LET THE CHARTER STAND

IT IS ALL RIGHT NOW, SAYS RICHARD W. MONTAGUE.

He Critically Examines Alleged Flaws That Have Been Picked in the Draft.

PORTLAND, Aug. 16.—(To the Editor.)—After the Charter Board had adjourned sine die, criticisms not before publicly suggested were directed against one or two of its provisions. The sections embodying them had been published many months before, and it is much to be regretted that the points had not been raised while the board had still the opportunity to consider them. An examination of the matter at the time the letters were published convinced some other members of the board, as well as myself, that the objections were not well taken, and we gave no further heed to it. But it has recently been suggested in your columns that the charter might be thrown open to amendment at the Legislative session because of one of these objections. This idea seems to me to be fraught with such possibilities of mischief that a few words in answer to the criticisms may be worth while.

The first criticism is directed against the latter part of section 106. The whole section reads as follows:

"All franchises or privileges heretofore granted by the city which are not in actual use or enjoyment, or which the grantees thereof have not in good faith commenced to exercise, are hereby declared forfeited and of no validity unless said grantees or their assigns shall within six months after this charter takes effect in good faith commence the exercise or enjoyment of such grant or franchise. Nothing in this charter contained shall affect the validity of any franchise, right or privilege in actual use or enjoyment heretofore given or granted by any former or the present City of Portland, or by the City of East Portland, or by the City of Albina, and the same shall be and continue in force and effect as given or granted by said cities or either of them."

Now it is said that certain franchises heretofore granted by one or the other of the cities constituting the present City of Portland are by this section given a life and efficacy which without it they would not possess. I have not seen it anywhere distinctly stated what are the franchises thus validated, or what are the precise grounds upon which they are held to be now invalid. It was somewhere hinted that the effect of the clause would be to make perpetual certain franchises granted without express limit as to time.

If the right to give perpetual franchises existed in these cities at the time of the grants, the mischief is beyond repair. If they had not such right, the grants were and are in so far invalid, and it remains only to see whether this section makes them good. The words of it are: "Nothing in this charter contained shall affect (observe that the word used is not 'impair') the validity of any franchise, right or privilege." How can it be maintained that to make valid an invalid franchise would not affect its validity.

To put the proposition in another way, the section merely provides that such franchises shall continue in force as granted (not "as if lawfully granted," as the critics would read this section), and therefore, if as granted, they were indeterminate in duration or terminable at the option of the city, they so remain, with their validity unaffected.

If the difficulty, however, was in some irregularity of the proceedings so that the grant itself was invalid, it is a commonplace of law that a franchise not lawfully granted is not in legal contemplation granted at all; and hence, if these grants are wholly invalid, they are not franchises " . . . heretofore given or granted by the city," and therefore do not, under the terms of the section, continue in force and effect.

Turning the language of the section which way we will, it cannot, to my mind, be made to bear any such construction as that placed upon it by its tardy critics; but, on the contrary, it seems clear that nothing more was intended nor anything more enacted than that the former franchises, in so far as they are valid, are continued in force and effect. Such provisions are merely declaratory of the law of the land, and are commonly inserted in new charters.

And by reference to other sections of the proposed charter this conclusion is made still more certain.

Section 151 makes full and careful provision for the institution of suits by the city to revoke, cancel or annul all franchises invalid from any cause.

If they are validated by the former section, this would be a vain thing—a result which the courts would hardly be willing to bring about.

Section 7 expressly provides "that all contracts of every description heretofore duly and legally made and entered into by the said City of Portland shall remain valid and be binding upon this municipality to the extent only that they are now valid and binding upon the cities of Portland." Franchises are binding, of course, only as they are contracts; otherwise they are subject to repeal at will.

Section 5 provides that suit may be brought in the name of the city for the enforcement of its rights, whether accruing before or after the adoption of this charter.

The construction of section 106, for which I contend, gives effect to all these provisions. The contrary construction wipes them out. This consideration alone leaves no doubt as to which is the reasonable interpretation to be given to the clause in section 106.

There is another consideration which should not be overlooked. The new charter, if adopted, cannot go into effect, at earliest, until six months or more. If there are any outstanding franchises, the validity of which is in doubt, especially if they are such as were granted before consolidation, now 11 years ago, it is high time that some action was taken to ascertain the city's rights in the matter. Lapse of time will certainly not fortify these rights; it may have already have operated as a waiver of them.

The necessary suits can and ought to be instituted without delay, and can thus in all probability be disposed of before the clause under discussion comes into operation; but if not finally disposed of, the suits and all rights arising under them would unquestionably be continued. Moreover, the present city officiate would thus set an example of diligence and effectiveness to future administrations, as well as to those which have allowed the state of things alleged—if in truth it does exist—to go unwhipt of justice for more than a decade, to the unjust and very likely the irretrievable advantage of the franchise-holding corporations.

The other criticism is of the clause in section 400, reading as follows:

"And when it has been attempted to sell property for any assessment, and such sale is found or declared void, upon the making of the reassessment the property shall be resold and the proceeds of such sale shall be paid to the purchaser at the former void sale or his assignees."

This needs only to be understood, not defended. It simply enacts that the city shall not become the receiver of stolen goods. If the city sold a horse to a man, and, finding it had no title and had conveyed the purchaser nothing, subsequently instituted proceedings by which it obtained title, and then sold the horse to another man, the least it could possibly do (having the money of both) would be to repay the first purchaser his money. This is exactly what the section prescribes shall be done with the lands bought at tax sales. Under the provisions of the proposed charter, the competition at tax sales is not on price, but on smallness of penalty, so that the amount paid in every case would be the tax, and no more.

No one is disposed to deny that the new charter could be amended for the better. No one, I think, will have the temerity to maintain that it would not be amended for the worse if thrown to the tender mercies of the Legislature in the year of the Senatorial election and exposed to the evil chances of secret influence and open barter, of distortion and delay, which press thick upon every bill which is open to amendment at such a time.

Let us, then, take no chances of the complete or partial failure of an experiment on the success of which we are all vitally interested, but insist upon the enactment of the charter just as it is.

RICHARD W. MONTAGUE.

WANTS HER BANNER UP.

Miss Ella Hose Denies Right of Thomas McCusker to Interfere.

Miss Ella Hose, who leases the building from which Thomas McCusker, the president of the Civic Improvement Association, removed a flaming red and blue circus poster, is very indignant over the action of that gentleman.

"I lease the building from Miss Rachel Morris, and there is nothing said in my lease about anything of the kind. I pay my rent to her directly, and I am sure Mr. McCusker has nothing to do with the property," said Miss Hose yesterday.

"The billposters came one day when I was very busy, and I gave them permission to place the sign on the wall, without thinking any more about it, for I was sure that I had a perfect right to do so, and I think so yet, too," said Miss Hose, with rising indignation. "I don't care if the man is a member of this Civic Improvement Association; that doesn't give him any right to tear down anybody's property, does it?

"After he had torn down the sign he came and told me that I must never allow any such thing up there again, or if I did he would have me arrested for defacing the building, and if I didn't like it I could move out."

Miss Hose quite naturally does not wish to leave her present location, and is not in hearty sympathy with the crusade of the Civic Improvement Association.

"I heard that he said he would only destroy signs on the property of people whom he disliked. Now, I don't know if he dislikes me or not, but he tore down the sign from my wall. He says also," continued Miss Hose, "that either the billposters or the persons who allowed the sign to be put up must putty up the holes, as they will cause leaks and spoil the building. Now, here is one of his nails," and she produced an ordinary small tack, whose total length was half an inch; "do you think that a few of these would ruin a building?"

HOW IT STARTED.

Unique Guessing Contest Now Going on at Ellers Piano House.

"What are you going to do with all those piano covers?"

"Sell them, of course."

"Why, man, there are enough covers in that window to cover every piano in the state."

"Think so?"

"Think so! I know it! Why, there must be thousands of them in that window."

"Well, come back to the stool and scarf-room, and we'll show you more than twice as many," said our young man; "and you may rest assured," he continued, "that every one of these piano scarfs will be sold along with a fine piano between now and the first of the year."

But that's how it started. How many covers do you think there are in that window? We would like to know ourselves. There's not a person in our establishment who knows exactly. If you're a good guesser you can try your hand at it. It won't cost you anything. And maybe you'll win the $25 prize. See Ellers Piano House-announcement of the contest on the 6th page of this issue.

PORTLAND-CHICAGO.

Seventy hours and thirty minutes (70½) is the time of the "Chicago-Portland Special" from Portland to Chicago. Leaves Portland every day at 9 A. M. Ticket office Third and Washington. O. R. & N. Co.

CIRCUS ARRIVES TODAY

RINGLING BROS.' BIG SHOWS EXHIBIT MONDAY AND TUESDAY.

Parade Route Tomorrow—One of the Greatest Circus Organizations in the World.

Tomorrow and Tuesday are Ringling Circus days. The big show trains are due here this afternoon, and will go into camp at Twenty-second and Savier streets. From there the gorgeous street pageant will start Monday morning at 10 o'clock and go over the following route:

ROUTE OF PARADE.

Twenty-first to Everett; to Thirteenth; to Washington; to Sixth; to Morrison; to Third; to Everett; to Twenty-first and show grounds.

The Ringling Bros.' shows are the highest development of the circus idea.

The immensity of the enterprise and the quality of their performance are well known. The show is an enormous affair, so big that 67 cars are required to haul it from place to place, and the expenses are said to be over $5000 a day. The big tent will seat 12,000 people, and is 540 feet long by 210 feet wide, making it the largest ever made. Under this big canvas are three rings, two stages and a quarter of a mile of racing track.

There are over 100 acts in the programme and 300 performers are used to give effect to this big bill. One thousand people are on the payroll of the firm, and over 500 horses are carried. Many of these horses are thoroughbreds. The Ringling menagerie is claimed to be the finest in the country. It includes a giraffe. Giraffes are almost extinct. The Ringlings have $20,000 invested in this strange beast. Thirty elephants are another unique attraction in the menagerie. Fifteen of these elephants have been taught to do amazing tricks in the ring.

Among the several novelties are a horse ballet, the conception of the well-known trainer, John O'Brien, and Captain Webb's educated seals. The equine ballet is a beautiful performance, in which Kentucky thoroughbred horses flirt, dance and march with a grace and sensitive interest that suggests picturesque studies of the stage. It is one of the prettiest sights ever seen in the circus ring, and is a gratifying relief from the conventional riding acts. Captain Webb's seals do about everything, as one writer said, but "read Shakespeare and thread a needle." They play ball, play musical instruments, juggle, balance billiard cues upon the tips of their noses, twirl firebrands about their heads, and many other things which serve to show that this animal at least has something more than instinct.

In the ring performances the 40 riders concerned are led by John O'Brien. In this class are such famous riders as Mike and John Rooney, Albert Davenport, Julia Lowanda, the Shadies, the Hobsons, Augusta Frederick, Rhoda Royal and Mme. Royal, May Davenport, Ida Miaco and Albert Crandall. The 60 acrobats include the famous Nelson family of 10, the St. Leon family of eight, the Petit family of five, the Roberts family of three, the three De Bollan brothers, the Fortuns brothers and Joseph Le Fleur. Among the 60 aerial performers of distinction are the Holloway trio, who are claimed to be the highest-priced high-wire performers in the world; the four Banvards, the Austin sisters, the three Dunbars, Nettie Carroll and the St. Leon sisters. Genearo and Theol, described as "boneless beings"; elastic Ida Miaco, the Tybell sisters, and Mlle. Naomi Ethardo, a European wonder, so-called.

There are 40 clowns to make fun, and busy bodies they are to this end.

Reserved seats and admission tickets will be sold Monday and Tuesday at Aldrich's drug store at same price charged at the ticket wagons on show grounds.

MAIL ORDERS RECEIVE PROMPT ATTENTION

Roberts Bros

A BIG NEW STORE at THIRD and MORRISON In Course of Construction

CORNER FIFTH AND YAMHILL STREETS

The BEGINNING OF THE END

Second week of the sale of all reserved begins tomorrow. We will make it one of the big weeks. We will not attempt to quote any reductions, as the lines are mostly broken, but there still remains many thousands of dollars' worth of the choicest of seasonable goods, as we go in the new store when it is completed with an entire new stock. Roberts Bros. will not let price deter them. The below quotations represent an average saving of about one-third.

Final Cut of Season 1902--Be Here

Wash Skirts
100 of them. $1.25 and $1.50 Coverts, Duck, Linen; Bedford cord, etc.

Waists
25c, 48c, 89c, $1.25; all colors, many styles of make.

Ladies' Hosiery
35c, 25c, 20c, 15c, 12 1-2c, 10c.

Lace or Embroidery
3c, 5c, 8 1-2c, 11c per yard.

Ladies' and Misses' Vests
5c, 8c, 10c, 15c, 20c, 25c.

Corsets
25c, 43c, 50c, 75c, $1.00.

Ladies' Muslin Underwear
Drawers 35c, 48c, 65c, 75c
Skirts 65c, 89c, $1, $1.25, $1.50
Corset Covers 10c, 25c, 39c

Housefurnishings
Towels 10c, 12c, 15c, 20c, 25c, 35c
Tablecloths, white, 25c, 30c, 40c, 50c, 75c, $1
Tablecloths, colored ... 25c, 30, 45c, 60c, 75c
Sheets 35c, 45c, 50c, 58c, 60c, 75c
Pillow Cases 9c, 11c, 12 1-2c, 15c, 18c
Lace Curtains ..... 50c, 65c, 75c, $1 to $5
Tablespreads 75c, $1, $1.25, $1.50, $1.75
Bed Spreads ..... 75c, 90c, $1, $1.50 to $4
Yardage in all the above goods at a big saving

THE ABOVE PRICES represent a roll call of values that cannot be duplicated outside of Roberts Bros., but they do not represent one-tenth of the articles that are to be found in the wind-up sale of the season of 1902. The sale of our entire reserved stock will long be remembered as the sale of all sales.

YOU CAN BE CURED IF CURE BE POSSIBLE

BY

DR. J. HENRI KESSLER

Portland's Leading Specialist

$700 in Gold DEPOSITED IN THE BANK

For Any Case Undertaken That He Cannot Permanently Cure.

WEAK MEN

If you have indulged in errors or excesses, get over the evil effects of such folly. Free yourselves from the miseries of exhausting drains, impotency, atrophy or wasting away of the organs, lost manhood; weak, aching back, frequent, painful urination, and sediment in urine; pimples, nervousness, sleeplessness, despondency, stupidity, loss of ambition or similar symptoms of physical, mental and sexual weakness, which render you unable to enjoy some of the keenest pleasures of life. You will find DR. KESSLER will be your best friend. He has had as much experience and as great success in the treatment of such diseases as any other specialist on the American continent. He will fit you for study, business and marriage and send you out into the world with new life.

SUFFERING WOMEN

If man's glory is his strength, woman's pride is her beauty. Beauty is impossible without health. If you want a clear complexion, rosy cheeks, sparkling eyes, glossy hair, you must rid yourself of all such debilitating ailments as falling or displacement of the womb, painful, irregular, scanty or profuse menses, periodical headaches, leucorrhea, nervousness and hysteria. Do not continue to suffer and sink. Lay aside your feelings of delicacy for one time and in sacred confidence tell everything to DR. KESSLER, who would build up your broken-down constitution and insure to you your natural health, strength and beauty.

HE CURED ME OF CATARRH

"I had catarrh for a long time. It affected my hearing and throat, and there were growths in my nose that almost closed it. Dr. Kessler's new treatment is splendid. I never tried anything that helped so quick. I am recommending it to all my friends."

YOU CAN BE CURED AT HOME

If any person living at a distance and unable to call at this office will WRITE to him their symptoms, plainly and in their own words, he will then understand their case, and can give such advice as may be necessary in curing them, and should they then desire his treatment, proper remedies will be sent them to effect a positive and permanent cure. No incurable cases taken. Correspondence strictly confidential. Enclose 10 2-cent stamps when writing.

HE CURED ME OF DEAFNESS

"My deafness came on about four years ago, with ringing noises in the head, which troubled me greatly. I had to ask people to talk louder when speaking to me, and around the table I could only hear the sound of voices, but could not catch a word. My hearing rapidly improved under Dr. Kessler's treatment. I now hear, and the ringing noises have stopped."

HE CURED MY STOMACH

"Before I was treated by Dr. Kessler, my stomach was very sore. The severe pains, bloating and sour risings were awful. I lost 30 pounds in a year. I thank God it was my fortune to go to this great doctor, who cured me in two months."

OUT-OF-TOWN PEOPLE

Patients living away from the city, who cannot conveniently call for personal consultation, may describe their troubles by letter and have medicines sent to them free from observation, to any part of the world. Office hours, 9 A. M. to 8 P. M.

People afflicted with any disease whatsoever should write to Dr. Kessler, 230½ Yamhill street, Portland.

St. Louis Medical and Surgical Dispensary, 230½ Yamhill Street

YOU CAN BE CURED

The Successful Physician! The Skillful Surgeon! The Eminent Specialist! Your Best Friend! Permanently Located Here 25 Years! Consult Him by Calling or Writing!

See what he is doing for the afflicted of Portland and vicinity. Perfect cures guaranteed, and the kind of treatment that cures them. A sound body, like a good name is preferable to riches. Without it you despair. With it you are full of life, energy and ambition, which insures a social success and business prosperity.

Twenty-one years' experience treating Private and Chronic Diseases in Portland makes old Dr. Kessler the best on the Coast. He has never failed in any case, he is perfectly reliable, and his terms reasonable. If you have any Private or Chronic Disease, go and see him today; quicker you see him, the easier to cure you.

This is the oldest Private Medical Dispensary on the Coast. Dr. Kessler, the old reliable specialist, has been manager of this institution for 25 years, during which time thousands of cases have been cured, and no poor man or woman was ever refused treatment because they had no money. The St. Louis Dispensary is perfectly safe. We say to young men suffering from any private disease: "Go and consult this old doctor at once. Consultation free and strictly private. Payments in small amounts easily made. Cases if taken early are easily cured. Put off too long, they become serious." When writing him enclose 10 2-cent stamps.

J. Henri Kessler

Corner Second and Yamhill Streets Portland, Oregon.

Can be consulted on all Chronic, Nervous and Private Diseases. Consultation free. Come one, come all, and learn the true condition of your health, without money and without price. This doctor will positively cure you, as he has thousands.

Catarrh, Bronchitis and Diseases of the Throat

Marvelous results of the new method of cure. Importance of attending to disease in the early stages. He furnishes inhalers and medicines for purifying the breath, imparting thereto a pleasant and agreeable odor. No more bad breath.

Method of Treatment

He makes all theories a study, and selects the most skillful treatment of each individual case. His electric, galvanic, faradic and magnetic batteries; his collection of new and valuable instruments and appliances, medical and chemical discoveries, with the latest improved inhalers and powerful atomizers, etc., enable him to treat all forms of Throat, Lung, Nerve and Blood Diseases and Deformities far in advance in this county. Those who contemplate going to Hot Springs for the treatment of any private or blood disease can be cured for one-third at this Private Dispensary.

Scrofula and all Malignant Blood and Malarial Diseases permanently eradicated from the system.

Ulcers and Fever Sores, resulting from varicose veins, necrosis of bones, old ulcers, epithelial cancers and fistula of every kind, successfully and permanently cured.

Abdominal Supporters, Elastic Bandages, Stockings, Trusses, etc., furnished at office or forwarded by express to all parts of the country.

SENDING MEDICINE—We send medicine to every part of the Union, both by mail and express, and with such clear and explicit directions for use that no mistake can occur. While it is always desirable to see a patient, his thorough knowledge of the human body and its ailments enables him to prescribe with certainty and success in many diseases if a description of the case is given by letter.

Money should be sent by postoffice order, registered letter, postal note or express. All letters of inquiry will receive prompt attention. Enclose 10 2-cent stamps.

TERMS reasonable in all cases. Especially low to those getting small wages and of limited means.

CONSULTATION FREE.—If you are afflicted with any disease, no matter of what name or nature, go and let him see you. He will restore you to health if there is hope; if not, he will honestly tell you so. He takes no case that is not curable. All who are in need of medical aid are invited to call. The doctor's opinion costs you nothing.

VARICOCELE, STRICTURE, BLOOD-POISONING, SYPHILLIS.—Medicines free at his office, 230½ Yamhill street. Gonorrhoea, Gleet, Stricture, and that terrible and loathsome disease, SYPHILLIS (pox), thoroughly and forever cured by this old doctor, who has cured thousands of such cases. This old doctor furnishes all medicines at his office, and guarantees a cure in all cases taken.

Address, with 10 2-cent stamps,

Dr. J. HENRI KESSLER

St. Louis Medical and Surgical Dispensary

230½ YAMHILL STREET PORTLAND, OR