PORT OF TILLAMOOK WINS THE SUIT.

Judge Benson Decides that Old Port did not Exercise any Power and Acquiesced in Formation of New Port.

Word was received in this city on Monday evening that Judge Benson had decided the Port of Tillamook case in favor of the Port. The suit was brought against the Port by S. V. Anderson, backed by Fairview farmers, who employed Attorney R. R. Duniway, and was to enjoin the Port from negotiating bonds and from collecting taxes to pay the same, and that the present Port was illegally elected and usurped the powers of the old Port.. The case was tried before Judge Benson, who took the case under advisement. Attorney H. T. Botts was the Port's attorney.

The Judge, in summing up the case, found that the proceedings leading up to and the formation of the Port of Tillamook had been strictly complied with, and the Port was exercising its powers according to law. As there was some doubt as to the status of the old Port created by the State Legislature in 1899, Judge Benson sweeps aside the contention of the plaintiffs that it was still in existence, for he says: "That since the organization of the said Port of Tillamook, as heretefore incorporated by the legislature of the State of Oregon, in the year 1899, has not exercised, or attempted to exercise any of the powers or authority conferred upon it by the act of the legislature, but has acquiesced in the formation of the Port of Tillamook, the defendant herein, as re-incorporated, as aforesaid, and does, and has recogized, and acknowledged its validity." Concluding the Judge finds:

That the defendant, the Port of Tillamook, is a corporation, duly organized and existing under and by vlrtue of the provisions of Chapter 39 of the laws of Oregon of the year 1909, and that in all respects the provisions of said law have by the said defendants been fully complied with.

That the proceedings had by the said defendants were, and are, a re-incorporation of the said Port of Tillamook, as incorporated by the Legislative Assembly of the State of Oregon in the year 1909.

That the acts complained of in plaintiff's complaint are valid and binding, in all respects.

That the defendants are entitled to a decree of this Court, dismissing plaintiff's suit herein.

That the defendants herein are entitled to a judgment for their costs and disbursements herein.

Attorney Duniway's Brief

FIRST.

The first question to be disposed of is whether the Legislative Port of Tillamook, created by the laws of 1899, pages 419-423, is valid or not.

It appears by the undisputed testimony that the Legislature incorporated the Port of Tillamook in laws of 1899, pages 419-423, and that said Port organized, levied taxes, performed the functions of a corporation, and has never been dissolved by an act of Legislature or by judgment of any court, etc.

The legality of the Port of Tillamook created by act of Legislature 1899, pages 419-423, was directly adjudicated in the Circuit Court of the State of Oregon for the County of Tillamook, in the case of Kunze vs. Port of Tillamook et al, and which was introduced in evidence by the State. The same case adjudged that the attempt to extend the boundaries of the Port of Tillamook was illegal.

That judgment ought to be conclusive of the question of the legality of the first Port of Tillamook, or Legislative Port. Also the Legislative Port of Tillamook was patterned after the Port of Portland, which was adjudged legal in Cook vs. Portland, 20 Ore. 580, and in many cases since.

We ask the Court to compare the Port of Portland, Act, Laws of 1891, page 791, and the amendments thereof, (See L. O. L. Sec. 6076 and on,) with the Port of Tillamook Act of 1899, pages 419-423. They are very similar.

The manner in which the Port of Tillamook commissioners were appointed and elected was and is valid.

State vs. George, 22 Ore. 142.

David vs. Water Committee, 14 Ore. 98.

Briggs vs. McBride, 17 Ore. 640.

An examination of the Port of Tillamook Act of 1899, pages 419-423, will disclose that the boundaries of the Port of Tillamook extend to all the land it is authorized to tax, and there is no foundation of fact upon which defendants attempt to build an argument that the Port of Tillamook created by Act of 1899, pages 419-423, is unconstitutional and invalid.

Therefore, plaintiffs contend that it is demonstrated by the law and the evidence that there is now, and has been ever since the laws of 1899, pages 419-42 , a valid Legislative Port of Tillamook, just as it is alleged in the complaint filed herein.

SECOND.

There being a valid Legislative Port of Tillamook, could there be a second Port of Tillamook created over the same and additional territory under laws of 1909? See L. O. L. Secs. 6114-6125.

Plaintiffs earnestly contend that the above question must be answered NO for the following reasons:

An attempt to incorporate a municipality under general law, while the special Act incorporating it is in force, is void.

State vs. Larkin, (Tex.) 90 S. W. Rep. 912-915.

State vs. Wolford, 90 Tex. 514, Sec. 39 S. W. Rep. 921, 923.

The Legislative Port of Tillamook Laws of 1899, pages 419-423) could only be dissolved by Act of the Legislature. No act of its officers or people within its boundaries could dissolve it.

1 Dillon Mun. Cor. (5th code), Secs. 331, 332, 333.

Norton vs. Selby County, 118 W. S. 425, Secs. 30 Law Ed. 178, 189, 190.

State vs. Wolford, 90 Tex. 514, Secs. 39 S. W. Rep. 921, 923.

The Act o 1909, Sec 9, (See L. O. L. Sec. 6125) expressly recognized and comfirms all Legislative Ports. Said Act does not provide any authority for placing another Port over territory already occupied by a Legislative Port. As we have shown above such attempt to do so is void. Board Case, 111 Pac. Rep. 368 on 370.

Said Act does provied that any Legislative Port may re-incorporate under the provision of the Act of 1909. L. O. L. Secs. 6114 to 6125.

The Legislative Port of Tillamook could, or can, re-incorporate under the laws of 1909 (L. O. L. Secs. 6114-6125) when it will have the powers of a Port as conferred by L. O. L. Secs. 6114 to 6145 over the same territory described in Act of 1899, pages 419-423, which has an assessed valuation of only about $5000,000.

There was no law providing how a Port incorporated under the laws of 1909 could extend its boundaries until the Act of 1911, pages 157-161. Defendants admit this to be true in their brief, page three.

Therefore there was no way in which the boundaries of the Legislative Port of Tillamook could be lawfully extended to take in and tax the farmers and about $5,500,000 of additional property prior to Act of 1911, pages 157-161.

The Legislative Port of Tillamook attempted to illegally extend its boundaries over this territory and get the power to tax and bond the $5,500,000 of property and it was adjudged that it could not be lawfully done in the case of Kunze vs. Port of Tillamook et al, introduced in evidence in this case.

Then the scheme was devised of attempting to ignore the Legislative Port of Tillamook and create a new Port under the act of 1909, over the territory of the Port of Tillamook and the additional territory in which the farmers opposed to the scheme resided, and which contained about $5,500,000 of taxable property.

The necessity of defendants inventing this scheme and attempting to uphold it in Court, appears when one ascertains that to re-incorporate the Port of Tillamook and attempt to extend its boundaries under the Act of 1911, pages 157-161, cannot be carried out for this very powerful reason, the farmers are opposed to the plan of being brought into the Port of Tillamook, and the farmers can and will vote the proposition down whenever it is attempted to extend the boundaries of the Port, in a legal manner.

The affirmative vote of the farmers must be obtained to lawfully extend the boundaries of the Port over them, and the farmers will not so vote. See Laws 1911, pages 157, 159, 160.

This demonstrates the fallacy of the argument of the defendants on pages 4 and 5 of their brief.

Therefore it is demonstrated that defendants could not incorporate a new Port under the Act of 1909 (L. O. L. Secs. 6114 to 6125) over territory occupied by the Legislative Port of Tillamook.

It is also demonstrated that prior to the laws of 1911, page 157, there was no way to extend the boundaries of the Legislative Port of Tillamook.

It is also demonstrated that the defendants are illegally attempting to do what cannot be done, so that the judgment should be granted as prayed for by plaintiffs.

Defendants are forced to ask the Court to legislate and supply omission in statutes. The Court has no right to legislate. The court can only interpret the law passed by the law-making power, and not pass the law.

(Six Supreme Court decisions are here cited.)

THIRD.

Even if the defendants were free to incorporate the Port of Tillamook under the laws of 1909, L. O. L. Secs. 6114 to 6125, they did not substantially comply with said statute and the plaintiffs should have judgment on this account.

A.

The petition was not presented to the County Court and acted upon at the session of the Court which had jurisdiction to act upon the same, and the evidence sustains the complaint, pages 6, 7, and 8, in that regard. All the proceedings were over before they could be legally started. The order was not made by the proper Court. Thus the proceedings were never legally started.

Defendants in their brief try to maintain that the statute under consideration authorizes the County Court to pass upon the petition at ahy "session" or "sitting" of the County Court, and the only requirement of the statute is that the County Court make the order at an early "session" or "sitting" of the County Court." Defendants cite,

State vs. Edmonds, 55 Ore. 236, as their authority.

The statute construed in State vs. Edmonds, 55 Ore. 236 on 240, reads in this regard as follows:

"Said Court shall, on the eleventh (11th) day after the election, or as soon thereafter as practicable, hold a special session; and, if a majority of the votes hereon in the county as a whole, or in any subdivision of the County as a whole, or in any precinct of the County, are 'For Prohibition,' said Court shall immediately make an order declaring the result, etc."

The Supreme Court of Oregon holds in State vs. Edmonds, 55 Ore. 236 on 240, that "session" as used in that statute has reference only to a temporary sitting of the Court in the transaction of special business then assigned to them, and the Court may sit in special session at time designated in statute when all members of the Court are present. etc.

The statute under construction in the case at bar reads very differently and is as follows:

"Section 3. The petition for a special election hereinbefore provided, shall be filed with the County Clerk of the County, and shall be presented to the County Court of said County on the FIRST DAY OF ITS NEXT REGULAR SESSION."

We respectfully submit that the statute involved in this case is not susceptible to any construction other than that the petition shall be presented to the County Court of said County on the FIRST DAY OF ITS NEXT REGULAR SESSION."

The County Court could not have a FIRST DAY OF ITS NEXT REGULAR "SESSION" OR "SITTING" until its NEXT REGULAR TERM. The County Court has no right to hold a regular 'session' or 'sitting' except at a regular term.

The reasoning of the State vs. Edmonds, 55 Ore. 236, 241, 242, and of the case of Lipari vs. State, 19 Tex. App. 431, 433, absolutely demonstrates the correctness of the construction of this statute for which plaintiffs are contending.

B.

The proceedings are void as the statute plainly requires that the election be held for not less than forty (40) days, and it was held for only one (1) day.

The Court has no right to construe away this provision of the statute.

(Six Supreme Court decisions are here cited.)

C.

THERE WAS NO NOTICE OF AN ELECTION POSTED IN ANY PRECINCT.

It is the law, and the respective attorneys agreed at the trial upon this rule of law and tried the case accordingly, that the burden of alleging and proving compliance with the law so as to be legal incorporation of the Port of Tillamook was upon the defendants.

32 Cyc. 1460, and the cases there cited.

Dillon Mun. Corp. (5th ed.) Sec. 1555 and cases there cited.

In accordance with that rule of law the defendants attempted to plead and prove the incorporation of the Port of Tillamook and their right to hold the offices they are now holding.

On page 6 of answer, defendants plead that notice was given, etc.

Defendants did not offer any evidence of notice.

Therefore this attempted election, this attempted incorporation, should be held invalid for want of evidence of notice upon this direct attack by the State in QUO WARRANTO.

These defendants cannot rely on presumption as evidence to prove their case in QUO WARRANTO proceeding by the State, a direct attack.

(Eight Supreme Court decisions are here cited.)

The only citation of defendants to uphold this contention as presumption is a case of collatetal attack upon an election in a suit to recover upon Bonds and is the case of Knox Co. vs. Bank, 147 U. S. 91, and does not support in any way the contention of defendants made in this case.

Special election held without notice is void.

Marsden vs. Harlocker, 48 Ore. 90, 94.

15 Cyc. 322.

Upon direct attack there are no presumptions indulged to uphold the title of defendants.

(Six Supreme Court decisions are here cited.)

D.

The governor did not designate the place where said commissioners should meet, nor did said commissioners meet on the fifth (5th) day after their appointment and organize as a Board. On Sept. 13th, 1909, Commissioners Leach, Fitzpatrick and Walton, met and undertook to elect officers for the Port of Tillamook, and said commissioners had no power or authority to meet and organize as a Board and elect officers for the Board.

Section 8, Laws of 1909, page 86.

L. O. L. Section 6122.

This is material upon this direct attack.

Bennet Trust Co. vs. Sengstacker, (Or.) 113 Pac. 869-870.

For failure to comply with the mode and manner provided in the statute of 1909, (L. O. L. Secs. 6114-6125), and set forth in three subdivisions, A. B. C. & D., the judgement should be granted as prayed for by plaintiffs.

FOURTH.

The defendants put in allegations in their answer and argument in their Breif in the nature of confession and avoidance, to the effect that even if the incorporation of Defendant Port of Tillamook is illegal, then the State is estopped from maintaining QUO WARRANTO, and neither the State nor any individual has any remedy.

We submit that the evidence shows no foundation in fact for the defendants to argue laches or acquiescence.

The evidence demonstrates the dissatisfaction of the farmers all the time.

As soon as the defendants took steps to try to issue bonds for large amount and to try and do anything serious as a Port, then the farmers in large numbers took the matter in hand and caused the State to institute these proceedings in QUO WARRANTO.

The defendants have done nothing as yet except to levy and collect a comparatively small amount of illegal taxes and threaten to issue a large amount of bonds. No one will be inconvenienced by the law being applied in this case.

To fail to apply the law, as the defendants ask to have done, would result in a municipal corporation being allowed to exist illegally because the Courts would not enforce the law.

We submit that the defendants have neither evidence, reason, or authority, to support this remarkable contention made by them.

State ex rel vs. Des Moines 96 Iowa, 521.

Sec. 31 L. R. A. 186 on 192-192.

Sec. 65 N. W. R. 818.

discusses a state of facts and contains reasoning which shows that in this case the plaintiffs should prevail, and defendants' suggestion is without merit.

See 31 L. R. A. on 191-193, where the Iowa Court points out the following facts in that case:

"But aside from this, the record in no way indicates a public interest to be subserved by a judgment avoiding the present corporate existence. Not one of the 60,000 or more inhabitants of the city as now constituted makes a complaint, nor does it appear but that all are entirely satisfied with the change that has been made. The relator, but for whom the cause would not be in Court, is not a resident of the city; but he is the owner of land of the assessed valuation of $80, giving him the legal right to institute the proceedings. He in no way claims that he is injured by the change, or is likely to be. The judgment of ouster against the city is claimed as a naked legal right. Had it been exercised with promptness, after the power was assumed by the city, we do not see why he should not have had his judgment. A thought is suggested that the delay was to permit the authorities to act. With the rapid changes made after the passage of the act (the new government being in operation in April, 1890) the tendency, as to results, was manifest; and it was apparent to avoid great and important changes, involving many and large interests, action should be taken at once. Much less time than was taken was sufficient to apprise the relator that others did not intend to act. The way of inquiry was open to him to know the facts, if he desired to know them, and in view of the situation, promptness was demanded."

Also eight municipal governments had been abandoned for four (4) years and their functions exercised in innumerable ways by the City of Des Moines.

That the Des Moines case is not an authority in favor of the defendants, is demonstrated by the later decision from Iowa of

State ex rel Harms vs. Alexander, 129 Iowa, 538.

Sec. 105 N. W. R. 1021, 1021, 1022.

Peo. vs. Long Beach, 102 Pac. Rep. 644, 666.

The other case cited by the defendants is an adjudication against the contention of defendants.

The authorities cited in Dillon Mun. Corp. (5th ed.) Secs, 66 and 67, note 1, page 124, demonstrate that the doctrine there stated, and held in those cases, has no application to the facts involved in this case.

(Eleven Supreme Court decisions are here cited.)

For authority that QUO WARRANTO by State is proper remedy.

(Three Supreme Court decisions are cited.)

It follows, therefore, that proceedings cannot be defeated by any claim of laches or estoppel.

FIFTH.

Under the constitution of Oregon as amended in 1906, Section 2, Article XI, the Act of 1909, (L. O. L. Sec. 6114 to 6125) is unconstitutional and void, as the Legislature of Oregon had no power to enact said law providing Charters for Ports, which are municipal corporotions. and only leaving to the voters to say whether the Charter enacted by the Legislature shall be in effect in certain localities or not.

(Five Supreme Court decisions are here cited.)

This statute is drafted in anology to the Local Option Laws with which all are familiar.

Before the constitutional amendment of 1906, the Legislature could pass such a statute as that of 1909, L. O. L. Secs. 9114 to 6125.

Said constitutional amendments have taken the power away from the Legislature and vested it in the people.

Statutes have been passed providing the mode and manner for the people to enact charters for municipal corporations including Ports, and such method is now the exclusive method of enacting Charters for municipalities in Oregon,

As a general rule, the Court will not pass upon a constitutional question and decide a statute to be involved unless a decision upon that very point becomes necessary to the determination of the cause.

Elliot vs. Oliver, 22 Ore. 44, 47, 49.

This case it seems to us must be decided in favor of the plaintiffs upon the other questions, so we have reserved the constitutional questions for the last in this Brief.

In case the Court should not decide in favor of plaintiffs upon the other grounds, then we most urgently urge upon the Court this very important constitutional question, and pray a decision in favor of plaintiffs upon that question.

Attorney Botts Reply.

In reply to the argument adduced by the attorneys for plaintiffs, the defendants will not undertake to further discuss the first proposition as to the invalidity of the act purporting to establish the so called legislative Port of Tillamook further than to say, that we deem it a matter of sound principle that the people of the State of Oregon should not be held to have ever authorized its legislature, or to have attempted themselves, to have authorized any portion of its citizens, less than the whole, to excerise the powers of government over any other of its citizens or their property, and thus exclude a portion of the citizens of the State and their property from participating in governmental matters affecting the same.

As to the second point discussed by the plaintiffs in their brief, we insist that the cases and authorities cited by the plaintiffs to the effect that an attempt to incorporate a municipality under general law while the special act incorporating it is in force, are to be distinguished by the present situation in that, in the citations given, the general law did not contemplate that corporations then existing could avail themselves of the general law, or if they were permitted to avail themselves of its provisions a special procedure was prescribed to be followed but not followed in the cases cited by the plaintiffs. In the present case the port act of 1909 clearly contemplates that existing ports should be entitled to the privilege of coming within the provisions of this act as well as localities not then covered by legislation upon the port situation.

The legislative port so called could not at any time after 1906 have been dissolved by the legislature. It could only be dissolved by its people under the provisions of Section 1, Article IV., and Section 2 of Article XI. of the Constitution of Oregon, as the same are now amended.

It is true that our Supreme Court in the case of Acme Dairy Co. vs. Astoria, 49 Ore. 520, stated that the legal voters of a city or town did not have reserved them the right of repeal of their charter, but this statement is mere dictum and uncalled for in the decision in that case. The decision of the Supreme Court in the case of Straw vs Harris, 54 Ore. 424, holds in effect, that where a port is formed under the act of 1909 that municipalities theretofore existing within the boundaries of the port, that extinguished the powers they theretofore held which would be in conflict with the power and authority given to the port organized under the provisions of the act of 1909. The effect of this would be, of course to repeal any of the provisions of the charters thus affected.

If the effect of organizing a port under the act of 1909 would be to dissolve or repeal the power or authority of a city or town in some particulars theretofore existing within the limits of the new corporation, we know of no good reason why the same effect should not be given to the incorportion of such a port including within its boundaries a previously existing port, if one did exist, with powers of the same general nature as provided for in the act of 1909, but more limited in their scope and effect.

In addition to this the cases cited in the defendants first brief herein are referred to as containing an illuminating discussion upon this subject.

In answer to the argument or statements of the plaintiffs in their brief that the inhabitants of the new territory could not be procured to vote in favor of the extended port, we have only to refer to the record of the proceedings shown in the case of Kunze vs. Port of Tillamook, where it appears that the inhabitants of the new territory did vote in favor of such extension.

The defendants are not asking the court to legislate in this matter, but to interpret the law as it stands and to give it a reasonable construction under the reading of the statute and the established rules of construction, in connection with the initiative and referendum provisions of the statute of the State of Oregon. and in accordance with the spirit therein contained, evincing the policy of leaving to the people of the locality interested the right to legislate upon local matters.

Upon the point that the petition should have been presented to the court at its next regular term after the petition was filed rather than at the next regular session, we submit that there is no reason shown in the argument, or in the law itself, for such a requirment being read into the language of the statute. The requirement of the time when the petition should be presented was manifestly for the purpose of getting prompt action on the matter. Jurisdiction was given by the filing of a proper petition. There was no requirement that the order for the election should not be made at the same time that the petition was presented, but the requirement of the statute clearly is that the court should not delay action upon the petition later than the time limited.

The contention that the statute required the election to be held for not less than forty days seems to be so absurd upon its face that no mention was made of this point in the original brief of the defendants herein. However since the plaintiffs have presented an argument in their brief upon this point, we would call the court's attention to the well established principle of law, that "Where it appears from the context that certain words have been inadvertently omitted from the statute, the court may supply such words as are necessary to complete the sense and to express the legislative intent." 36 Cyc 1127 and cases cited therein.

As said by the Supreme Court of Minnesota: "The books are full of cases in which words have been omitted, supplied and transposed." State v. Bates 96 Minn. 110, 104, north western 790; 113 American St. Rep. 712; also see Commonwealth vs. Grinstead 55 Sw 720; Quoting from Enlich on Interpretation of Statutes as follows: "When the language of a statute in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, to inconvenience or absurdity, hardship or injustice, not presumably intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. This is done sometimes by giving unusual meaning to particular words, sometimes by altering their collocation or by rejecting them altogether, or by interpolating other words, the court having an irresistable conviction that the modifications thus made are mere corrections of careless language, and give really the true intention." Page 400, Sec. 295.

In view of this rule of construction it is apparent that the court will read into the statute in Sec. 6116 L. O. L. following the provision that election "is to be held not less than forty days nor more than sixty days" the word "thereafter," or some expression of similar import rather than to put the construction upon this section that the legislature intended to require any election to be continued from day to day for a period of time from forty to sixty days.

If anything further were necessary to convince the court of the provision of the general law concerning elections, Title 27, L. O. L., Sec. 3311, providing that all general, special and presidential elections held in the State shall be conducted under the provisions of that act, and that the polls shall be opened at the hour of 8 o'clock in the forenoon and continue open until 7 o'clock in the afternoon of the same day, to which time the polls shall be closed. There is no provision suggested in this general law anywhere which contemplates the holding of any general or special election for more than one day, and the provisions of 6116 for the calling of a special election, it is manifest that the argument and position assumed by the plaintiffs herein is without any merit whatsoever.

As to the presumption as to notice being given, the defendants are content to submit their position upon the authorities heretofore cited, and upon the presumption which we contend is applicable as adduced from these authorities.

The cases cited and relied upon by the plaintiffs upon that point are cases relating to the acquirement of jurisdiction in the first instance, while in this case the jurisdiction for the proceedings to be held is acquired by the filing of a proper petition. It is true that notice is required to be given, but an examination of the decisions of our Supreme Court in the case of Bennett Trust Co. vs. Sengstacken, 113 Pac. 863, in connection with the decision of Roesch v. Henry, 54 Ore., 230, will disclose that even the fact, if it were a fact, that not all of the notices were posted as required by law would not be allowed to defeat the expressed will of the people who voted, when it appears by the result of the election that the failure to post part of the notices did not result in depriving a sufficient number of the legal voters of their privilege of voting, to have changed the result.

In this case, the plaintiffs having alleged but having made no attempt to prove that a large number of people were deprived of their right of voting by reason of notice not being given, it would seem that the court would be justified in assuming, from the fact that the plaintiffs offer no evidence upon this point, that there was no complaint to be made on the score.

The court is justified in assuming by the votes cast as compared with the number of voters registered in territory and the number of votes cast at the preceding general election, that a fair expression of the wishes of the voters was had at this election, and that notice was duly given. We would in this connection call the court's attention to the case of State v. Westport, 22 S. W. 88.

As the plaintiffs offer no authorities upon their proposition that a failure of the commissioners to meet and organize on the fifth day after their appointment is a material defect, this matter we consider settled. The only case cited by plaintiffs upon that point being one cited by the defendants in their brief showing the requirement in this respect to be merely directory.

As to the matter of laches and estoppel, the defendants have always conceded that the facts in the present case are not so strong upon this question as in some of the cases found in the books, but we believe that the circumstances are sufficiently strong to make the authorities upon this line quite persuasive as to the soundness of the defendants position and as an additional ground for upholding the validity of the organization attacked in this case.

As to the contention of the plaintiffs that the Port Act of 1909 is unconstitutional, we submit that this organization has been repeatedly passed upon by our supreme court, and the act upheld in every instance, and upon the very ground upon which the same is now attacked by the plaintiff in this case.

We refer to the decision of the Supreme Court in the case of Straw v. Harris, 54 Ore. 424 as containing a very thorough discussion of the constitutionality of this act in which the validity of it is sustained in every point, and this decision has been again upheld in the case of Bennett Trust Co. v. Sengstacken. 113 Pac, 863, and we refer to these cases as leaving no ground for the plaintiffs to stand upon in their contention upon this question.