

WRIT OF MANDAMUS ISSUED

Secretary Benson Must File Petition to Show Cause For His Refusal June 24

A petition for an alternative writ of mandamus was filed in department No. 2 of the circuit court for Marion county Wednesday, Eugene Benson and Cyrus H. Walker being plaintiffs and petitioners, and F. W. Benson, secretary of state, of the State of Oregon, defendant. The writ was asked for the purpose of compelling the secretary to accept and file the petitions for the referendum of the University of Oregon appropriation. The writ, which is printed herewith, is an exact copy of the petition with the mandate added.

Alternative Writ of Mandamus.
The Name of the State of Oregon: F. W. Benson, as Secretary of State of the State of Oregon, the named defendant, Greeting: Whereas, it manifestly appears to the complainant and petitioners, Eugene Palmer and Cyrus H. Walker, the following facts as herein set forth are true:

I. That said plaintiffs and petitioners are citizens and legal voters of the State of Oregon, and of the county of Marion therein; and have been such citizens and legal voters for more than one year last past; and that they are two of the duly qualified signers of the petition hereinafter mentioned, and that their postoffice address is Albany, Linn county, Oregon.

II. That the said defendant F. W. Benson is now, and at all the times hereinbefore mentioned has been and is the duly elected, qualified and acting Secretary of State of the State of Oregon.

III. That on the 23rd day of May 1907, said plaintiffs and others duly presented at the office of said defendant Secretary of State, at the Capitol Building in the city of Salem, Oregon, for acceptance and filing, petitions for order and reference to the people of the State of Oregon, a measure passed by the Legislative Assembly of the State of Oregon at its regular Biennial Session thereof during the months of January and February 1907, known as House Bill No. 37, which said petitions for referendum were in due form, on pages 7 by 10 inches as required by law, and were duly signed by 6392 duly qualified signers and legal voters of the State of Oregon, with residences and post office addresses, which was more than enough to entitle the said petition to be received and filed by the said defendant, and placed upon the ballot at the next ensuing election to be voted upon by the people of the State of Oregon, and which petition designated the title of the measure to be referred as "House Bill No. 37, entitled an Act to increase the appropriation for the support and maintenance of the University of Oregon," and each of said petitions was duly verified by law.

IV. That each of said petitions was attached to a full and true copy of the measure to be referred, and also a full and true copy of the title thereof as the same was originally presented and introduced in the House of Representatives of the State of Oregon by Mr. Eaton, and which measure reads as follows: "Twenty-fourth Regular Session, Oregon Legislature.

HOUSE BILL NO. 37.
Introduced by Mr. Eaton, and read the first time January 16, 1907.

A BILL
To increase the annual appropriation for the support and maintenance of the University of Oregon.

Section 1. That the sum of \$125,000 be and the same is hereby appropriated for the year ending annually thereafter, for the support and maintenance of the University of Oregon; to keep the buildings, grounds, and other property in repair; for the purchase of additional land for the campus grounds; for the construction of buildings and additions to same; for the purchase of library books, laboratory supplies and apparatus.

This fund shall be paid out only on warrants drawn by the Secretary of State on the State Treasurer against said fund. This fund shall be a continuous fund and if the amount appropriated for any one year shall not be used during such year, the balance remaining shall be carried over to the next year and added to the fund for that year, and the Secretary of State is authorized and directed to audit and allow all claims otherwise payable out of such fund, regardless of the date when contracted.

V. That the title to said House Bill No. 37, during its passage through the Legislature was amended so as to read as follows:

"AN ACT
To amend Section 3529 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, by increasing the annual appropriation for the support and maintenance of the University of Oregon," and the said measure as so passed was filed in the office of said defendant on February 20th, 1907, and known as Chapter 64 of the General Laws of that year, found at page 116 of the Session Laws of Oregon for the year 1907.

VI. That at the time said petitions were prepared, the said Laws of Oregon for 1907 had not yet been printed, and that before said plaintiffs and their associates on said petitions prepared said referendum petitions for circulation in the various counties of the State, for signers thereof, they sent a reliable agent to the said defendant's office at said Capitol Building in said City of Salem, Oregon, who asked the Chief Clerk of the defendant if he could furnish him a printed sheet containing the title and measure known as House Bill No. 37, as the same was filed with the Secretary of State, and the said Chief Clerk thereupon, honestly and in good faith, furnished said agent with what purported to be a true copy of said title and measure as printed by the State Printer, as and for such copy, a true copy of which was and is attached to each of said petitions as hereinbefore described; and that said agent, plaintiffs and their associates, in good faith relied upon said printed copy so furnished to them by said Chief Clerk, as being a true copy of the title and measure as the same was filed in the Secretary of State's office.

VII. That on said 23d day of May, 1907, the said defendant received said petitions, but stated to said petitioner that he wished to take the matter under consideration before filing the same in his office as by law provided, in order to confer with the Attorney General of the State of Oregon as to the sufficiency of the title of the Act as given in the petition and in the measure, under the provisions of Chapter 226 General Laws for Oregon for 1907 relative to demanding referendum upon measures passed by the Legislative Assembly, and that he would notify the petitioner whichever way he decided the question, and of his conclusion not to file the same, if he came to that conclusion, on the day that he reached such conclusion.

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VIII. That the above named defendant, acting in his official capacity as Secretary of State of the State of Oregon, did on the 4th day of June, 1907 refuse to file said petitions, and so notified the said plaintiffs, and still refuses to file the same, although they have remained in his office ever since the 23rd day of May, 1907, and he on said June 4th, 1907 so notified said plaintiffs that he would not file said petitions for the alleged reason that the title to the Act as given in the petition, and as given in said measure was not sufficient under the law to require him to file said petitions.

IX. That by the provisions of said Chapter 226 of the General Laws for Oregon for 1907, it was and is the duty of said defendant to file said petitions, and cause them to be placed upon the ballot at the next ensuing election, to be approved or disapproved by the legal voters of said state, and that his said act in refusing to file the same was and is wrongful, and said petitions were and are in all other respects than as hereinbefore found, the same as other referendum petitions received and filed by said defendant at and about the same time that he received these said petitions.

X. That the plaintiffs have no plain, speedy, or adequate remedy in due course of law.

Now Therefore we do command you, that immediately after the receipt of this writ, you do forthwith perform your official duty as herein alleged, by accepting and filing said petitions as of the date of May 23rd

1907, and doing all necessary acts to place the same upon the official ballot at the next ensuing general election, or that you show cause before the Honorable William Galloway, a Judge of this Circuit Court, at the Circuit Court Room, in the County Court House, in the City of Salem, in the County of Marion and the State of Oregon, on the 24th day of June, 1907, at 2 o'clock p. m., of said day, why you have not done so; and that you then and there return this writ to said Judge and this Court, with your certificate annexed thereto, showing that you have done as you are hereby commanded to do, or the cause of your omission to do so.

Done by the order of Hon. William Galloway, Judge of said Circuit Court, this 12th day of June, 1907. In Testimony Whereof, I hereby affix my official signature as Clerk of said Circuit Court, and attach hereto the seal of said Circuit Court the day and year last above written.

(Seal) R. B. ALLEN,
Clerk of said Circuit Court.



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3 1/2	52	white	1.50
3 1/2	62	white	2.00
4 1/2	50	white	2.25
3	38	ecru	.95
3	41	ecru	1.00
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Frank Meredith, City Treasurer.
A. O. Condit, City Attorney.
Jas. W. Martin, Street Commissioner.
Mark Savage, Chief Fire Department.
W. C. Smith, Health Officer.
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Ways and Means—Jacob, Waldo, Churchill.
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Streets—Downing, Stockton, Stols.
Public Buildings—Stockton, Stols, Gesner.
Sewerage, Stols, Jacob, Low.
Plumbing—Fraser, Downing, Gesner.
Fire and Water—Low, Radcliff, Goode.
Bridges—Gesner, Churchill, Fraser.
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Lights—Goode, Haas, Greenbaum.
Printing—Radcliff, Haas, Fraser.
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