

New Line to Tillamook

VIA THE



Pacific Railway & Navigation Co.

Trains will run daily, except Sunday, on the following schedule:

Lv. Portland	7:20 A. M.
Lv. Hillsboro	8:50 A. M.
Ar. Beach Points	1:30 P. M.
Ar. Bay City	2:04 P. M.
Ar. Tillamook	2:25 P. M.
Lv. Tillamook	7:55 A. M.
Lv. Bay City	8:15 A. M.
Lv. Beach Points	9:00 A. M.
Ar. Hillsboro	1:35 P. M.
Ar. Portland	4:10 P. M.

Through tickets on sale at city ticket office, Third and Washington streets, or Fourth and Yamhill, at all points on the P. R. & N. Further particulars from the city ticket agent or agent, Fourth and Yamhill streets.

JOHN M. SCOTT,
General Passenger Agent, Portland, Ore.

You will find that druggists everywhere speak well of Chamberlain's Cough Remedy. They know from long experience in the sale of it that in cases of coughs and colds it can always be depended upon, and that it is pleasant and safe to take. For sale by all dealers.

We wish to call your attention to the fact that most infectious diseases such as whooping cough, diphtheria and scarlet fever are contracted when the child has a cold. Chamberlain's Cough Remedy will quickly cure a cold and greatly lessen the danger of contracting these diseases. This remedy is famous for its cures of colds. It contains no opium or other narcotic and may be given to a child with implicit confidence. Sold by all dealers.

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Final return limit Jan. 8, 1912.

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Between all Stations in Oregon and California where Regular Fare is less than \$15.00.

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For full particulars call on nearest S. P. agent, or write to

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Holiday Round Trips

Portland	\$2.00	Forest Grove	\$2.45
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Woodburn	\$.75	Beaverton	\$1.85

Tickets will be sold December 21, 22, 23, 24, 25, 30, January 1; good returning January 2, 1912.

Round trip tickets will be sold to other points at one and one-third fare, minimum round trip fare 50c. Details, train schedules, etc., will be furnished on request.

W. E. COMAN Gen'l Freight & Pass. Agt. Portland, Oregon
C. E. ALBIN Agent O. E. Ry. Salem, Oregon

INJUNCTION MADE PERMANENT

(Continued from Page 3.)

aid the vast power of the state to defend the petition and exhaust the resources of the citizen in the unequal contest. If it were required in such a case that the plaintiff must make a distinct issue as to the validity of each name challenged for fraud of overturning the petition for that reason would be made certain by establishing the fraud, for the larger the fraud the more difficult it will be to challenge the legal sufficiency of the petition. How would it be possible for a single citizen of this state or any number of citizens to produce specific proof as to the fraudulent character of each of 10,000 names upon this petition. The existence of the power of the court, then to disregard the whole petition upon the proof of material fraud in the making of the petition by one who is in charge thereof supervising its making must rest upon public necessity.

Londoner vs. People, 15 Colo. 557. Upon this principle plaintiff has made his prima facie case of fraud against the following parts of the petition: Section 54 and 57, verified by Walter B. Thurber; 61, verified by Stebbins and Thurber; 33, verified by C. J. Woolweil and Harry Goldman; 16, 59 and 112, verified by E. Wallace; 31 and 105, verified by Charles Matthews; 12, 24, 32 and 88, verified by F. M. Raymond; 8, 19, 34, 50, 85 and 94, verified by Otto Newman; 64, verified by J. C. Kirk; 65, verified by H. McNehey; 51, verified by W. A. Diebold; 17, 113, verified by J. M. Hoykas; 26, 33, 89 and 104, verified by W. L. Carpenter; 23, 29, 40, 44 and 90, verified by W. T. Mendel; 21, 27, 91, 93, 99 and 100, verified by H. W. Marsten; 2, 13, 30, 49 and 84, verified by C. H. Fitzgerald; 9, verified by Charles Teller; 11, 22 and 83, verified by O. A. Erickson; 18, 98 and 114, verified by Roy Moyer, the whole aggregating some 6100 names, which do not include 3722 names admitted to be fraudulent. There is no reason why defendant's counsel should have stopped in their admission when they came to the work of Walter B. Thurber, for many pages of his part of the petition appear to be almost entirely made up of fraudulent and fictitious names. Section 61 is in part verified by Harry Goldman, whose other work in this petition, amounting to 1100 names, has been admitted to be void for fraud. The work of C. J. Woolweil, who verified the remainder of that section, is scarcely an improvement on his associates. Sections 16, 59 and 112, by E. Wallace, ought to be cast out, if for no other reason than that it is admitted that his true name is E. J. Rables, but there is shown to be fictitious and forged names therein, put there by the said Rables, alias Wallace. Sections 11 and 105, verified by Chas. Matthews, are mostly forgeries upon the face of the petition without the aid of extrinsic or other evidence. The strongest evidence of the alleged frauds is the petition itself. The identity of the handwriting in the face of the petition with that in the affidavits, convicts this circulator not only of fraud, but of falsifying his own oath upon the witness stand. Mrs. N. S. Starr, assisted by Miss Minnie Burke, the defendant's expert witnesses, gave testimony tending to show that many names in Matthews' petition were written by one and the same hand. Besides many cases of specific proof of forged names in this part of the petition was shown none of which has in any way been refuted by the defense. Many names have been judged to be bad or forgeries by the defendant's expert witnesses. The same comments may be made as to the work of F. M. Raymond, who, it appears, fled the state as soon as the investigation of this petition began. The reports made by the defendant's expert witnesses, and put in evidence, show that they examined 6753 names, and found only 2902 of that number registered, while 3855 of those found registered reported as having no evidence in the appearance of the writing itself sufficient to say that they are fraudulent. One hundred and thirty-one other names were catalogued as suspected of being fraudulent, and 195 were listed as fraudulent and void. Of these registered names, 1783 appear upon that part of the petition attacked by plaintiff's proof, and deducting that number from the total of 9,781 disqualified by plaintiff's evidence and by the defendant's admission, leaves 8,003 names as the total number affected by plaintiff's case, and not overcome by the defendant. Deducting this number from the total number on the petition, leaves but 5,612 names which may be said to represent the valid part of the petition upon this view of the case. This does not take into account more than 200 names which on a careful computation ought to be deducted for duplication and for lack of proper verification by omitting a name from the affidavit or the failure of the circulator to sign the same. But there is still a much broader view of the case that this court, being an equity court, might take of the whole matter, consider-

ing the moral side thereof, and motives which prompted the circulation of the petition, the manner in which it was done, and the connection of H. J. Parkison therewith, and this acts regarding the same. As we have said, this suit does not involve the adjudication and settlement of mere private rights, but rights of a very broad and universal interest.

The right of petition, reserved by the constitution to refer to a vote of the people any measure passed by the legislature, was not intended to be used to settle or adjust private and local grievances; but the right contemplates the rights to express the honest sentiment of disaffected voters upon public matters only. The evidence in this case disclosed that the petition originated in a case of local neighborhood contention and spite; that in carrying into effect this unworthy motive, means were employed to obtain signatures upon a money basis and to further a personal spleen and revenge by a committee of Cottage Grove citizens. An order was first given to H. J. Parkison to procure 3000 names which he was to be paid at the rate of seven cents for each name so secured to each of the two petitions referring the two acts in this cause. This dealer in names for a price, procured agents for which he at one time vouched to go out into the street and most questionable places in Portland to procure names. Some of these agents went under assumed name, and in this manner made the affidavit required to verify the petition. Long before this petition was fled, Mr. Parkison was advised that a large part of the names handed in to him by his agents were fictitious and fraudulent. He so notified his principal at Cottage Grove, and agreed to replace 600 or 800 names admitted to be fraudulent, among those delivered by him to the committee of that place. A dispute arose among these gentlemen who originated the petition as to what should be done with it, and between some of the committee and Mr. Parkison as to the manner in which he should perform his contract. There is some testimony to the effect that he and Mr. Abrams fled the original 3,000 names without taking out the 600 or 800 fraudulent names, but Mr. Parkison swore that he did not file them. It is certain, however, that he did not eliminate all of the fraudulent names, for the defendant has been compelled to admit the existence of 3,722 fraudulent names and others suspected in the petition as fled. It is shown, however, that Mr. Parkison knew that Chas. Falk had furnished him fraudulent and forged names, still he employed this untrustworthy person to procure more names, and he took no steps to ascertain the validity of these latter names, but fled them with the others. These names form a part of those now admitted to be fraudulent.

Now Mr. Parkison appears to be the one man who has stood back of the state officers and insisted upon a strenuous and technical defense of the purity of his petition, and through the medium of the attorneys for the defense he has insisted that this court delve into the circumstances surrounding each signature on this petition to determine, if possible, its genuineness, all at the expense of the state and the citizens who have uncovered this fraud and are now contributing to the maintenance of this suit. But we are firmly of the opinion that such persons who are indirectly, if not directly, responsible for the frauds that are shown and admitted to have been committed in the preparation of this petition are not now in a position to ask an equity court to perform the unusual, and we may say the herculean task of sifting out, name by name, the good from the bad to ascertain, if possible, whether there may not be sufficient unainted names to maintain this petition so that some spite may be worked out against an institution of the state. People who desire to present such a petition are under obligation themselves to see that there is no fraud in it before presenting it for filing. The proof, in the nature of an oath, specific in form, must be enclosed on each sheet of the petition, and if it is shown that these affidavits are to a great extent false and knowingly so, or the circumstances are such that those filing the petition ought themselves to have known of the falsity of the petition and took no care to protect it from fraud, they are in no position to complain if a court of equity declines to hear them at all. Doubtless few, if any, of the reputable signers of this petition knew that their names were thus being used as articles of traffic for money consideration or as an agency to satisfy a petty revengeful spirit.

If the parties filing this petition with the secretary of state had not known or suspicion bordering on conviction, that a great part of these petitions were fraudulent, why did they file some 8,000 names more than the number required to refer the act, at a cost of over \$500 for so doing? Other than some 2,300 names to these petitions secured in the counties of Beaton, Lane, Linn, Marion, Polk and Yamhill, all the other names to the petitions secured in Portland, Oregon City, The Dalles,

and Astoria by the conspiring circulators, all residents of Portland in the employ and as agents of H. J. Parkison are so permeated with fraud, forgery and conspiracy that a court of equity, and good conscience, will not hesitate to decree all as invalid and of no effect.

The defendant's counsel admits that the petition filed by Mr. Parkison with the secretary of state contains nearly 4,000 fraudulent names, and that others may be tainted, but that he is convinced that there are more bona fide names (viz. 6135) on the petition than are necessary to meet the requirements of the law to refer house bill No. 110; and upon this showing asks the court to dismiss plaintiff's complaint. If a party were indebted to the state in the sum of \$6,135, and should tender to the secretary of state \$13,615 with the admission that \$4,000 of the sum so tendered were counterfeit, and others bore evidence of suspicious character, the court surmises that the learned attorney would not advise the secretary of state to accept the tender and liquidate the obligation, but rather that he would have the circulator of counterfeit money arrested and prosecuted as the law directs. The court is of the opinion that he who knowingly files a fraudulent petition is no less morally culpable than he who traffics in counterfeit money.

Hercules, upon beholding the accumulated filth of years, took drastic measures to cleanse the Augean stables. And the court is of the opinion that the defendant, upon learning of the mutilated and disarranged condition of the petitions, with the positive evidence of irregularity as to form of same, might well have refused to file them, thereby throwing the burden of proof of the legality of the petitions upon the parties at fault, by mandamus proceedings as provided in the statute.

It is the opinion of this court that judged by legal consideration alone, the petition is void, and ought not to stand because of the evident lack of a sufficient number of genuine names of legal voters of the state to refer the measure, and, judged by the conscience of a court of equity, those seeking to maintain it are not in court with clean hands, and ought not to be granted the unusual request to purge the petition of fraud for which they are more or less responsible. The injunction will be made permanent, and it is so ordered.

Imme diately after the decision Attorney General Crawford, representing Secretary of State Olett, served notice on the attorneys of friendly that he would prosecute an appeal to the supreme court.

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