

Per Curiam.

212 U. S.

*Mr. Howard S. Lewis, Mr. H. Whiteside, Mr. John F. Dillon, Mr. Harry Hubbard and Mr. Frank Doster* for appellant.

*Mr. Max Pam and Mr. A. C. Mallory* for appellees.

*Per Curiam:* Affirmed with costs, on authority of *Water, Light & Gas Co. of Hutchinson v. The City of Hutchinson*, 207 U. S. 385.

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WESTERN LOAN & SAVINGS COMPANY *v.* COLORADO  
SMELTING & MINING COMPANY.

WRIT OF ERROR TO THE CIRCUIT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MONTANA.

No. 581. Submitted November 9, 1908.—Decided November 16, 1908.

*Western Loan Co. v. Butte & Boston Mining Co.*, 210 U. S. 368, followed.<sup>1</sup>

*Mr. John A. Shelton*, for plaintiff in error.

No appearance for defendant in error.

*Per Curiam:* Judgment reversed with costs, and cause remanded on authority of *Western Loan & Savings Co. v. The Butte & Boston Consolidated Mining Co.*, 210 U. S. 368.

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<sup>1</sup> The points involved in this case, as stated in the headnote of *Western Loan Co. v. Butte & Boston Mining Co.*, are as follows:

“Where diversity of citizenship exists so that the suit is cognizable in some Circuit Court the objection to the jurisdiction of the particular court in which the suit is brought may be waived by appearing and pleading to the merits. *In re Moore*, 209 U. S. 490, overruling anything to the contrary in *Ex parte Wisner*, 203 U. S. 449.

“In a State where objection that the court has not jurisdiction of the person must—as in Montana under Code, § 1820—be taken by special appearance and motion aimed at the jurisdiction, the interposition by defendant of a demurrer going to the merits as well as to the jurisdiction amounts to a waiver of the objection that the particular Circuit Court in which he is sued is without jurisdiction.”