

**WORDS AND PHRASES: INTERPRETED,
DEFINED AND COMMENTED UPON BY
THE SUPREME COURT OF
THE STATE OF MONTANA; IN ITS
DECISIONS AS FOUND IN VOLUMES 1-34
OF THE MONTANA REPORTS**

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A. C. SCHNEIDER

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SUPREME COURT OF THE STATE OF MONTANA

In Its Decisions as found in
Volumes 1-34 of the Montana Reports

COMPILED BY

A. C. SCHNEIDER

A Member of the Bar of Montana

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PREFACE

Believing that a compilation of the words and phrases (both legal and non-legal) which have been the subject of interpretation, definition or comment in the decisions of the Supreme Court of the State of Montana, published in Volumes 1 to 34, inclusive, of the Montana Reports—which latter volume will embrace all opinions filed up to January, 1907,—would be of assistance to the busy practitioner, the compiler commenced this work about two years ago. In order to minimize the possibility of error, the matter herewith submitted has been carefully verified. Wherever the particular word or sentence is part of a section of the Organic or Enabling Act, the Constitution, Codes or Statutes, the section is given. The references to the Montana Reports are to the page or pages on which the word or phrase treated may be found, while the citations to the Pacific Reporter are made to the first pages of the particular opinions.

The hope for approbation entertained by the compiler is based upon the knowledge that his work has been conscientious, most laborious and, in a great measure, one of love. He entered into its preparation well knowing that the sale of the book would practically be limited to the active attorney within this commonwealth, and that in all probability no more than the cost of publication would be realized. He is content, however, if the attorney whose labors are lightened by a reference to the within pages will be appreciative of the efforts put forth in its preparation and overlook any errors which may have crept into it, although it is confidently believed none will be found.

A. C. SCHNEIDER.

Helena, Montana, January 1, 1907.

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WORDS AND PHRASES

A compilation of the words and phrases defined, interpreted or commented upon by the Supreme Court of the State of Montana in its decisions, as published in Volumes 1 to 34, inclusive, of the Montana Reports.

A.

"A" judge—writ or order may be granted by—Equivalent to **"Any."** (Comp. Stat. First Div. Sec. 172.)

Wallace v. Helena E. Ry. Co., 10 Mont. 47 et seq.

"A"—"The" for—

Wastl v. Montana U. Ry. Co., 24 Mont. 177; 61 Pac. 9.

"Abandonment"—

Ducle v. Ford, 8 Mont. 241; 19 Pac. 414. (Of mining claim.)

McKay v. McDougall, 25 Mont. 262; 64 Pac. 669. (Same.)

McDermott M. Co. v. McDermott, 27 Mont. 150 et seq.; 69 Pac. 715. (Same.)

Wolf v. Great Falls W. P. & T. Co., 15 Mont. 71; 38 Pac. 115. (By failure to pay taxes.)

Tucker v. Jones, 8 Mont. 223 et seq.; 19 Pac. 571. (Of water right.)

Meagher v. Hardenbrook, 11 Mont. 339; 28 Pac. 451. (Same.)

Middle Creek Ditch Co. v. Henry, 15 Mont. 577; 39 Pac. 1064. (Same.)

Norman v. Corbley, 32 Mont. 203; 79 Pac. 1069. (Same.)

"Abetting" crime—(Penal Code, Sec. 41.)

State v. Allen, 34 Mont. —; 87 Pac. 177.

"Ab Inconvenienti" argument—

Heinbockle v. Zugbaum, 5 Mont. 348; 5 Pac. 897.

United States v. Williams, 6 Mont. 288; 12 Pac. 851.

Wallace v. Helena E. Ry. Co., 10 Mont. 45; 25 Pac. 278.

State ex rel. New York Sheep Co. v. Dist. Court, 14 Mont. 602; 37 Pac. 969.

State v. Camp Sling, 18 Mont. 137; 44 Pac. 516.

Palmer v. City of Helena, 19 Mont. 68; 47 Pac. 209.

Hilburn v. St. Paul Ry. Co., 23 Mont. 249; 58 Pac. 311.

City of Helena v. Rogan, 26 Mont. 475; 68 Pac. 798.

State ex rel. Bray v. Settles, 34 Mont. —; 87 Pac. 445.

"Absolute Necessity"—

B., A. & P. Ry. v. M. U. Ry., 16 Mont. 539; 41 Pac. 232.

"Abuse of Discretion"—

Bordeaux v. Bordeaux, 30 Mont. 40; 75 Pac. 524.

"Acceptance"—

Brophy v. Idaho P. & P. Co., 31 Mont. 285; 78 Pac. 493.

"Accessory"—

State v. DeWolfe, 28 Mont. 423 et seq.; 74 Pac. 1034.

"Accident"—

United States v. Power, 6 Mont. 274; 12 Pac. 639.

"Accompanied" for "Accomplished" by means of force, etc.—
taking of personal property. (Penal Code, Sec. 390.)

State v. Johnson, 26 Mont. 10; 66 Pac. 290.

"Accomplice"—

State v. Spotted Hawk, 22 Mont. 65; 55 Pac. 1026.

"Accomplished" by means of force, etc.—taking of personal property. (Penal Code, Sec. 390.)

State v. Johnson, 26 Mont. 10; 66 Pac. 290.

"Accord and Satisfaction"—

Story v. Maclay, 6 Mont. 497; 13 Pac. 198.

"Accounts"—(Compiled Statutes, Fifth Div. Sec. 762.)

Powder River C. Co. v. Commissioners, 9 Mont. 152; 22 Pac. 333.

"Account Stated"—

Voight v. Brooks, 19 Mont. 375; 48 Pac. 549.

Bradshaw v. Morse, 20 Mont. 218; 50 Pac. 554.

King v. Lincoln, 26 Mont. 159, 66 Pac. 836.

Stagg & Conrad v. St. Jean, 29 Mont. 292; 74 Pac. 740.

Martin v. Heinze, 31 Mont. 73; 77 Pac. 427.

Noyes v. Young, 32 Mont. 235; 79 Pac. 1063.

"A Concise Abstract or Statement of the Case"—(Supreme Court Rules, Rule X.)

State ex rel. B. & M. etc. Co. v. Dist. Court, 22 Mont. 230; 56 Pac. 219.

"Acknowledgment"—

Taylor v. Holter, 1 Mont. 710.

Middle Creek Ditch Co. v. Henry, 15 Mont. 578 et seq.; 39 Pac. 1054.

"Acquittal"—

State v. Keerl, 33 Mont. 501; 85 Pac. 862.

"Act"—

Chumasero v. Potts, 2 Mont. 284 et seq.

"Act"—a judge shall not **"act"** as such—(Comp. Stat. First Div. Sec. 547.)

First National Bank v. Roberts, 9 Mont. 339; 23 Pac. 718.

"Action"—

Chumaseo v. Potts, 2 Mont. 269.

First National Bank v. Roberts, 9 Mont. 339; 23 Pac. 718.

In re McFarland's Estate, 10 Mont. 455; 26 Pac. 185.

State ex rel. Newell v. Newell, 13 Mont. 304; 24 Pac. 28.

Bookwalter v. Conrad, 15 Mont. 471; 39 Pac. 673.

Haupt v. Burton, 21 Mont. 573; 55 Pac. 110.

In re Wellcome, 23 Mont. 260; 58 Pac. 711.

Butte & Boston Co. v. Mont. Ore Pur. Co., 24 Mont. 131; 60 Pac. 1039.

State ex rel. Nissler v. Donlan, 32 Mont. 266; 80 Pac. 244.

State ex rel. Carleton v. Dist. Court, 33 Mont. 142 et seq.; 82 Pac. 789.

"Actionable Negligence"—

Driscoll v. Clark, 32 Mont. 188; 80 Pac. 1.

"Action arising on Contract"—(Code Civ. Pro. Sec. 66.)

Oppenheimer v. Regan, 32 Mont. 116; 79 Pac. 695.

"Action or Proceeding"—

First National Bank v. Roberts, 9 Mont. 340; 23 Pac. 718. (Comp. Stat. 1887, First Div. Sec. 548.)

State ex rel. Carleton v. Dist. Court, 33 Mont. 142; 82 Pac. 789. (Code Civil Pro. Sec. 180.)

"Acts and Contracts"—of a corporation—(Comp. Stat. 1887, Fifth Div. Sec. 444.)

Powder River Cattle Co. v. Commissioners, 9 Mont. 150; 22 Pac. 353.

"Actual and Continued Change of Possession"—

Dodge v. Jones, 7 Mont. 129 et seq.; 14 Pac. 807.

"Actual and Necessary Expenses"—

Territory ex rel. Tanner v. Potts, 3 Mont. 368.

"Actual" change of possession—

O'Gara v. Lowry, 5 Mont. 436; 6 Pac. 583.

"Actual" delivery—

Morris v. McLaughlin, 25 Mont. 155; 64 Pac. 219.

"Actual" fraud—

Sathre v. Rolfe, 31 Mont. 88; 77 Pac. 431.

"Actual Occupation"—

Schnepel v. Mellen, 3 Mont. 134.