

# BALLINGER DAILY LEDGER

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BALLINGER, TEXAS, FRIDAY, JULY 29, 1921.

MEMBER ASSOCIATED PRESS.

## BIG LOSS SHOWN IDLENESS OF MEN

NEW YORK, July 29.—Idle men and idle machinery is causing a loss of nearly one billion dollars a year to the metal trades industry, says a report of the committee on elimination of waste in industry, which was appointed by the American Engineering Council. The report was made public today and declares that the instability of labor and employment are the chief causes of the big loss which the country is sustaining.

## LOSES FLIGHT AGAINST DEATH

LIMA, Ohio, July 29.—Michael Spellacy, of Tulsa, Oklahoma, lost in a transcontinental race against death today when his airplane arrived here too late for him to see his brother, of Los Angeles, who died in a hospital here.

## WILL ATTEND THE SAN SABA FAIR

A rally of the West Texas Chamber of Commerce will be held at the San Saba Fair on August 18th, this day having been set aside as West Texas Chamber of Commerce Day, and every town in West Texas has been urged to send delegations. The Y. M. B. L. will attempt to send a strong delegation to the meeting. San Saba people are planning for the most successful fair in its history.

Will Gross came in from Mineral Wells Friday, and will spend a few days here looking after his ranch interests.

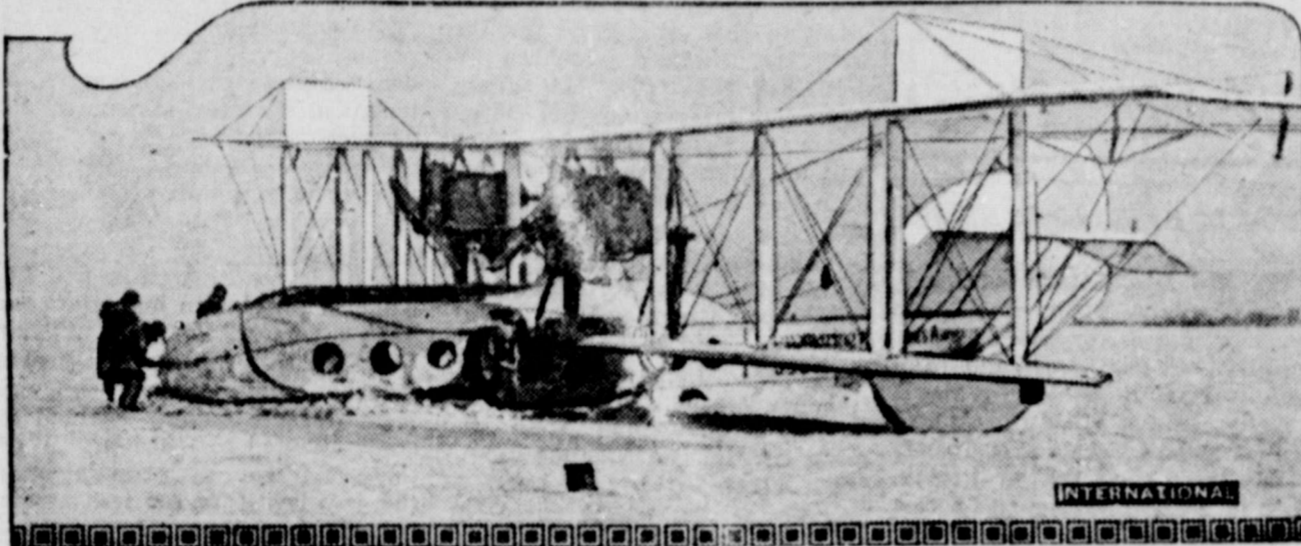
## SAYS PALLAGRA REPORT UNTRUE

WASHINGTON, July 29.—Replying to the charges that the administration had exaggerated the pellagra and famine conditions in the South, President Harding today declared in a letter to Representative Byrnes, of South Carolina, today, that official reports indicated contrary to the claims of the representative. Mr. Harding stated that government investigation would continue.

## JUDGE FREE ON BRIBE CHARGE

SAPULPA, Okla., July 29.—Charges that Judge Lucian B. Wright, of the District Court of Creek county, had accepted a bribe of \$10,000 in connection with the decision of the Tommy Atkins oil case, was dismissed in twenty minutes after the justice court convened today for the third day's hearing.

## Flying Boat Is Trapped in Ice Off New Jersey



After spending the night in the cabin of the ice-trapped flying boat Ponce De Leon, the crew of seven made their way ashore on the ice in Raritan bay, Keyport, N. J. The Ponce De Leon, one of the Aeromarine fleet, was on a trial flight preparatory to a long trip South. Descending off Keyport, the plane was unable to rise because of the ice which had frozen to the pontoons. A few hours later it was frozen in solid.

## ANGELO PROTESTS SANTA FE MOVE GET NEW ORDERS

Miss Lucy Stephenson, assistant secretary of the Young Men's Business League, who is handling the work most successfully in the absence of Stuart L. Williams, is in receipt of a letter from Thos. F. Owens, secretary of the Board of City Development of San Angelo, which says: "Dear Miss Stephenson: "At a meeting of the Board of City Development on yesterday, a resolution was adopted whereby the citizens and business interests of San Angelo most vigorously protest against the Santa Fe railroad from discontinuing the night passenger train service between Brownwood and San Angelo as is contemplated by the officials of the Santa Fe.

"I have been requested to write and ask what action you have taken in this matter, and also to ask if your community will appoint a committee to work with similar committees appointed by the towns along the road in uniting in a formal protest to the railroad commission in not allowing the Santa Fe to discontinue this much needed service."

The letter from Mr. Owens states that a committee has been appointed at San Angelo and the committee is seeking the aid of other towns. The Santa Fe officials recently visited the towns along the road from Brownwood to San Angelo and met with a few business men and asked that their move to take off this train be allowed to go before the Railroad Commission without a protest. No action has been taken by the local commercial association, but immediate action will be taken and Ballinger will co-operate with San Angelo in her efforts to prevent the train service from being crippled.

We are approaching the busy season of the year, when one train a day on this line will delay traffic and business, and those who recall scenes at the station last fall will remember that there was some delay and congestion even with two trains a day.

As one prominent citizen expressed it, "we can't afford to go backward." The war is over. The people submitted to a reduction of service during the war, but it was proven that the traffic on this line demanded better service and the train was restored, and now the railroad complains that the service must be cut on account of a lack of business, and that one train can handle all the business.

It has often been said that the San Angelo branch of the Santa Fe was one of the best, if not the best paying lines of the Santa Fe, and if that be true the patrons of the road are entitled to good service, and they will contend for this, and it is believed that the committee who has the matter in charge will be able to prove to the railroad commission that it is very necessary to keep the service up to the present standard.

Be WISE and Advertise

## ARMY AVIATORS GET NEW ORDERS

WASHINGTON, July 29.—Army aviators are forbidden to make spectacular flights, or do acrobatic flying over cities and other populous districts, in a general order promulgated by the war department today. Spectacular flying where people have not space to "dodge" a falling machine will not be allowed here after, and army aviators who violate the order will be subject to court martial.

## RODEO EVENTS HERE MONDAY

Monday will be first Monday in Ballinger. That is not saying that it will not be first Monday in other cities, but First Monday in Ballinger brings more people to this city than it carries to some other cities.

A short time ago traders revived the Trades Day here which for many years has been observed on the first Monday in each month, and for the coming First Monday these traders announce an informal program of rodeo events which will be staged on the old baseball lot North of the city.

The program will consist of riding, roping and racing, and experts in the various events will be here to compete for first honors.

Miles has on a "stampede" today, and some of the attractions for the monthly event in that town will be transferred to Ballinger for Monday, and traders from other counties will be registered here.

## HARWELL MOTOR CO. READY TO MOVE

The new home of the Harwell Motor Company is nearing completion, and the Fords will be at home in the new building within the next few days.

## BRITISH LORD DENIES REPORT

LONDON, July 29.—Premier Lloyd George before the House of Commons today read a statement today authorized by King George, declaring that the words attributed to the king concerning the government's Irish policy, in the reported interview in the United States by Lord Northcliffe, who controls the London Times, as a "complete fabrication."

WASHINGTON, July 29.—Lord Northcliffe made public today a cablegram which he sent to Lord Standfordham, private secretary to the king, denying having ascribed to King George the words as stated by the prime minister.

## KILLS LAWYER; II SHOOTSELF

CHICAGO, July 29.—Angered because he was dispossessed of some property and sentenced to jail for contempt of court, Henry D. Kellogg, Chicago police sergeant, today shot and killed Lemuel Ackley, an attorney, in a crowded court room, then seriously wounded himself in an attempt to commit suicide. Ackley died an hour after the shooting. Surgeons said Kellogg would recover.

## U. S. LOSES SOME EUROPEAN TRADE

WASHINGTON, July 29.—Exports to Europe fell off nearly a billion and five hundred million dollars, while those to South America increased more than thirty million dollars for the last fiscal year, as compared to the previous year, the department of commerce figures disclosed today.

## NEFF IS BEFORE GRAFT PROBERS

AUSTIN, July 29.—Appearing before the joint graft and extravagance investigating committee today, Governor Neff, after reiterating the charges of graft in the state capitol, said: "He had told the committee nothing new, except giving the name of R. V. Nichols."

Nichols is special investigator for the attorney general's department investigated the bogus checking of the sub-division of the health department. Governor Neff was requested to tell the committee of the charges he had made. He started with the penitentiary system, charging mismanagement and crookedness and so on. He told the committee of the padding of the scholastic census at Corpus Christi, and said that there were other counties guilty of this, but no money was available for investigation. The padding of expense accounts of six fire insurance commission inspectors at Wichita Falls came next in the governor's charges.

He then referred to the treasury department and the charge against Lon Morgan, indicted for embezzlement. He said that his information was that the state had not been repaid by Morgan's bondsmen and it was loser to the amount of \$15,000. In speaking of the health department and the bogus checking, the governor suggested that the committee have Nichols tell them of the matter as he had more detailed information. The governor said that he had not investigated other department due to a lack of time.

After thanking the governor for the information, the committee moved to request the heads of departments mentioned to appear before it next Wednesday.

## LONDON PLEASUED WITH JAPAN'S DECISION

LONDON, July 29.—Several London newspapers today expressed hearty approval of the Japanese government's decision to attend the disarmament conference.

The Ladies Home Journal now \$1.50 per year or 15c per copy. August number on sale tomorrow at Underwood News Co.

## DISARM MEET TO BE OPEN TO ALL

WASHINGTON, July 29.—It was indicated today that the United States would reject any suggestion for separate parties with any powers invited to participate in the disarmament conference. There was an intimation that at least one nation had suggested the advisability for such partial conference.

Read the ads and profit.

## COMPRESS AT BRADY DESTROYED

BRADY, Tex., July 29.—Fire of unknown origin destroyed the Brady compress and about 1,000 bales of cotton last night. The fire broke out between one and two o'clock and made a clean sweep of the press.

The cotton destroyed belonged to buyers and farmers, and was partly insured. The compress was owned by the Texas Compress Company.

The Texas Compress Co. also owns the Ballinger press. Doyle McCaskill, formerly of Ballinger, is manager of the Brady press.

**USED Automobiles For Sale CHEAP**

- 1 Ford Almost New.
- 1 Ford \$275.00
- 1 Buick \$275.00
- 1 Buick \$475.00
- 1 New Model Dodge, Cord Tires 32x34 \$1140.00

Ready to Go

**HIGGINBOTHAM BROS. & CO.**  
Automobile Department

P. S. See us for tires and tubes.

**DON'T**  
Sponge on your neighbors  
See our show window.

**SPONGES**  
big or little, for all purposes.

**J. Y. Pearce Drug Co.**  
Oldest—Biggest—Best.  
Free Delivery  
Telephone 38.

ELMER'S,  
NORRIS',  
JOHNSTON'S

**CHOCOLATES**

ALWAYS FRESH, KEPT IN REFRIGERATED CASE.

**WEEKS**  
Phones 12 and 13  
Prompt Delivery

**MEN'S SHOES \$2.95**

FORMER VALUES UP TO \$10.

These are all low shoes, but are worth much more than we ask. Better get yours today and one, two or three pair will be a good investment.

SPECIAL VALUES IN LADIES' SHOES.

**HIGGINBOTHAM BROS. & CO.**  
We Sell All Leather Shoes



# BEARCATS TAKE FOURTH STRAIGHT

10 to 7 is the way the Bearcats made the score read in the first game against the Sweetwater Swatters. The game was not quite as thrilling as the two previous shut-out games against San Angelo, but the fans were kept alive and several times the roof was lifted on the grand stand.

The Swatters started the fireworks by touching Ferguson for four hits and three runs in the first frame. It looked just a little bad for the Bearcats, but a first inning rally staged by the locals practically put the game on ice.

Speegle opened for the locals and flew out to right field. The next six men up hit for a total of nine bases and seven runs, making the sixth run in the second session when Briscoe walked and Brown hit for two bags. Johnston tightened up here and held the Cats to one hit in the next four rounds, but lost on two hits and two runs in the seventh and two hits and two runs in the 8th, with the ninth untouched.

The Swatters increased the score, making to four in the 4th, and a home drive by Mason, bringing in Johnston, who walked, in the seventh, tied the tally. It was here the Bearcats came back with a rush in their half of the seventh, and loosened the knot with two runs. In the 8th the visitors tacked up their seventh and last score without a hit, Ezzell walking, stealing second, making third on a bonhead play pulled by the locals and coming home on a long fly driven out by Thrash.

The box score:

Ballinger				
	AB	H	O	A
Speegle 1st	4	1	10	1
Briscoe ss	3	1	3	4
King cf	5	1	3	1
Brown lf	4	2	2	0
Langford rf	3	1	3	0
Knight 3rd	4	3	0	1
Earnshaw 2nd	3	1	3	4
White c	4	2	3	1
Ferguson p	2	0	0	0
Baldrige p	2	0	0	1
Totals	31	17	27	13
Sweetwater				
	AB	H	O	A
Mason 3rd	4	1	2	2
Obst 2nd	4	2	4	4
Ezzell ss	3	1	1	0
Neely cf	3	2	3	0
Thrash lf	4	2	1	0
Byers c	1	0	3	2
Whitney 1st	3	0	9	2
Pipkin rf	3	0	1	0
Johnston p	4	2	0	2
Totals	32	10	24	12

Score by innings:

	R	H	E
Ballinger	510	000	22x-10 13 0
S'water	300	100	210-7 10 3

Summary: Runs; Speegle, Briscoe 3, King 2, Brown, Langford, White, Knight, Mason, Obst, Ezzell 2, Johnston, Neely 2. Errors Obst 2, Mason. Two base hits, Brown 2, Ezzell. Three base hits, Knight, Thrash, Johnston, Home runs, Mason. Sacrifice hits, Briscoe. Double plays, Earnshaw to Speegle, Innings pitched, by Ferguson 3, by Baldrige 6; by Johnston 8. Struck out; by Baldrige 2, Johnston 2. Bases on balls; off Baldrige 4; off Johnston 3. Hit by pitcher, Johnston. (Speegle). Stolen bases, Ezzell, King. Time of game, 2 hours. Empire, Aiken.

## A Splendid Medicine for the Stomach and Liver

"Chamberlain's Tablets for the stomach and liver are splendid. I never tire of telling my friends and neighbors of their qualities," writes Mrs. William Vollmer, Eastwood, N. Y. When bilious, constipated or troubled with indigestion, give them a trial. They will do you good.

## BRADSHAW TEAM DEFEATS BRONTE

BRADSHAW, July 29.—Bradshaw captured Wednesday's baseball game from Bronte by the score of 18 to 6. It was the third game between the two teams, each having one game to their credit. The locals held the visitors scoreless up to the seventh, when over confidence and carelessness precipitated several bone head plays which allowed the visitors to run in six scores.

	R	H	E
Bradshaw	18	14	6
Bronte	6	8	4

Rubber Stamps.—The Ballinger Co.

Be Wise and Advertise—

## FATNESS NO SIGN OF HEALTH

Increased Weight, After the Age of Forty, Rather a Danger Signal, Say Experts.

When a person becomes stout after about forty years of age it does not worry him, or her, unless the stoutness be so great as to cause discomfort or disfigurement. Nevertheless, the statistics of life insurance companies prove that increase of weight with age is not favorable to length of days, according to Drs. Irving Fisher and E. L. Fisk, the greatest authorities on insurance statistics.

"What are the burdens of obesity and why does it shorten life?" asks the Journal of the American Medical Association. "Various answers, mostly indefinite in character, may be forthcoming in reply to this question. Tissue fat must be carried about like any other incubus. We are reminded that overweight puts a strain on the heart and on the joints, and that it pushes up the diaphragm and cramps the lungs. A gaining adult who is already overweight may find his physical activities restrained and bodily exertion made laborious. Accordingly, with an unchanged food intake the surplus of unused energy accumulates and a vicious cycle is presently established. The obese person inevitably limits his exercise; he grows heavier from the unused reserves, and his activity thereupon becomes even more restrained and limited. Overfeeding, obesity and lack of exercise interplay until 'big' becomes 'bigger.'"

And Dr. E. P. Joslin indicates fatness as responsible for diabetes.

## PROVIDES FARMS FOR POOR

Self-Help Project Favored by Nebraska Philanthropist Seems Move in Right Direction.

H. D. Watson, millionaire farmer and philanthropist of Kearney, Neb., who is perhaps doing more than any other one man in the United States to make the "back-to-the-land" movement a reality, is in Alamosa investigating the advantages of the San Luis valley as a place to locate one of his community farm projects. O. E. Meyer writes in the Rocky Mountain News.

Mr. Watson already has acquired a tract of 300 acres at Carbondale, Colo., and is now making arrangements for starting one of his farm communities there. However, the Carbondale district is limited in extent and land is higher priced, and he found it inexpedient to acquire as large a tract as he wanted. He will settle a family on each 22 acres of the Carbondale tract, and the only condition which Mr. Watson places upon an applicant for one of his community tracts is that the applicant be absolutely without money or other property.

The tenant is located on the tract with all necessary tools, stock and seed furnished. In addition he is furnished with a sum of money during the first year. After that the land is expected to produce enough to make a living for the family and provide a sinking fund for paying for the land. In six or eight years the farmer, if he is the right sort, owns his land.

## Mourning Chevrons on "Beer" Suits.

When the Princeton seniors appeared in their "beer" suits last year, with a black mourning brassard on the left sleeve, the idea was considered very nifty. But they've beaten it this spring. The beer suits were broken out early this week, and they have three small black chevrons on the left cuff, each indicating six months of prohibition. The beer suit custom is indigenous to Princeton. Before the days of Volsteadism the suits—plain white "jumpers" and pantaloons—appeared, simultaneously with the black beer signs, and gave unique distinction to the seniors, passing their last spring in scholastic trammels. Also, there were some jolly parties in certain cozy corners in the classic shades of the collegiate town. And maybe there are now—but in corners that are surreptitious as well as cozy.—Cincinnati Times-Star.

## Facing Buildings With Pottery.

In a recent lecture before an English gathering Prof. Beresford Pite discussed the possibilities of ceramic products in the clothing of reinforced concrete skeleton buildings. Unlike many architects who regard traditional practice as something quite sacred, Professor Pite would throw the conventions of the past to the winds in order to meet modern developments. While admitting the structural advantages of reinforced concrete, he is not an admirer of concrete as a material for exterior surfaces, and advocates the clothing of the structural skeleton with "a garment of permanent, effective, beautiful, ceramic color, unlimited in its variety and worth."—Scientific American.

## Those Old-Time Workers.

"When I was a boy," said Mr. Cumrox, "I worked 14 hours a day." "No, you didn't," replied Mr. Cassius Chex. "My father was keeping the store you worked in. You just hung around 14 hours a day because it was a warm, comfortable place to loaf."

## But the Elephant Must Be Fed.

If present conditions continue in certain lines of business there are going to be some people who will simply have to go hungry in order to buy their gasoline.—Boston Transcript.

## Australia's Heart in War.

Although conscription did not apply in Australia, of her total population of less than 5,000,000, 416,000 men and women volunteered for service.

## HOT LINERS

Local fans slipped Manager "Popboy" a roll of long green just as the ump's announced the batteries Thursday. That's backing confidence with cash.

Brown only hit for four bases in four times up against the Swatters. His average for the week figures .400 with a total of ten bases.

Sam Knight is leading the league in batting this week. Fifteen times up with nine hits figures .600, with a total base record of an even dozen.

Mason's four bagger tied the game in the seventh, but the Bearcats loosened the knot in their half of the session when Briscoe and King profited on errors and Langford brought them home when he hit the apple for first.

Ferguson went to Baldrige's rescue in Monday's game and Hank returned the favor yesterday. Result: Ballinger won both games. "Popboy" has his firing squad working perfectly, with a man always warmed up.

The Bearcats are headed for the top at a speed which can not be stopped by the first half pennant winners. Ballinger is going to get the big flag for the season. Watch us.

"Ernie" deserves honorable mention for starting the big end of a double play yesterday. The boy is getting in his hitting stride, too.

Looks like "Brick" just can't

# See Us NOW about your Battery

Suppose some queer trick of fate made you the owner of this service station and me the customer.

And I came in some day red hot because my battery had gone wrong—

And I had missed my train—

And I lost out on an important engagement—

And disappointed a good customer—

And stood to lose a lot of money—

You bet your life I'd be good and se 7, but I'm mighty sure I couldn't ask for any more courtesy and consideration and square dealing and SERVICE than we are giving right now day after day.

The time to have us look at your battery is before anything happens.

## BALLINGER AUTO CO.

Phone 505



This trademark, stamped in red on the case, identifies the Willard Threaded Rubber Battery.

# Willard Batteries

make an error. Some juggler, eh girl!

Local fans appreciate a good play as was evidenced by the glad hand given Neely by the grand stand when he pulled one out of the ozone with one hand while running backwards in center field yesterday. It was a star catch.

Chances are Ferguson would have pulled out of the hole, but the time to put a game on ice is before it melts.

Lefty Liles is now working in center field for the Bronchos and starred in the game yesterday which stopped the Abilene Eagles. Sensational fielding, a three base hit and two runs was to his credit.

Sam Langford ruined the Swatters chances when he robbed Obst of a hit, by stopping a long drive to right garden and shooting the ball to Speegle.

A teaspoonful of Herbine will produce a copious and purifying bowel movement, improve appetite, restore mental activity and a fine feeling of vigor and cheerfulness. Price, 60c. Sold by all druggists.

GUANAJUATO, Mex.—The heavy rains of the past few days have redeemed the worn and bean crops from what seemed certain failure. Water for operating the industrial plants became scarce because of the extreme delay of the rainy season.

A child can't get strong and puts the little one on its feet robust while worms eat away its again. Price 35c. Sold by all strength and vitality. A dose or druggists. two of White's Castor Oil and Syrup

# NOTICE To the Public:

We are now open for business one door South of the Fo-To-Sho and intend to carry a complete line of every thing that goes to make an up-to-date meat market.

We will appreciate at least a part of your trade. If we can't serve you after a trial order, it wont be our fault.

Telephone 153

# CITY MARKET

Free Delivery



# As Interesting as Your Every-day Mail

The advertisements in this paper were written to you. It is impossible for most merchants and manufacturers to send you a personal letter about their goods, their wares and their service. So they pay us for the privilege of calling these things to your attention in our advertising columns.

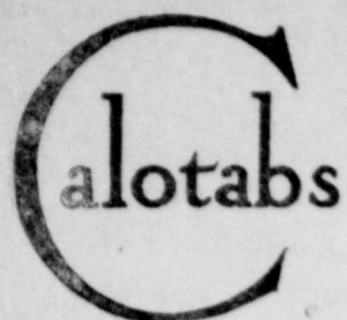
If they did not know that a certain proportion of our readers would be vitally interested in their message, they could not afford to advertise. It would be a losing proposition.

Read the advertisements as you would a personal letter. Many of them are just as important—and just as interesting. They will help you to economize and to keep posted on store news of of real interest to you and your pocket-book.

Don't lay aside this newspaper withorth reading the advertisements.

They are Personal Messages For You.

The next time you buy calomel ask for



The purified and refined calomel tablets that are non-toxic, safe and sure. Medicinal virtues retained and improved. Sold only in sealed packages. Price 35c.

Citation by Publication

THE STATE OF TEXAS,

To the Sheriff of any Constable of Runnels County—Greeting:

You are hereby commanded to

summon K. C. Ray, W. G. Nelson and W. T. Nelson by making publication of this Citation once in each week for four successive weeks previous to the return day hereof, in some newspaper published in your County if there be a newspaper published therein, but if not, then in any newspaper published in the Thirty-fifth Judicial District, but if there be no newspaper published in said Judicial District, then in a newspaper published in the nearest District to said Thirty-fifth Judicial District, to appear at the next regular term of the District Court of Runnels County, to be held at the Court House thereof, in Ballinger, on the last Monday in August, A. D. 1921, the same being the 29th day of August, A. D. 1921, then and there to answer a petition filed in said Court on the 16th day of June, A. D. 1920, in a suit, numbered on the docket of said Court No. 1986, wherein D. M. Hilliard, and John Q. McAdams, Trustees of the Winters Oil & Gas Company, are Plaintiffs, and K. C. Ray, W. G. Nelson and W. T. Nelson are Defendants, and said petition being

A suit by D. M. Hilliard and John Q. McAdams, as Trustees, as Plaintiffs against K. C. Ray, W. G. Nelson and W. T. Nelson, as Defendants, alleging that they were, on the 7th day of December, A. D. 1918, the owners of thirty-five oil and gas leases executed by various parties on various tracts of land situated in Runnels County, Texas, aggregating 7046.39 acres. Plaintiff alleging that on said date they executed a contract of assignment to K. C. Ray, where- by they sold, assigned and conveyed to him, for valuable consideration, all of said leases except 200 acres thereof, retained as an off-set to the test well which the said K. C. Ray obligated himself to drill and to be within a radius of one mile from

the first producing and test well.

Alleging that the said K. C. Ray obligated himself to drill a well on some one of said tracts leased not less than 3500 feet unless oil or gas in paying quantities should be obtained at a lesser depth. Agreeing in said contract that a failure on his part so to do that Plaintiffs would suffer the sum of \$7,000.00 as liquidated damages for such failure.

Alleging that the said defendant K. C. Ray, in making said contract, made same for and on behalf of himself and his co-defendants, W. G. Nelson and W. T. Nelson. That the said W. G. Nelson and W. T. Nelson were each and both of them the secret partners of the said defendant K. C. Ray, in the making of said contract and that the said act of of the said defendant, K. C. Ray, in making said contract was a partnership act and transaction for and on behalf of himself and the said defendants, W. G. Nelson and W. T. Nelson; and that the said W. G. Nelson and W. T. Nelson as such partners have received and enjoyed all the fruits and benefits arising out of said contract and appropriated same to their own use and benefit.

Plaintiffs further alleging that if it should appear upon the trial hereof that the said W. G. Nelson and W. T. Nelson were not the secret partners of the defendant K. C. Ray, in making said contract, then these plaintiffs represent and say that the said W. G. Nelson and W. T. Nelson were undisclosed principals in said contract and that the defendant K. C. Ray, in making same was acting as the agent of the said undisclosed principals with full authority so to do, and the said principals have accepted said contract and received the benefits of said contract; And, that the said principals are each and both of them responsible to the plaintiffs herein for the performance of said contract and are each and both of them liable to the plaintiffs herein for all of the obligations set out in said contract.

Alleging further that if it should develop upon the trial of this said cause that the said defendants are not partners as alleged and if it should develop that the said defendants are not agents and undisclosed principals, as alleged, then these Plaintiffs represent and say that the said defendant, K. C. Ray, thereafter, for valuable consideration, sold, transferred and conveyed all his rights under said contract to W. G. Nelson and W. T. Nelson, defendants; And the said W. G. Nelson and W. T. Nelson both individually and jointly obligated themselves to carry out and perform all the obligations of the said defendant, K. C. Ray, as set out in said contract, and that the said W. G. Nelson and W. T. Nelson each and both of them thereafter obligated themselves both in law and in fact to drill the well as therein agreed and to pay the liquidated damages as therein agreed for failure so to do for a valuable consideration by them received. That the said W. G. Nelson and W. T. Nelson, de-

endants herein, both jointly and severally, both in law and in fact, in taking over said assignment contract agreed to pay and perform each and all of the obligations set out therein and assumed and obligated themselves to carry out all the terms of said contract made with the Plaintiffs herein by the said K. C. Ray, defendant, as hereinbefore set out, and as assignees of the said K. C. Ray contract became liable to the Plaintiffs herein for the full performance thereof, and for all the damages specified in said contract.

That the said defendants, thereafter entered upon the C. R. Hightower and wife Lease of 477.71 acres out of the E. Mather Survey No. 535 and proceeded to erect thereon a derrick for the all the damages specified in said contract for the drilling of said well as set out in the contract hereinbefore mentioned. That the said defendants proceeded with the drilling of said well as required by said contract until the said well reached the depth of 3,000 feet; That said defendants, when the well reached said depth: abandoned said contract and have partly pulled the casing from said well with the intention of selling and removing said casing and said derrick from Runnels County, Texas; That they have permanently abandoned the drilling of said well before the said well reached the depth of 3500 feet, the depth required by said contract. That the defendants did not discover either oil or gas in paying quantities prior to the time of said abandonment, and have at no time discovered oil or gas in paying quantities in the drilling of said well; That the said defendants have ceased to prosecute said enterprise and the said drilling with due diligence and have failed to perform the terms of said contract. That the defendant, W. G. Nelson deposited the 7,000.00 in the First National Bank at Winters prior to the commencement of said drilling as required under said contract and under the terms of said contract, after the commencement of said drilling and as provided in said contract withdrew said 7,000.00 from said bank. That the said defendants did commence the drilling of said well as required by said contract, but failed to prosecute drilling of said well as required by said contract a nd

CASTORIA

For Infants and Children In Use For Over 30 Years

Always bears the Signature of *Chas. H. Fletcher*

Failed to discover oil or gas in paying quantities at a lesser depth than 3500 feet as provided in said contract and the said defendants and each of them by reason of their failure to comply with said contract and by reason of their abandonment of said well have each and all of them become liable to the plaintiffs herein for the said liquidated damages provided for in said contract, to-wit, the said sum of \$7,000.00; which said sum is a reasonable and proper damages for the failure to drill said well to said depth.

That the Plaintiffs have in all things complied with each and all of their obligations in said contract and the abandonment of the drilling of said well by the defendants is wholly without any justification or excuse.

Wherefore, premises considered, Plaintiffs pray for citation to the defendants herein and each of them, and upon hearing hereof that they have judgment for the said sum of \$7,000.00 and all costs in and for a foreclosure of the attachment lien upon all property levied upon by the sheriff by virtue of the attachment issued in this said cause in connection with the filing of this suit and for general relief.

Herein fail not but have before said Court, at its aforesaid regular term, this writ, with your return thereon, showing how you have executed the same.

Given under my hand and the seal of said Court, at office in Ballinger on this the 26th day of July, A. D. 1921.

GEORGIA SINGLETARY, Clerk, District Court, Runnels County, Texas. 4td 29-aug 5-12-19

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