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"Harmony in
Diversity"

PORTLAND CITY CLUB BULLETIN

"Active
Citizenship"

VOLUME V

PORTLAND, OREGON, FEBRUARY 6, 1925

NUMBER 20

FRIDAY, FEBRUARY 6

Hotel Benson, 12:10

SPEAKER

ALEXANDER WILLIAMS

Of New York City

American Chemical Society

SUBJECT

"Chemistry and World Affairs"

A rare opportunity is afforded City Club members to hear this speaker of unusual interest and broad experience. Previous to his association with the American Chemical Society, Mr. Williams served in the aeronautical service during the World War and was stationed in the Orient for one year and a half by the United States Shipping Board.

Reports Will Be Presented On Excess
Condemnation and the Arbitration Bill.

ARBITRATION BILL IS APPROVED

Conclusions favoring the passage of the Arbitration Bill now before the legislature are included in the report of a special City Club committee which was recently appointed to make a study of that subject. The need for such legislation is explained and the procedure to be observed by arbitrators is outlined in the report. The report has been approved by the Board of Governors and will be presented to the Club for adoption on Friday, February 6th.

The report follows:

To the Board of Governors:

Your Committee, appointed to study the question of Arbitration, and, particularly, the

Continued on page 3

COMMITTEE FAVORS EXCESS CONDEMNATION

That the City Club endorse the bill relating to excess condemnation by cities as approved by the City Planning Commission, and use its best effort in having the same submitted by the legislature for the vote of the people at the next general or special election, is the recommendation made in the report of the special committee which has just completed a study of that subject. The reasons for the approval of the bill as stated in the report are:

1. The proposed constitutional amendment is in harmony with the detailed recommendations of this committee as published in the *City Club Bulletin* of January 25th, 1924.

Continued on page 2

PORTLAND CITY CLUB BULLETIN

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THE CITY CLUB

OF PORTLAND

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CITY CLUB PURPOSE

"To inform its members and the community in public matters and to arouse them to a realization of the obligations of citizenship."

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ANNUAL CLUB DINNER

The City Club annual dinner meeting has been definitely scheduled for Friday evening, March 13th, at the Reed College Commons. Norman F. Coleman, President of Reed College and active City Club member will be the speaker. The Music Committee which has been preparing for this occasion for some time will disclose no further details at the present concerning the wonderful program and entertainment which is promised. This is the big event of the year. Make plans now to attend.

EXCESS CONDEMNATION

Continued from page 1

2. That such an amendment appears necessary as a basis for enactment of the necessary statutes and city ordinances.

3. That the states of New York, Ohio, Wisconsin, New Jersey, and Massachusetts have adopted similar constitutional amendments.

4. That excess condemnation laws in the United States have been perfected after centuries of trial and experience in European countries.

5. That such laws are therefore not experimental but have been found absolutely essential for the widening of existing streets in our congested city districts and that Portland must have such legal machinery available if some of our larger and more expensive projects are to be put over and the cost thereof equitably assessed and distributed.

A report on the principle of excess condemnation was completed by the same City Club committee one year ago, with recommendation that legislation, similar to that now before the legislature, be enacted authorizing cities under proper restrictions to condemn excess areas for public purposes. The committee which made the study is: John H. Lewis, chairman, Alton C. Allen and L. F. Steel. The report, which was approved by the Board of Governors at its last meeting, will be presented for adoption and will be read in full at the luncheon meeting on Friday, February 6th.

ARBITRATION BILL

Continued from page 1

Bill for an Act to legalize Arbitration, now before the 33rd Legislative Assembly at Salem, a copy of which Bill is attached hereto, begs to report as follows:

Legislation Is Needed

The principle of arbitration is sound. It has been resorted to for centuries, and where the losing party abides by the award of the arbitrators, arbitration, without any enabling legislation, fulfills its purpose.

Congestion and a growing necessity for the prompt settlement of disputes between litigants, particularly as respects controversies growing out of trade relationships, create a need for a simplified method of settlement. Protracted litigation in the Courts often creates a spirit of animosity whereas arbitration usually makes for friendliness. The average high-minded attorney laments the growing dissatisfaction of the layman with the seemingly unbusinesslike manner of conducting litigation. Pending the hoped-for but apparently far-distant simplification of procedure in the regularly constituted tribunals of justice,—the courts,—the new law is a step in the right direction. It does not deprive attorneys of their rightful prerogative of representing their clients, inasmuch as attorneys are still needed before arbitration tribunals. From all reports available, the Bench and Bar approve the idea.

Procedure Outlined

The States of New York and New Jersey, within the past five years, have enacted arbitration statutes. The State of Washington has such a law which has been interpreted by its Supreme Court. The Committee which drafted the new Oregon bill concluded it was wise to include all necessary provisions of the Eastern statutes, but to pattern after the Washington law, thus taking over the decisions rendered by the Washington Supreme Court. The Bill is comparatively short, containing only 12 sections, the salient features being:

1. Persons desiring to end any dispute, except one wherein the title to real estate is involved, may submit their difference to the award of any person or persons mutually selected. Arbitration is not compulsory.
2. Selection and compensation of arbitrators left to the parties.
3. Arbitrators have power to compel the at-

tendance of witnesses and to decide both the law and the fact.

4. Rules of evidence are flexible, everything pertinent to the controversy and conducive to its adjustment being admissible.

5. Award, when made, is filed with the clerk of the court, and, unless objected to within 20 days, is confirmed by the court, and made effective like a judgment in a civil action. It may be excepted to only on the grounds of mistake or fraud.

Arbitration is not compulsory. It will continue to find its chief exponents among members of trade and business organizations, in which a selected list of names is available,—men representative in their particular branch of business,—who are ready and willing to serve as arbitrators. Members of these organizations, entering into contracts, will always incorporate therein a clause providing for arbitration, under the statutory provisions, of any dispute which might arise incident to said contract. Where two parties have a dispute, not incident to a written contract nor providing for arbitration thereof, they may enter, after the dispute has arisen, into a written agreement to arbitrate said dispute. Whether private individuals, having personal differences, not connected with trade or business, will extensively use the new law, is problematical.

Conclusions

According to information furnished by the Arbitration Society of America, New York City, arbitration, under New York and New Jersey laws, especially in the moving picture industry, is proving beneficial and successful. With the proposed law on the Oregon statute books, arbitration in Oregon should be equally useful and efficacious.

Your Committee, therefore, recommends endorsement, by the City Club of Portland, of Senate Bill No. 97 for an Act to provide for Arbitration now before the Oregon Senate and House.

Respectfully submitted,

J. O. STEARNS, JR.
 WALTER S. KLEIN
 J. B. FITZGERALD, *Chairman*

Following is the bill which has been presented in the Legislature:

A BILL

For an Act to Provide for Arbitration and Award, and to Prescribe the Procedure, and to make Awards Effective. Be It Enacted by the

People of the State of Oregon:

Section 1. Disputes may be Submitted to Arbitration.

All persons desiring to end, by arbitration, any controversy, suit or quarrel, except such as respect the title to real estate, may submit their difference to the award or umpirage of any person or persons mutually selected.

Section 2. Agreement to be in Writing.

Said agreement to arbitrate shall be in writing, signed by the parties and may be by bond in any sum, conditioned that the parties entering into said submission shall abide the award.

Section 3. Court to Stay Suit until Arbitration is had.

If any suit or proceeding be brought upon any issue arising out of an agreement, which contains a provision for arbitration of the same matter in controversy in such suit or proceeding, then, upon application, any judge of a Court of Record, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration, shall abate the action so that arbitration may be had in accordance with the terms of agreement; said application to be heard similarly to hearings on motions.

Section 4. Agreement for Naming Arbitrators—Vacancy.

If, in the arbitration agreement, no provision be made for the manner of selecting the arbitrators, or, if, for any reason, there be a failure to act or a vacancy, and no provision in the agreement for the filling thereof, then, upon application of either party to the agreement, any Court of Record shall appoint such arbitrator or arbitrators or fill such vacancy, which appointee or appointees shall act under the said arbitration agreement with the same force and effect as if he or they had been specifically named therein.

Section 5. How Arbitration Conducted.

The said arbitrators shall be sworn to try and determine the cause referred to them, and a just award made out, under the hands and seals of a majority of them, agreeably to the terms of the submission. Said award, together with the written agreement to submit, shall be sealed up by the arbitrators and delivered to the party in whose favor it shall be made, who shall deliver the same, without breaking the seal, to the Clerk of any Court of Record of the county wherein said arbitration is held, who shall enter the same of record in his office. A copy of the award, signed by said arbitrators or a majority of them, shall also be delivered to the party in whose favor it is rendered, who shall, if the matter be not settled, serve a copy of the same on the adverse party, and if no exceptions be filed against the same within twenty (20) days after such service, judgment shall be entered as upon the verdict of a jury, and execution may issue thereon, and the same proceeding may be had upon said award, with like effect as though said award were a verdict in a civil action.

Section 6. Compensation of Arbitrators.

The compensation of arbitrators in all cases shall be governed by agreement between the parties to the arbitration.

Section 7. Exceptions to Award.

Within the period specified in Section 5, the

party against whom an award may be made may except in writing thereto for any of the following causes:

- a. That the arbitrators or umpire misbehaved themselves in the case;
- b. That they committed error in fact or law;
- c. That the award was procured by corruption or other undue means.

Section 8. Proceedings of Court upon such Exceptions.

If, upon exceptions filed, it shall appear to the Court that the award should be vacated or modified, the Court may refer the cause back to said arbitrators with proper instructions for correction or rehearing, and upon failure of the arbitrators to follow said instructions, the Court shall be possessed of the case and proceed to its determination.

Section 9. Confirmation of Award—Effect.

Whenever no objection is made to the entering of judgment after award, judgment shall have all the force and effect of a judgment obtained in a Court of record in this State after default but whenever any judgment is entered after objection on the part of any party by the order of such Court, such judgment shall be subject to appeal to the same extent as if said judgment had been obtained after trial by a Court of Law.

Section 10. Power of Arbitrators.

Arbitrators, or a majority of them, shall have power—

- a. To compel the attendance of witnesses duly notified by either party, and to enforce from either party the production of all such books, papers and documents as said arbitrators may deem material to the cause;
- b. To administer oaths or affirmations to witnesses;
- c. To adjourn their meetings from day to day, or for a longer time, and also from place to place, if they think proper;
- d. To decide both the law and the fact that may be involved in the cause submitted to them.

Section 11. How Contempt Punished.

Whenever, on motion of any arbitrator or party in interest, it shall be made to appear to the County or Circuit Court of the County in which any arbitration proceedings are pending, that any witness or party has refused to answer a subpoena or obey any lawful order of said arbitrator or arbitrators, said Court may require such witness or party to show cause why he should not be punished for contempt of court, to the same extent and purpose as if the said proceedings were pending before said Court.

Section 12. Costs Taxed against Losing Party.

Unless otherwise agreed upon, the costs of witnesses and other fees in the case shall be taxed against the losing party; said fees shall be endorsed upon the award, and when said award is confirmed as the judgment of the Court of Record, execution shall issue therefor as for costs in civil actions.

All acts and parts of acts inconsistent with this act are hereby repealed.