britannia, which was acquired through the sale of the property to the Britannia company, went to his widow, who was made a party to Moore's suit.

Judge Knowles informed the attorney for Moore that before he could maintain a suit to enforce the contract it would be necessary for him to have an administrator appointed for the estate left by J. J. Nickey.

## WILL CURES!

**WHAT CURES?  
PERRIN'S  
PILE  
SPECIFIC**

No application necessary. Just take it, that's all.

For Sale at all Druggists  
Write for descriptive pamphlet.

C. A. PERRIN, M. D.,  
Helena, Mont.

## Sutton's Broadway Theater

Three Nights and Special Tuesday Matinee, Commencing Sunday, March 9, the James B. Delcher Company Presents the Eminent Shakespearean Star,  
**CHARLES B. HANFORD**  
Supported by the Beautiful  
**HELEN GRANTLY**  
and a Splendid Company, in an Elaborate Revival of Shakespeare's Merriest Play,  
**TAMING OF THE SHREW**  
PRICES—\$1.50, \$1.00, 75c., 50c. and 25c.

## SUTTON'S FAMILY THEATER

This Week—Saturday Matinee  
**W. A. White's Elite Company**  
"He Forgave Her"  
Prices, 50c, 25c; Matinee, 25c.

## THE BUTTE MINE

A Full Acting Company. Prices, 50 and 25 cents.

## BILLINGS IS BUSY

**HOW THE YELLOWSTONE TOWN IS FORGING TO THE FRONT.**

## IMPROVEMENTS IN PROGRESS

**Wool Shipments Are Increasing—New Electric Power Plant—Town Has an Enterprising Board of Trade.**

"For a genuine example of Western town pride go to Billings."  
So said A. Buchanan, a well-known newspaper man from that thriving little city, at the Thornton this morning.

"If there is any man in Billings who is not willing to champion her cause and herald his town as the coming metropolis of the Northwest, he is considered a quitter."

"There are numerous reasons why the people of Billings should feel a commendable pride in the city's growth and look for a glowing future."

### Splendid Development.

"The way that country is being developed is something marvelous. There are evident indications of the progress in the growing enterprises and in the buildings in construction and in contemplation. A new city hall is being built. A business block which will soon be completed is one of the most imposing buildings in Eastern Montana.

"The electric light people are making arrangements for the construction of another large building and many plans are under consideration for the erection of residence and business houses all over the city."  
Superintendent Horn has just announced that the railroad company proposes remodeling and enlarging the wool warehouse to meet the extraordinary increase in the shipments from that point. Heretofore the railroad people have not been able to handle the wool fast enough for the buyers. An immense outlying tract of country sends its wool to Billings; in fact, it is the main shipping point for the wool of Eastern Montana.

### City Park in Prospect.

"Nor in the general rush for material advancement is the embellishment of the city forgotten, for the citizens are making preparations to lay out a pretty park near the depot. The railroad company has already donated land for the purpose and all that is needed to carry out the plan is the acceptance and assistance of the city council, which will undoubtedly be given."

"They have an enterprising board of trade in Billings, which is continually alive to the interests of the community, and never fails to take advantage of an opportunity to advertise its town and bring it before the notice of settlers and speculators."

"Among the many methods of advertising the city, the board of trade has decided to get out a number of folders for distribution on the trains. These neat little pamphlets will set for the various resources of the adjoining country, the many opportunities for business enterprises, and the demand for mechanics of every class and especially in the building trades."

### RATES FOR SEVERAL MEETINGS

The Northern Pacific and Great Northern Railroad companies have announced a rate of one and one-third fare for the round trip for those who intend to visit Helena on the occasion of the organization of a state agricultural society in that city on the 14th of this month.

Tickets can be bought on the 12th and 13th and will be good on the 16th provided they are signed by the secretary. It is presumed, however, that the St. Paul rate will prevail for them.

The following meetings are to be held: Biennial gathering of Knights of Pythias at San Francisco from August 12th to the 14th. The round trip fare from St. Paul via some Southern route and returning via the Northern Pacific from Portland, will be \$61. Passengers can travel from San Francisco to Portland either via the Shasta route or the Oregon Railway & Navigation company's steamers.

Federation of Women's clubs at Los Angeles from May 1 to 8.  
Imperial council meeting of Mystic Shriners at San Francisco from June 10th to the 14th.

National convention of the Travelers' Protective association at Portland from June 3d to the 7th.

### A BOOM ON THE FLAT.

Many Inquiries for Lots and Several Houses Now Building.

Every indication points to the valley south of town as the scene of activity in real estate this summer. New additions are being platted. The street cars will be running out two miles south by May first. It is asserted by real estate dealers that the prospect was never brighter for that side of town.

People are beginning to realize that the advantages of that section being close in with pure water, no smoke and low prices must attract the city that way. The B. A. & P. Railway Co. will extend a branch of their road south of town to catch their proportion of traffic, the material for construction being now at Rocker.

The owners of the Gallatin addition have anticipated this move and now have already platted over one thousand lots adjoining Butte on the south.

Jones' dairy farm. Pure pork sausages at Brophy's.

## NEW START MADE

**THREE BURGLARY INFORMATIONS FILED TODAY.**

## JOHN PAUL STORE ROBBERY

**Richards, Ruttan and Ruttan's Quasi Wife, May Miller, Were All Charged With Burglary Today.**

A new start was made this morning in the prosecution of J. E. Richards, Albert Ruttan and Mary Miller, who passes as Mrs. Ruttan, for the burglary of the store of John Paul, the Assyrian merchant.

Informations were filed against Ruttan and the woman, and a second information was filed against Richards.

The informations were filed in Judge McClerman's court, though the court was apparently reluctant to accept them.

When Assistant County Attorney Yancey asked leave to file the informations the court said: "Well, I'll let you file them, but I do it very reluctantly."

Richards was tried once and the jury disagreed. The assistant county attorney asked the court to dismiss the old information before offering the new one for filing. That was done. It was dismissed because it was not satisfactory in that it did not make room for the prosecution of Ruttan and his quasi-wife on the same charge as Richards.

### Allen to Defend Richards.

Richards and the Ruttans were in court and Attorney Allen was appointed by the court to represent Richards again. Attorneys Alley and Gilchrist represent the Ruttans. Richards gave his true name as Waters, which, while known to the authorities, was not made public before because of the man's desire to conceal himself from his parents.

Richards will receive affidavits to show his previous good character and the use of his true name is necessary for that purpose.

Mrs. Ruttan was asked her true name, and she replied: "My name is Miller."

The time for the three defendants to plead was set for next Monday morning.

## WILL FIGHT PAGE

**A WIFE WHO CLAIMS TO BE VERY MUCH AGGRIEVED.**

### MRS. PAGE IS COMING WEST

**She Says She Was Deserted by Her Husband Seventeen Years; That He Is Rich and She Destitute.**

S. E. Page, a man who recently brought suit for a divorce against his wife, Rose Page, on the ground of desertion, has an interesting contest on his hands.

His wife is coming to Butte from St. Johns, Canada, to give him a stout fight. The sheriff of St. Johns has announced the fact in a letter to the Inter Mountain, just received. Mrs. Page will be here March 20.

Page's complaint was somewhat unusual in its charges of abandonment, alleging that Mrs. Page refused to follow him from St. Johns to Cohoes, New York; from Cohoes to Green Island, same state, and from Green Island to Butte.

### Will Charge Desertion.

Mrs. Page says that Page deserted her and that she could learn nothing of him for two years. She adds that he got rich in Butte, and wanted to pay her \$6 a month alimony. The letter of the St. Johns' sheriff is as follows:

"St. Johns, P. Q., Canada,  
"March 3, 1902,  
"Editor the Butte Inter Mountain, Butte:

"Dear Sir—Could I trespass on your kindness for the insertion in your valuable paper of the enclosed communication. I would esteem it as a great favor. A friend of mine sent me the number of your paper wherein you mention this case. You, no doubt, will do the wife justice by mentioning her version. I am doing all I can to get her an alimony. She is poor, getting old, has to depend on public charity. Page is a rich man and it is an outrage on his part to refuse her help. She is known very favorably by Mr. S. Marchessault of Butte, and Jos. Mennler, members of our legislature, and many others. Hoping a favorable reply and offering my services at any time. I remain, your truly,  
"CHAS. ARPIN."

The enclosed communication is as follows:

"Mrs. S. Page, who is living in St. Johns, Province of Quebec, enjoys the esteem of the community. She is favorably known to some of Butte's best citizens whose names will be made known later. She was abandoned by her husband 17 years ago. She was, for the two first years, without the least clue as to his whereabouts. He made money in Butte. Seeing this, his wife, a hard-working woman, getting on into years, backed by St. Johns' most prominent citizens, made known through her attorney to her husband that she would insist on an alimony. In reply Page offered \$30 for six months of arrears and said that he would pay \$6 per month in future. This offer was gracefully refused. Later Page's attorney called on Mrs. Page's attorney and asked for a few days of respite that his client would make a tangible offer of settlement. This was followed by a suit for divorce, instituted evidently to shirk the responsibility of an alimony. Mrs. Page has the best legal talent at her back and she is leaving for Butte to fight the case to a finish. She expects to be there on the 20th instant accompanied by a prominent citizen of St. Johns, Canada."

Rev. C. C. X. Laws, who has been pastor of the Shiloh Baptist church at Sacramento, Cal., has been called to the pastorate of the Bethel Baptist church of this city.

Open Tonight Till 10 O'clock

# SPECIALS

FOR SATURDAY

<p><b>Men's Suits and Overcoats</b></p> <p>Among these are some great values in fancy wo-sted suits, cassimeres, chevots, meltons, serges and clays; round cut, double breasted, square cuts and cutaways; suits for stout men, suits for slim men; all short lots, but long values; not all sizes of any, but some sizes of all lots; plenty of your size. Big value at \$20.00 On sale at ..... \$10.95</p> <p><b>Cut Price Sale on Men's Overcoats</b></p> <p>Not an overcoat in the line worth less than \$22.50; great variety of colors, styles and materials; beavers, kerseys, meltons, heavy Oxfords, grays and browns; some made with yoke, slash pockets and cuff sleeves, full satin lined, coverts and kersey among these bargains; also stots and slims. All to clean up today at ..... \$10.95</p> <p><b>Boy's Fancy Vests</b></p> <p>All double breasted, ages 3 to 8; fancy velvets and worsteds and silk mixed materials; made with fancy buttons on front; all worth 75c to \$1.00. On sale today at ..... 25c</p>	<p><b>Boys' Suits, Special</b></p> <p>In vestees and two-piece all winter weight; vestees run from 3 to 9 and have regular vests and small collar; great variety of colors in chevots, cassimeres and worsteds; blue, black and black mixtures. The two-piece suits are of about the same materials, in ages 8 to 16; splendid for school suits. All well worth \$2.50 to \$3.00. On sale today at ..... \$1.25</p> <p><b>Boys' Reefers, Special</b></p> <p>In great variety of colors, in kerseys, meltons, chevots, flannel, red and blue and brown serges, made up with velvet collar and brass buttons; sleeve cuffs and yokes; excellent values for \$5.00 and \$6.00. On sale today at ..... \$3.40</p> <p><b>Boys' Separate Vests</b></p> <p>With waist attachment; great variety of colors, of wool flannels, pique fronts, nice to wear with any suit; ages 3 to 8; worth 50c to 75c. On sale today at ..... 15c</p>
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## Eclipses all Shoe Sales

<p><b>Men's Fine Shoes</b></p> <p>Our celebrated Korreck shape line in all the new spring styles of toes and lasts, in visl kid, kangaroo, box calf and the new guaranteed patent leather; all sizes and widths ..... \$4.00</p>	<p><b>Youth's Shoes</b></p> <p>For school wear, made in the "Little Gent's" style of high grade satin calf and kangaroo calf leather; solid oak leather; bottoms quilted with small brass nails and circles; sizes 9 to 13; value \$1.75. Special ..... \$1.19</p>
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## Men's and Boys' Shirts and Underwear

<p><b>Men's Fine White Shirts</b></p> <p>This shirt is made of a good quality of muslin, pure linen bosoms and wrist bands; comes in both the long and short bosom, reinforced throughout and worth \$1.25. Today ..... 75c</p> <p><b>Men's and Boys' White Shirts</b></p> <p>This is a special lot of shirts; come in all sizes; laundered, with stiff linen bosoms and cuff bands; good quality of muslin; a bargain anywhere at 75c. Today ..... 30c</p> <p><b>Men's Fancy Half Hose</b></p> <p>This is a broken lot of odds and ends; they come in a variety of styles, such as black with silk heels and toes, mottled mixtures, polka dots and others; all in at one price. Today, pair ..... 10c</p> <p><b>Silk Bow Ties</b></p> <p>Large assortment of colorings in this lot of ties; they are worth 25c. Today ..... 10c</p> <p><b>Men's Handkerchiefs</b></p> <p>Fine cambric handkerchiefs; full size and hem-stitched; worth 15c. Today ..... 7c</p>	<p><b>Root's Medium Weight Underwear</b></p> <p>Come only in gray and natural camel's hair colors; finished neck and cuffs; the drawers are finished throughout to give strength and wear; worth \$1.25. Today ..... 75c</p> <p><b>Ribbed Cotton Underwear</b></p> <p>This is a good quality of derby ribbed goods; well finished and worth regularly 50c. Today ..... 39c</p> <p><b>Boys' Suspenders</b></p> <p>Good ones, come in large line of colored stripes; worth 15c. Today ..... 7c</p> <p><b>Men's Suspenders</b></p> <p>Good, heavy sus-penders; tape ends; metal fastenings; worth 15c. Today ..... 9c</p> <p><b>Men's Suspenders</b></p> <p>Here is another; it is a snap; one that will stand hard wear; they are good and pretty; worth 35c. Today ..... 19c</p>
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## ELKS GO TO HELENA

no friends here. Have asked police committee in session this afternoon to investigate. DAVEY.

Arrangements will be made to bring back the entire herd tomorrow morning, providing no one has lost his liberty. The Butte Elks went to Helena for the purpose of conferring with Elks from other portions of the state in regard to the Salt Lake meeting.

### One Million Dollars.

The death claim of Frank H. Peavy of Minneapolis was filed December 20, 1901, and the Mutual Life Insurance company of New York issued their check for \$1,000,000 in 10 days thereafter in settlement of the same. This is the most gigantic payment ever made in the world on a life insurance claim. The "Mutual" of New York has carried the insurance on the ONLY two MILLION DOLLAR POLICES in the world, the above being one of them, while the other is that of George W. Vanderbilt of New York, who is alive and now paying an annual premium of \$25,000 per annum on the same. Mr. Peavy paid only two premiums of \$48,390, to the "Mutual Life," and his estate received \$1,000,000 in return for his wise investment. This should be an incentive to persons of less financial means to proportionately make the same kind of investment. If a policy holder dies his estate receives many fold return for his investment, while if he lives to the maturity period of his policy he is certain to receive all of his annual payments returned in cash, together with a legitimate rate of interest on his money. W. C. Bachelor, one of the oldest and most widely known citizens of this community, is the district manager for this great and strongest insurance company, and any man or woman desiring to have insurance, and at the same time investment, will be accommodated by either addressing by mail or calling upon him at 15 West Broadway, Butte, Montana.

### "Sir!" exclaimed the irate woman.

"Remember, you are a married man."

"Oh, Columbus!" he gasped.

No, gentle reader, this was not a passage in a scandal; only Mrs. Jones reminding her lord and master that, being a married man, it was his cue to go downstairs and attend to the furnace.

## HUNDREDS OF LADIES

Saw Them Yesterday

Those New Tapestry Wall Papers. We'd be pleased to have you see them.

### ART SUPPLIES AT EASTERN PRICES

CARDER WALL PAPER CO.

C. V. Franzman, Prop. King Block, 115 W. Park

## ELKS GO TO HELENA

ANTLERED HERD WENT OVER THE RANGE TODAY.

### ARRANGE FOR SALT LAKE TRIP

Game Warden Advised to Be on the Lookout for them—Trip Occasion for Exchange of Official Telegrams.

This telegram flashed over the wires to Helena this morning:

"W. F. Scott, State Game Warden, Helena, Montana: Have lost herd of elk—being chased out of season. It is a pure bred Galloway herd with Neill brands. Round-up if you find them and soak 'em for storage."

"W. H. DAVEY, Mayor,"

Friends of the herd of elk in Butte are considerably worried over the fact that the frankish toothbeaters have broken from the municipal corral, and, headed by the bell elk, one Harry Galloway, started this morning in the direction of Helena.

One or two Butte Elks were to go to Helena to attend a meeting of the various lodges in the state to arrange for the grand lodge session. Dr. Haviland, past district deputy, with A. F. Bray as a guard against bunco men, were given permission to go to the capital but as soon as the bars were let down most of the herd of wild ones scampered to the train at 9:30 o'clock this morning and jumped town.

### Escape Caused Excitement.

Since then there has been much excitement over the escape and the mayor's telegram was sent out of regard for the mamma Elks who stayed at home to guess what those freakish fawns might do in a big city like the state capital. The state game warden is thought to have some sort of control by reason of his office and the further fact that he always carries one of those new patented repeating pistols and a well-filled purse.

Among those who have strayed away are these:

H. A. Galloway, Thomas Bryant, C. P. Connelly, D. J. Dwyer, J. W. Gansberger, P. C. Gillis, Frank Kilmontin, Dr. W. H. Haviland, C. B. Hoskins, M. P. Lavelle, William Luxton, Arthur Mueller, E. L. Mayo, James Grant, J. L. Strong, Thomas Scabbon, Dan Tewey, Samuel H. Treloar, C. F. Sully, P. C. Bennett, Sol Gansberger, John Berkin, O. F. Brady, James Finlen, W. D. Fallon, M. P. Gilchrist, James Galiger, Thomas Kligallan and H. O. Wilson.

### Some Messages.

Late this afternoon the following message was received at the city hall:

"Mayor Davey, Exalted Stay-at-Home: Have captured one Elk who answers to name of Tom Bryant. His tooth is broken and pocketbook empty. Says you'll stand for him."

"TRAVIS, Chief of Police."

The following answer was sent:

"Travis, Chief: Was a man in council named Tom. Lost his pull and has

## BURBRIDGE INFORMATION FILED

Assistant County Attorney Yancey this morning filed an information in Judge McClerman's court charging O. H. Burbridge with grand larceny. Burbridge is accused by Fred M. Ferrell of stealing \$5,000 from the Ferrell company two years ago.

Burbridge was the manager of a branch stock broking firm for the Perrells. A bench warrant was issued for him, but whether the authorities can serve it or not remains to be seen.

Jones' dairy farm. Pure pork sausages at Brophy's.