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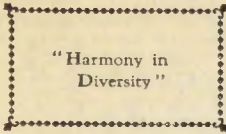
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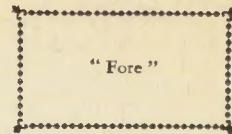
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PORTLAND CITY CLUB BULLETIN



VOLUME I

PORTLAND, OREGON, OCTOBER 22, 1920

NUMBER 4

MORE REPORTS AS READ BEFORE THE CITY CLUB, OCTOBER 15, 1920

ANTI-COMPULSORY VACCINATION MEASURE

THIS measure is a proposed amendment to the Constitution initiated by an organization known as the Public School Protective League. It is proposed to add to Article XV of the Constitution the following:

"No form of vaccination, inoculation, or other medication shall be made a condition in this state for admission to or attendance in any public school, college, university, or other educational institution; or for the employment of any person in any capacity or for the exercise of any right, the performance of any duty, or the enjoyment of any privilege."

The chief argument in support of this measure is that compulsory vaccination is a violation of personal and religious liberty. Those who have no faith in medical science or who, because of religious principles or otherwise, oppose vaccination and other forms of medication insist that their personal and religious liberty is infringed upon by compulsory vaccination.

This argument overlooks an essential in our scheme of government. Personal rights such as liberty, freedom of speech, and freedom of religious thought are of necessity subordinate to the public welfare. Necessarily there must be delegated by the people to their government the power and authority to determine what measures are necessary for the public good; and this obligation and authority should not be so

[CONTINUED ON PAGE EIGHT]

PORT CONSOLIDATION MEASURE

THE following report is submitted by a committee of your Industrial and Port Development Bureau, acting under instructions to make an analysis of the so-called Port of Portland and Dock Commission Consolidation Bill which will appear on the State ballot, November 2, 1920.

To avoid any possible misunderstanding, attention is called first to the fact that at the November election citizens of Portland will vote on two different measures relating to the Dock Commission and the Port of Portland—one on the city ballot and one on the state ballot. This report will deal with the latter only—the one on the state ballot—which is by far the more important of the two measures. The adoption of the measure on the city ballot will amount to nothing unless the bill on the state ballot is enacted into law, for that measure is designed merely to clear the way for carrying into effect one of

the additional powers which the bill on the state ballot is expected to confer on the Port of Portland.

It should be observed, in the second place, that the Swan Island project is not mentioned in either of these measures. A vote in favor of the bill considered in this report is not necessarily, therefore, an approval of that project, nor will such a vote, in the opinion of this committee, unquestionably open the way for the Port Commissioners to proceed with that project. On the other hand, a majority vote against the bill on the state ballot will effectually

**FRIDAY,
OCTOBER 22**

SPEAKER
CHARLES A. HART

ON
**"Other Measures
Before
Electorate"**

To be followed by
seven-minute discussions
on previous
measure reports

block, for a time at least, all efforts to carry out the Swan Island development.

To a very considerable extent the bill on the state ballot is only a restatement of existing law. Its distinctly new features are found in those paragraphs which would authorize The Port of Portland to acquire the properties of the City of Portland now under the control of the Dock Commission; confer on The Port of Portland, in addition to its present general power to acquire real and personal property, specifically stated powers regarding the acquisition, improvement and use of land, docks, warehouses, elevators, railroads, etc.; provide for an enlarged Board of Commissioners in case the Port of Portland acquires, prior to January 1, 1923, the properties of the City of Portland now under the control of the Dock Commission; and enlarge the powers of those Commissioners with respect to bond issues.

With these preliminary observations, this report will now set out, first, some of the arguments in favor of this bill; second, the principal negative arguments followed by comments of our own; third, some constitutional questions; and, fourth, conclusions, followed, fifth, by a recommendation.

1. AFFIRMATIVE ARGUMENTS.

The following seem to be the principal arguments advanced by those who earnestly advocate the enactment of this proposed legislation:

1. *Unified Control of Port and Dock Development.*

The Commission of Public Docks, consisting of five men who serve without pay, has done splendid work in providing the city with a system of modern terminals. Of these terminals one of them, No. 4 at St. Johns, is said by ship captains to be one of the two or three best arranged and most efficiently handled terminals in the whole world.

The Port of Portland Commission, consisting of seven men who also serve without pay, has likewise done effective work with inadequate means, in the task imposed on it by the legislature in 1891 of maintaining a ship channel of sufficient depth between Portland and the sea.

Partly, if not principally, as the result of the efforts of these two commissions, Portland is now reaching the place of eminence in the shipping world for which she has striven for many years. One of the Port commissioners is authority for the statement that one day during the week ending October 9, 1920, the ships in our harbor aggregated more dead-weight tonnage than had ever before been represented in that harbor on any one day since Portland has been a port, and that the tonnage on that day was the equivalent of forty of the old-time sailing vessels that crowded the harbor in the days

when Portland thought a tremendous shipping business was being conducted if as many as fifteen of those vessels assembled in the harbor at one time. One of the Dock commissioners estimates, on the basis of the first nine months of 1920, that the business handled over Portland's docks during the year 1920 will exceed by 3036% the business handled over our docks in the last year before the war.

It is now considered highly desirable that the Dock Commission and the Port of Portland Commission be consolidated in order that the successful work heretofore carried on by these commissioners may be continued in the most efficient and economical manner and in order that a unified and consistent effort may be made, not only to hold the large volume of shipping to which we have now attained, but to utilize to the utmost Portland's present opportunity to reach first place among the ports of the Pacific coast. It is felt also that the next logical step in the effort to reach supremacy in Pacific coast shipping is necessarily a combination of channel improvement and dock extension—a work which neither commission alone could undertake in its entirety—and that for this reason consolidation of the two bodies is almost imperative.

2. *Funds for Necessary Channel Work.*

In line with the theory that everything within reason ought to be done to maintain and increase the shipping we now have, the Port commissioners feel that certain channel work, not connected in any way with the Swan Island project, absolutely must be carried out in 1921 and 1922. That work in itself and for necessary equipment, will cost a great deal more money than can possibly be raised by taxes under present laws operating under the 6% Constitutional limitation. It is not possible either, to raise the required funds by bonds issues under existing statutes, for all bonding power heretofore given the Port of Portland for work of this kind has been exhausted. The only recourse, therefore, is to ask, as in this bill, for a new legislative enactment that will give the Port authority to issue bonds for this necessary channel work.

There is nothing new or radical in this phase of the proposed legislation. In 1891 the legislature authorized the Port to issue bonds up to \$500,000 for similar purposes. In 1901 the Port was authorized by the legislature to issue \$300,000 in bonds to take up previously incurred indebtedness. Again, in 1908, the voters of the Port of Portland authorized the Port to issue \$500,000 of bonds in order to establish and maintain an efficient towage and pilotage service between the Port and the open sea. All bonding power under these statutes, however, has been exhausted, and of the bonds authorized in these various acts only \$692,000 are now outstanding.

3. *Support of Successful and Public-Spirited Men.*

This bill is meeting the honest opposition of some able and well-known men, but it is significant, on the other hand, as pointed out in a recent number of the Oregon Voter, that it has the earnest, active, almost passionate support of many of the most successful, forward-looking and public-spirited men in the city. These men are giving their time and energy, almost without limit, to the support of this legislation. And they are not mere visionaries or theorists. Some of them have had a long and varied experience in world-wide shipping, in channel improvement and in dock construction.

When men of that type, it is argued, unite in the active earnest support of this bill, it deserves, to say the least, the very serious consideration of those who do not have the opportunity, facilities or inclination to study the practical aspects of the problems the bill is designed to solve.

II. *NEGATIVE ARGUMENTS.*

Among the various arguments against the bill the following are considered the most important:

1. *Nullification of Home Rule Principle.*

It is maintained that, as granting to the Port of Portland the additional powers enumerated in the bill would result in additional taxes laid exclusively on the people within the Port of Portland, the voters of the Port should alone vote on the question of granting those additional powers, and that this question should not have been submitted to the electorate of the whole state.

This argument has back of it a show of reason and to a certain extent the principle for which it contends seems to be sound, but under the ruling in the case of *Rose vs. Port of Portland*, 82 Oregon 541, the sponsors of this bill could not do otherwise than put it on the State ballot or submit it to the legislature. This bill proposes to amend the Charter of the Port of Portland, and that case holds it is not competent for the voters of the Port, by their vote alone, to amend the Charter of the Port.

2. *Extension of Bonding Power to Unreasonable Figures.*

It is claimed by the writer of an argument against the bill, which appears in the voter's pamphlet, issued by the Secretary of State, that if enacted into law it will give the Port a combined "bonding and taxing power equivalent to a bonding power of 16% of the tax roll or just about \$50,000,000." On the other hand, the following statement appeared in the Oregon Voter of September 18, 1920, page 14.

This statement was corrected in a subsequent issue of the Voter, but is quoted here because it reflects the opinion still held in certain quarters: "The Port is a district which under present laws has taxing and bonding powers. These taxing and bonding powers are not increased by the terms of the present initiative bill."

In view of these conflicting statements, which seem to be equally far from the truth, it is well to refer to the statutes. Chapter 296 of the 1917 Session Laws, as amended by Chapter 155 of the 1919 Session Laws, gives the Port of Portland certain additional powers and authorizes the Commissioners with the approval of the voters of the Port to issue bonds up to 5% of the assessed valuation of taxable property within the Port. Chapter 385 of the 1919 Session Laws, authorizes the Commissioners of the Port of Portland, with the approval of the voters, to issue bonds up to an additional 1% of the assessed valuation for the purpose of providing bonus money to be used for the encouragement of shipping.

Chapter 155 of the 1919 Session Laws provides also that the 5% limitation shall be exclusive of any bonds at that time outstanding. According to the Port of Portland records, the Port bonds actually outstanding when that chapter was enacted totalled \$694,000. The assessed valuation of the said taxable property is approximately \$330,000,000. It appears, then, that under existing law the maximum of bonds that may be issued by the Port is \$694,000 plus \$19,800,000 (6% of \$330,000,000) or a total of \$20,494,000. It should be remembered in this connection that under existing law, bonds may be issued for purposes specified in chapters just mentioned, but not for channel improvement.

Now this bill provides that the bonds issued by the Port shall never exceed in the aggregate 5% of the assessed valuation of taxable property within the Port, but that bonds issued for the purpose of assuming an indebtedness of \$10,560,000 of the City of Portland on account of properties under control of the Dock Commission shall not be included in the 5% limitation. The writer of the negative argument in the Voter's pamphlet seems to assume that, as the pending measure does not amend or repeal Chapters 155 and 385 of the 1919 Session Laws, this bill, if enacted into law, would add a 5% bonding power to the Port's bonding power under existing law, and thus yield a total bonding power (as distinguished from taxing power) of 5% plus 5% plus 1%—or 11% in all.

This view does not seem to be correct. It is true that this bill contains no provision that expressly repeals or amends any part of Chapters 155 and 385 of the 1919 Laws, but it does

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PURPOSE OF BULLETIN

OUR BULLETIN is meant to do several things; first, to keep members in touch with what is going on in the Club; second, what is going on in the city and state in the field of public affairs; third, what is going on in other cities, and fourth, we attempt to give a resume of the speeches made before the club.

ONE WAY A CITY IS JUDGED

IT HAS often been said that the intellectual standard of a city can be judged by the quality of its musical attainments. The *Portland Symphony Orchestra* gives expression to the city's finer sensibilities as well as demonstrating an appreciation for the artistic and beautiful.

The *Orchestra* begins its tenth season with the

opening of its first concert on October 27, Benno Moiseiwitsch, soloist. Prominent and internationally recognized artists will appear during the season, who will give Portland audiences programs of hitherto unparalleled quality and mark a new record of musical attainments for the Portland Symphony Orchestra.

ATTENDANCE

REMEMBER that every Friday is City Club Day. If you have been attending City Club meetings every week since the opening of this season, you know what good work the Club is producing. If you have missed any of these meetings, resolve right now to be present this week and every week.

Your friends are always glad to see you on Friday and the Club is just so much stronger with your presence and your influence.

Get the habit and come early!

APPLICATIONS FOR MEMBERSHIP

The following applications for membership will be submitted to the vote of the Club at the regular meeting on Friday, November 5.

E. N. BATES,
Grain Inspector, U. S. Dept. of
Agriculture

WM. R. EDLUND,
District Manager, E. Naumburg
& Co., Investments

W. A. KING,
Asst. Mgr. American Surety Co.

M. W. LORENZ,
Builder

W. J. LYONS,
Mgr. American Surety Co.

CHARLES MCKINLEY,
Professor, Reed College

MELVILLE E. REED,
Statistician, U. S. Shipping Board

S. SLOCUM,
Mgr. Juvenile Dept., Peoples Bank

RALPH K. STRONG,
Prof. of Industrial Chemistry,
Reed College

R. L. YOKE,
Mgr. Geo. Chew Investment Co.

PORT CONSOLIDATION MEASURE

[CONTINUED FROM PAGE THREE]

very definitely and specifically state that for the purpose of carrying into effect any and all the powers therein granted, or heretofore granted or which may hereafter be granted to the Port of Portland, the Port may issue bonds up to 5% only of the assessed valuation, plus the amount of the indebtedness of the City of Portland which may be assumed by the Port. "The powers heretofore granted" include those mentioned in the said Chapters 155 and 385, and the bonding power conferred by those Chapters will merge into that provided by this bill—instead of cumulating and yielding a total bonding power of 11%.

The conclusion, then, is that if the bill is enacted into law, and if its constitutionality as a whole is sustained, the Port will have authority to issue bonds amounting to \$16,500,000 (5% of assessed valuation) plus \$10,560,000, on account of existing indebtedness of the City of Portland, or a total of \$27,060,000. This total is 8.2% of the assessed valuation. In this connection it may be well to note that any other ports in the State having a population less than 100,000, may now issue bonds up to 10% of the assessed valuation of its taxable property.

A comparison of the figures already given shows that the proposed legislation would add \$9,566,000 to the bonding power of the Port—the difference between \$27,060,000 and \$20,494,000. This conclusion is reached on the assumption that bonds totaling \$3,300,000, can legally be issued on the authority of Chapter 385 of the 1919 Session Laws, but legal experts in the east recently held that such is not the case. If it should finally be determined that bonds cannot be issued under the provisions of that Chapter, the present bonding power of the Port is only \$17,194,000 as compared with the bonding power of \$27,060,000, which this legislation would confer.

3. *Manner of Selecting Commissioners of The Port of Portland.*

The bill names seven commissioners, who are the same as the Port commissioners now in office, and provides that as their terms of office expire their successors shall be elected, for a period of four years, by the legislative assembly in 1923 and in 1925. In the event that the properties controlled by the Dock Commission are acquired by the Port of Portland, the present members of the Dock Commission are to be added to the Port of Portland Commission, thus making a body of twelve men whose terms of office will expire at different intervals up to

June, 1929, and whose successors will be elected by the legislature for terms of six years each.

Opponents of the bill contend that this method of choosing commissioners, vested with the extensive bonding powers enumerated in the bill, is wrong in principle and might be dangerous in practice. In reply to this contention the framers of the bill say they merely adopted the method of choosing commissioners which has been followed, with respect to the Port of Portland, for nearly thirty years; that election of those commissioners by the electorate of the Port would require election laws and machinery which do not now exist; and that it was not legally possible to authorize the Governor to appoint the Commissioners for the reason that the Port commissioners exercise a taxing power which, under our scheme of government, can be exercised only by the legislature or its appointees and cannot be delegated to the administrative branch of the state government.

4. *Enormous Bonding Power Vested Exclusively in Commission Responsible to Legislature Only.*

Under the two operative statutes relating to the Port of Portland, as already pointed out, the Commissioners must submit all bond issues to the voters of the Port for approval or rejection. There is, therefore, no violation of the principle of self-government even though the Commissioners are elected by the Legislature, and not by the voters of the Port. In any of the other organized ports of the State the Commissioners may issue bonds without consulting the voters of the Port, (Chapter 432 of 1919 Session Laws) but those commissioners are elected by, and are responsible to the voters of the Port. (Lord's Oregon Laws, Section 6122). It follows that when the commissioners of any such Port issue bonds, they in reality do so with the consent of the voters who have elected them to office. Existing or operative Port law, therefore, confers no power to issue bonds without the consent of the voters either in the case of the Port of Portland or of any of the minor Ports in the State.

In contrast with the statutes just mentioned, this new legislation is designed to confer on the Commissioners the exclusive power to issue bonds, up to \$27,000,000, in such amounts and at such times as the majority of the Board may think proper. No legal right to approve or reject contemplated bond issues is reserved to the electorate of the Port, and that electorate is to have no voice, except very indirectly, in the election of the Commissioners. For the proper exercise of this vast bonding power the commissioners are to be accountable only to the legislature representing the people of the whole state, and not alone to the people of the Port on

whom will fall the whole burden of the Port's bond issues.

Opponents of the bill assert that, in this aspect, the proposed legislation is oligarchic and not democratic, that it is a departure from all recent Port legislation, and that it may be unconstitutional.

In reply to this criticism, advocates of the measure point out that the original act creating the Port of Portland in 1891 authorized commissioners appointed by the legislature to issue bonds without consulting the voters of the Port; that in 1901 the legislature again authorized a bond issue by the commissioners without the approval of the Port's electorate; and that the constitutionality of this bill is conclusively determined by the decision of our Supreme Court in *Cook vs. Port of Portland*, 20 Oregon 581, which upheld the constitutionality of the original act creating the Port of Portland.

III, CONSTITUTIONALITY OF THE PROPOSED LEGISLATION.

The difference of opinion reflected in the statements of the last few paragraphs indicates that the constitutionality of this bill is a very important question. No reputable lawyer would want to answer that question by saying categorically that the bill is unconstitutional, but certain obvious distinctions can be made and a properly guarded opinion can be modestly stated.

The act of 1891 creating the Port of Portland limited the activities of the Port to channel work. It gave the commissioners no authority to buy or build docks, acquire land except as an incident to channel work, operate steamship lines or pay bonuses. When construing that act in *Cook vs. Port of Portland*, 20 Oregon 581, our Supreme Court held that the whole state was interested in maintaining a proper river channel from Portland to the sea; that the legislature, representing the whole state, therefore had the right, acting through the Commissioners, to keep that channel open; and that the Commissioners could legally levy the cost of channel maintenance and improvement on the people of the Port of Portland on the ground that the people of Portland would be peculiarly benefited by the work of the Commission. This decision, in other words, applied the law to a situation in which a state-wide interest in a public improvement was combined with special local benefit resulting from that improvement.

Now if this bill is enacted, the law will have to be applied to a vastly different situation. The Commission will still be charged with the duty of maintaining a proper channel and the people of the whole state will still have a vital interest in that channel. The people of the whole state may also have some interest in the construction and maintenance of adequate docks for the handling of shipments coming from or

going to interior parts of the state, but the framers of the original act creating the Port of Portland evidently held a contrary opinion or Portland's docks would then have been put under the jurisdiction of the Port Commission. In many of the other proposed activities of the Port Commission the whole state cannot possibly have such an interest as it has in the channel itself. Preparing industrial sites and providing railroad storage yards benefits the city and not the state, and terminals devoted exclusively to through shipments are matters of local concern only.

The question, then, is whether the constitutionality of this bill can be sustained by the same reasoning which the Court applied to the original act creating the Port of Portland. Those parts of the bill which authorize the Commissioners to issue bonds and levy taxes for channel work doubtless would be upheld unless the Court should feel that Section 32, Article 1 of our State Constitution is not susceptible, in its present amended form, to the construction which the *Cook* decision placed on it in its original form. On the other hand, the constitutionality of all those parts of the bill which attempt to confer on Commissioners, elected by the legislature, the right to issue bonds for purely local purposes is extremely doubtful. The following consideration give the reasons for that conclusion.

The power to bond is, of course, only a phase of the power to tax. The legislative power in the State has the right to delegate taxing power to municipal corporations (*Cooley on Taxation*, 3rd page 99). Our Supreme Court held in the case of *Cook vs. Port of Portland*, 20 Oregon 580, that the Port of Portland is a municipal corporation. It is fully competent, therefore, for the people of Oregon in their legislative capacity to delegate taxing power to the Port of Portland.

But the right of the people of Oregon or of the legislature to delegate taxing power for local purposes to municipal corporations is subject to certain limitations which are stated as follows by Judge Cooley in his work on *Taxation*, 3ed., page 102: "The legislature, however, in thus making delegation of the power to tax, must make it to the corporation itself, and provide for its exercise by the proper legislative authority of the corporation. It cannot confer upon merely ministerial or administrative officers, the power to make rules for taxation."

What constitutes "the proper legislative authority of the corporation," which alone, according to Judge Cooley, can exercise delegated taxing power? The courts of California, Illinois, Iowa, Kansas, Michigan, Montana, North Dakota and Utah, and the Federal Courts answer this question by saying that delegated taxing powers for local purposes can be exercised only by those "municipal authorities who

are elected by the people or chosen in some manner to which they have given their consent." (Gray's Limitations of Taxing Power and Public Indebtedness, Section 560). The reasoning by which those courts arrived at that conclusion is well illustrated in the following cases:

In 1865 the legislature of Illinois attempted to delegate taxing powers to the Commissioners of a dyking and drainage district. In an opinion holding that act unconstitutional the Supreme Court of Illinois said:

"The power of taxation is, of all the powers of government, the one most liable to abuse, even when exercised by the direct representatives of the people; and if committed to persons who may exercise it over others without reference to their consent, the certainty of its abuse would be simply a question of time. No person or class of persons can be safely intrusted with irresponsible power over the property of others, and such a power is essentially despotic in its nature, and violative of all just principles of government. It matters not that, as in the present instance, it is to be professedly exercised for public uses, by expending for the public benefit the tax collected. If it be a tax, as in the present instance, to which the persons who are to pay it have never given their consent, and imposed by persons clothed with no authority, of any kind, by those whom they propose to tax, it is, to the extent of such tax, misgovernment of the same character which our forefathers thought just cause of revolution. We are of opinion that we do no violence to the language of the clause in the Constitution we have been considering, by holding that it was designed to prevent such ill-advised legislation as the delegation of the taxing power to any person or persons other than the corporate authorities of the municipality or district to be taxed. These authorities are elected by the people to be taxed, or appointed in some mode to which the people have given their assent, and to them alone can this power be safely delegated." (Harvard vs. St. Clair & M. Levee & D. Co., 51 Illinois 130.)

An act of the legislature of Kansas authorized the creation of a board of road commissioners and empowered those commissioners to levy taxes. That act was held unconstitutional by the Supreme Court of Kansas and by one of the Federal Courts, the latter saying:

"Self-taxation, or taxation by officers chosen by or answerable to those directly interested in the district to be taxed, is inseparable from that protection of the right of property that is either expressly or impliedly guaranteed by all written Constitutions, under our system of government. Of all the powers of government the one most liable to abuse is the power of taxation. If placed in hands irresponsible to the people of the district to be taxed, its abuse is a mere question of time. The act is a plain violation of the principle of self-taxation, and a clear in-

vasion of the right of property."—(Parks vs. Wyandotte Couty Comrs., 61 Fed. 436.)

In 1897 the Supreme Court of Iowa declared unconstitutional an act of the legislature which attempted to delegate taxing power to a board of library trustees. (State ex rel. Howe vs. Des Moines, 39 L. R. A. 285). Part of the Court's opinion in that case reads:

"The power to determine and levy taxes is inherent in government. Its exercise for proper purposes is essential to the very existence of the government. When exercised in a lawful manner, and by proper agencies of the state, the burdens imposed must be borne by those upon whom they fall; but when exercised by officers and bodies charged with no direct responsibility to the people the temptation to place upon the people unnecessary burdens under the guise of taxation, and to take from them a portion of their property not needed for legitimate purposes of government, is great. It may be admitted in the case before us that the board of library trustees is composed of high-minded, honorable men and women, and it may be that this board is better qualified to know what such tax should be than is the city council. However that may be, the principle is wrong, and the power of taxation attempted to be conferred upon the trustees is a long step in the direction of permitting boards not elected by or directly responsible to the people to determine what burden the taxpayers' property shall bear. We hold that no officer and no board not elected by and immediately responsible to the people can be made the repository of such power."

In the light of these authorities, it is almost safe to say that this bill is not constitutional in its entirety. It certainly does not meet Judge Cooley's requirement that an act which delegates taxing power for local purposes must provide for the exercise of that power by the "proper legislative authority," of the municipal corporation. In fact, no legislative authority of the corporation is recognized. It ignores the rule of the courts that such taxing power may be exercised only by those authorities of the municipal corporations "who are elected by the people or chosen in some manner to which they have given their assent."

IV. CONCLUSIONS.

On the assumption that the opinion heretofore expressed regarding the constitutionality of the bill is correct, the following conclusions are reached:

1. If enacted into law, this bill will enable the Port commissioners to raise the funds required for all necessary channel work, except the part involved in the Swan Island project.
2. Any attempt of the Port Commission to issue bonds for the purpose of acquiring the docks controlled by the Dock Commission or of purchasing the land in the Swan Island project would involve such a blending of the Constitutional and of the unconstitutional features of

the bill as would render those bonds unsaleable in the bond market. The Commission, therefore, will be automatically prevented from spending money on the Swan Island project until the merits of that project are determined by the vote of the Port electorate alone.

3. The very unconstitutionality of part of the bill destroys the force of the one really serious objection to it in its present form—namely, that it attempts to confer autocratic power on a small body of men. A nominal delegation of that power is of no consequence if the power cannot be exercised.

4. The constitutional defects in the bill can be cured only by an amendment requiring the Commissioners to submit proposed bond issues to the voters of the Port, or providing for the election of the Commissioners by the Port's electorate. Such an amendment would at once remove all important objections that can now be urged against the bill.

5. This bill, with the suggested amendment, will open the way for a unified, economical and progressive program of channel improvement, port development and dock construction; and a determined effort should be made to secure the needed amendment from the next legislature.

V. RECOMMENDATION.

It may be somewhat anomalous to assert that part of this bill is unconstitutional and then ask that it be supported. The City Club, however, seeks and progress and not reaction, and it is believed that in this instance progress lies, not in defeating this bill and making a fresh start at a later date with another bill, but rather in now accepting this bill as we find it and later looking to the legislature for the necessary amendment. The members of the City Club are therefore advised to give this bill their active support.

[Approved by Board of Governors]

F. B. LAYMAN

ANTI-COMPULSORY VACCINATION MEASURE

[CONTINUED FROM PAGE ONE]

hampered that it cannot avail itself of what human experience has shown to be of use.

Applying this principle to local government, experience has shown that many matters of public welfare are not and probably cannot be properly cared for in the home or by the individual, and must be controlled by public agencies or through public institutions. This is particularly true of the community health. If in the judgment of those to whom we have delegated the supervision of the community health, vaccination and other forms of medication are helpful, they should not be denied the right to use these measures, even though individuals in many instances may not agree as to the propriety or the efficacy of the measures. If it seems arbitrary to allow the state to vaccinate a child attending the public school, it may be answered that it is equally harsh to force another child to attend a school, in com-

pany with an unvaccinated child who may have been exposed to contagion.

Whether vaccination is efficacious may perhaps be arguable. It is difficult to deny, however, that contagious diseases exist, and that measures developed by medical science have aided in stamping out or at least in curbing contagion. In the face of this world-wide experience, it would seem unwise to tie the hands of the state government by forbidding resort to measures which have proven helpful in the past.

It is commonly supposed that as its name suggests and the affirmative argument reads, the measure is aimed principally against compulsory vaccination for smallpox. The amendment in fact goes much farther than this in that it would make it impossible for the state or any city to enforce vaccination, inoculation, or any other medication. In short, the scientific control of epidemics would be handicapped to the point of ineffectiveness if health officers had no authority to compel obedience to their regulations. It is too well known to need more than passing mention that modern civilization with its crowded cities and with its present day extensive and rapid movements of people from one congested center to another is possible only if the contagious diseases which tend to run wild in city crowds are controlled.

Vaccination and various form of inoculation are universally in use throughout the world, and their effectiveness has been demonstrated in the care of the armies of the great nations. The results accomplished compel the conclusion that vaccination and other medication have been of great assistance in preserving the public health; and if this is true, no consideration of personal liberty should deprive the state of the right to use these measures.

The proposed measure would prohibit any form of compulsory medication or for the exercise of any right, the performance of any duty or the enjoyment of any privilege. It would deprive the state and city health authorities, the Social Hygiene Society and similar public or quasi public bodies of the right to control by adequate treatment the syphilitic, gonorrhoeal or other diseased individual who may be disseminating diseases by ordinary commingling on the street, by the handling of meats or other foods, or in any other way which might be construed as the exercise of a right or privilege.

Again if the measure should be passed, it probably would run counter to the federal public health service so that in time of emergency, national welfare might demand that the federal service step in and handle a matter which the state could not control because its hands were tied by the amendment in question.

Your committee believes that this amendment is detrimental to the public welfare and strongly recommends against its adoption.

CHARLES A. HART, CHAIRMAN
DR. R. B. DILLEHUNT
T. T. MUNGER

[Approved by Board of Governors]