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Statement on Constitutional Amendment Concerning Convening of Legislature (State Measure No. 6)

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STATEMENT

ON

**CONSTITUTIONAL AMENDMENT
CONCERNING CONVENING
OF LEGISLATURE**

(State Measure No. 6)

State Measure No. 6 is a constitutional amendment referred by the second special session of the 1973 Oregon Legislative Assembly (House Joint Resolution 81). It permits the Legislature to convene itself in an emergency on the written request of the majority of the members of each house; the session to commence within five days after receipt of the minimum requisite number of requests.

In view of the brief time available between the end of the special session and the May primary election, the Research Board has been unable to constitute a research committee that would have the time to do the necessary research for the usual City Club report. In an effort to inform the membership, the Research Board submits the following statement.

In 1970 and in 1972 the City Club approved but the voters defeated similar proposed amendments which would have permitted the Legislature to convene itself on the request of a majority of the members of both houses, without the requirement of an emergency. (See reports in Vol. 51, No. 18, Oct. 2, 1970; Vol. 52, No. 51, May 5, 1972.)

Section 10 of Article IV of the Oregon Constitution provides for biennial sessions of the Legislature. Section 12 of Article V empowers the Governor to convene the Legislature "on extraordinary occasions." He "shall state to both houses when assembled, the purpose for which they shall have been convened." Three times in the last several years, no matter which party dominated the Legislature, a majority in each house of the Legislature has felt it desirable to submit to the voters the proposition that the Legislature should be able to convene itself.

Twice the City Club has concluded that "if the Legislature is to reestablish and reaffirm its position as a co-equal branch of government and so assume the role that it should in appropriating and overseeing the expenditure of about one billion dollars every biennium, it must be permitted to meet as often as it finds necessary."

The difference between the prior proposed amendments and this one is that the present measure would only authorize the Legislature to convene itself "in the event of an emergency."¹ It might be assumed that the citizen-legislature of Oregon would not easily call itself into special session, causing its members to forego income they might otherwise derive from their jobs. The proposed amendment now spells out what probably was assumed previously, that a special session, whether convened by the Governor or a majority of the Legislators, would be called only for an extraordinary or emergency occasion.

A question might arise whether in such a session the Legislature should be confined to the consideration of measures that deal with the emergency. The same question exists when the Governor convenes a special session "on extraordinary occasions," at which time he is required to state the purpose of his call. In the past no law passed at a special session has been successfully challenged on the ground that the occasion for convening the Legislature was not extraordinary or that the law did not relate to the extraordinary occasion.

¹SM 6 reads as follows:

HJR-81, SECTION 10a. In addition to the occasions when the Governor convenes the Legislative Assembly by proclamation as provided in section 12 of Article V of this Constitution, in the event of an emergency the Legislative Assembly shall be convened by the presiding officers of both Houses at the Capitol of the State at times other than required by section 10 of this Article upon the written request of the majority of the members of each House to commence within five days after receipt of the minimum requisite number of requests.

The Attorney General has held that the Legislature when meeting in special session, is not limited to acting on matters stated in the Governor's proclamation convening the session (33 OAG 343 (1967)). Speaking of the emergency clause that makes a bill effective on passage, the Attorney General observed that the courts will not question the Legislature's judgment that an emergency exists (35 OAG 564, 569 (1971)). It is unknown if the same reasoning would apply to this measure.