

10-25-1974

City Club of Portland Bulletin vol. 55, no. 21 (1974-10-25)

City Club of Portland (Portland, Or.)

Follow this and additional works at: https://pdxscholar.library.pdx.edu/oscdl_cityclub



Part of the [Urban Studies Commons](#), and the [Urban Studies and Planning Commons](#)

Let us know how access to this document benefits you.

Recommended Citation

City Club of Portland (Portland, Or.), "City Club of Portland Bulletin vol. 55, no. 21 (1974-10-25)" (1974). *City Club of Portland*. 295.
https://pdxscholar.library.pdx.edu/oscdl_cityclub/295

This Bulletin is brought to you for free and open access. It has been accepted for inclusion in City Club of Portland by an authorized administrator of PDXScholar. Please contact us if we can make this document more accessible:
pdxscholar@pdx.edu.

**City
Club** of Portland
BULLETIN

Portland, Oregon

Vol. 55, No. 20

Benson Hotel, Mayfair Room

12:15 p.m.

Friday, October 25, 1974

A JOINT APPEARANCE
Candidates for Governor, State of Oregon

ROBERT STRAUB
Democrat

VICTOR ATIYEH
Republican

Mr. Straub and Mr. Atiyeh will each present ten-minute statements. This will be followed by the traditional question-and-answer period. However, **the questions must be submitted in writing**, in advance of, and/or during the meeting. Questions for either or both candidates may be left with the City Club office before the meeting; paper and pencil will be provided at the meeting. All questions must be signed by a City Club member, and only one question per member is allowed.

Each candidate will have five minutes for closing remarks.

Printed herein for presentation, discussion and action at the Friday membership luncheon meeting October 25, 1974:

REPORT
ON
SCHOOL DISTRICT NO. 1, MULTNOMAH COUNTY, OREGON
TWO-YEAR SPECIAL TAX LEVY
(Ballot Measure No. 19)

The Committee: William S. Dirker, Jr., Neil Farnham, James K. Gardner,
Alfred G. Hatch, Henry C. C. Stevens, Lloyd B. Williams, *Chairman.*

Also printed herein, Reports on State Measure No. 3 (Revises Constitutional Requirements for Grand Juries) and State Measure No. 15 (Prohibits Sale or Purchase of Steelhead) for presentation, discussion and action at the Friday membership luncheon meeting November 1, 1974.

ELECTED TO MEMBERSHIP

Francis B. Reeder, Former Dist. Dr. of U. S. Dept. of Labor's Wage & Hour Division. Sponsored by James F. Cameron.

George M. Galloway, Acting Assistant Secretary of State. Sponsored by Clay Meyers.

F. Jay Lutz, Executive Director, Pre-paid Legal Insurance, Inc. Sponsored by Helen Riordan.

Walter Grebe, Attorney, Partner, Morrison, Bailey, Dunn, Cohen and Miller. Sponsored by Tom Tongue.

Mary L. Gorman, Administrative Assistant, Portland Development Commission. Sponsored by O. I. Norville.

REPORT APPROVED

The report on State Measure No. 1, which would amend the Constitution to permit granting liquor-by-the-drink licenses to any public passenger carrier, was presented by Chairman Stan Good-

ell, with a recommended "YES" vote. After discussion, and vote, the report was approved by a majority of those members present.

PROPOSED FOR MEMBERSHIP AND APPROVED BY THE BOARD OF GOVERNORS

If no objections are received by the Executive Secretary prior to October 25, 1974 the following applicants will be accepted for membership:

Jack R. Stowell, General Manager, Management Recruiters of Portland. Proposed by Clifford N. Carlsen, Jr.

Judith Leslie McKay Hitchcock, Student, Linfield College. Proposed by Richard Pope.

Harold A. Linstone, Professor and Director, Systems Science Ph.D. Program, Portland State University. Proposed by Edith Zavin.

WINDING UP

You will notice that included in this issue are reports on two important state ballot measures, Nos. 3 and 15. These will be discussed and voted on at the regular meeting of November 1, but have been distributed in advance so that Club members will have enough time to go over them thoroughly. Two more reports will be mailed out on Tuesday, October 31, Municipal Measures No. 53 and 54, and they also will be considered at the meeting of November 1st.

While we would have liked to have been able to get the report on Measure No. 54 (PP & L Franchise) in the hands of the membership sooner, at this writing the committee is still at work on this critical report.

A word should be said here for the unflagging efforts of the committees reporting on the late ballot measures. We see it as an above-and-beyond-the-call-of-duty dedication to provide adequate studies within an extremely limited time frame. Special thanks should go to Lloyd Williams, Joe Kershner and John Crawford.

Next week's Bulletin will include a review of all ballot measures presented thus far with committee recommendations and the Club vote.

CITY CLUB OF PORTLAND BULLETIN

Published each Friday by the

CITY CLUB OF PORTLAND

505 Woodlark Bldg. Portland, Oregon 97205

Phone 228-7231

MARILYN L. DAY, *Editor*
and *Executive Secretary*

MORRIS S. ISSEKS, *Archivist*

Second class Postage Paid at Portland, Ore.
Subscription rates \$6.00 per year included in annual dues.

OFFICERS OF THE BOARD

George D. Dysart *President*
Clifford N. Carlsen, Jr. *President-Elect*
Thomas L. Gallagher, Jr. *1st Vice President*
A. Thomas Niebergall ... *2nd Vice President*
Thomas S. Stimmel *Secretary*
William C. Carpenter *Treasurer*

GOVERNORS OF THE BOARD

Jean Babson E. Shelton Hill
Forrest Blood Guenter Mattersdorff
Ross H. Coppock Bruce Samson

RESEARCH BOARD

Thomas L. Gallagher, Jr., *Chairman*
John E. Allen, Ph.D. Stephen B. Herrell
Charles W. Bursch, II Boyd MacNaughton, Jr.
William A. Comrie James A. Nelson
John L. Frewing Peter Plumridge
John F. Williams, Jr.
Stanton W. Allison, *Research Editor*

PROJECT PLANNING BOARD

A. Thomas Niebergall, *Chairman*
Jack R. Brown Campbell Richardson
Mary Anne Normandin William C. Scott, Jr.

**REPORT
ON
SCHOOL DISTRICT NO. 1, MULTNOMAH COUNTY, OREGON
TWO-YEAR SPECIAL TAX LEVY
(Ballot Measure No. 19)**

Explanation:¹ This District has not had a special levy in excess of its tax base since 1965. The voters last increased its tax base in 1968. As property values have increased since that year, its levy per \$1000 valuation has declined.² However, shortages of funds have prevented compliances with state educational standards. Inflation and increasing costs now make it impossible to operate within the tax base. In order to meet spiraling inflationary costs while operating schools meeting state standards and preventing a serious decline in educational quality, an additional levy of \$6,000,000 is required for general operations for each of the fiscal years beginning July 1, 1975 and July 1, 1976.

Question: "Shall School District No. 1, Multnomah County, Oregon be authorized to levy a tax beyond the limitation imposed by Article XI, Section 11, Oregon Constitution,³ in the fiscal year beginning July 1, 1975, in the amount of \$6,000,000 and a like amount in the fiscal year beginning July 1, 1976?"

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was established in August, 1974, to report and recommend a "Yes" or "No" vote on the November 5, 1974 ballot measure No. 19, quoted above. We reviewed City Club reports on ballot measures for school support since 1968; we read the school budget for 1974-75 and materials supplied by the school administration, and we interviewed school people and other citizens. For rather extensive background in the area of public school financing we recommend the City Club reports listed in the following Bibliography. We have updated some of this background, and call your attention particularly to the influence of inflation on the financing of the schools.

II. BIBLIOGRAPHY AND INTERVIEWS

1. The City Club of Portland *Bulletin*
 - (a) School District No. 1, Tax Base Proposal, May 24, 1968, Vol. 48, No. 52
 - (b) Special Tax Levy Proposal, April 23, 1971, Vol. 51, No. 47
 - (c) School District No. 1, Tax Base Proposal, May 19, 1972, Vol. 50, No. 53
2. Budget Document, School District No. 1, 1974-75
3. Audit of Financial Statement for Fiscal year ended June 30, 1973—Portland Public Schools—Coopers and Lybrand, Certified Public Accountants, Portland, Oregon. (Audit for 1974 is not yet published)

¹This is the explanation on the ballot. Your Committee thinks it should include the additional cost to the taxpayer per thousand assessed valuation. This figure is not higher than \$1.25.

²This does not mean that the tax, in dollars has declined.

³"The tax base of each taxing unit in a given year shall be . . . The amount obtained by adding six per cent to the total amount of tax lawfully levied . . . in any one of the last three years in which such a tax was levied by the unit. . . ."

4. Annual Report, Multnomah County Tax Supervision and Conservation Commission, 1972-73.
5. Special Report, Financial Prospects, School District No.1; R. W. Blanchard, Superintendent. July 22, 1974
6. Real Estate Trends, April 30, 1973 and September 30, 1973

Formal interviews were held with:

Jonathan Neman, Chairman, Portland School Board
Harold Kleiner, Deputy Superintendent, Portland Public Schools
George Annala, Director, Oregon Tax Research
Howard Cherry, Director, Intermediate Education District
Wanda Silverman, Member of Schools for the City
Robert E. Nelson, Community Advocates

Informal interviews were held with other citizens by individual members of the Committee.

III. BACKGROUND*

Superintendent Blanchard^[5] comments, "It appears it is no longer possible to operate on the theory that School District No. 1 can, in the face of current conditions, continue to achieve a realistic tax base during this period of spiraling inflation."

During approximately the last seven years the Portland School Board has been faced with serious financing problems, and it has deliberately avoided the practice, common elsewhere, of regular annual special levies for extra funds. Rather, it has depended on the six percent annual statutory property tax increase, and it has proposed tax base increases. In 1967 the Board did request a \$9,820,000 special levy and, when this was voted down, the Board reduced this request to \$6,520,000, but this too was rejected. As a result, the 1967-68 District No. 1 budget was cut by \$9 million in programs and personnel, while salary increases in that budget were retained. ([1], 1968)

In May, 1968, the voters approved a tax base increase to yield an additional \$9,875,000. This gave the schools a reprieve from the weight of rising costs, which were then gently rising relative to the present. We note, incidentally, that due to delays in collection, a levy does not provide immediately the total expected amount. For example, in 1971-72 only 96.3 percent of the school tax levied was collected that year in District No. 1.

In 1971 the Board proposed a \$36,000,000 bond issue to build "middle schools" for sixth to eighth grades and also a special levy of \$6,960,000 for operating expenses for 1971-72. Both proposals lost at the polls, and the special levy lost again when it was re-submitted to the voters. We recall the furor that was caused when the 1971-72 school year was shortened by twenty days, so the needed money was saved, essentially, from teachers' salaries. As if this were not bad enough, State support was jeopardized since the short school year fell below the State accreditation standard. Then in May, 1972, the voters rejected a requested \$12,948,000 tax base increase.

Five days were cut from the 1972-73 school year to make up operating deficit, again essentially taken from teacher and staff pay, since these make up a major chunk of the budget. There is a question, of course, whether these requests for tax base increases were to be used for expansion of the school program beyond simple inflation costs. Your Committee calls your attention to an earlier study of this by the City Club ([1] 1972), and we think rising costs have, indeed, generated the requests for extra money.

During these years, faced with a clear reluctance of the voters to raise taxes, officials of the school system have taken steps which, in their view, effect economies in the school operation. There follows a description of some of these.⁴

1. Many teachers remain in District No. 1 throughout their professional careers, so that about half of the teachers qualify for the maximum salary. It is good to have this

*Bracketed numbers refer to Bibliography.

⁴See [5]

large cadre of experienced teachers, but this is relatively expensive. The District has been alert to reduce the staff size whenever the enrollment declines.

2. Decentralization of the District into the three administrative areas has produced a net reduction in administrative and support personnel.

3. Substantial savings have resulted from making the business operation of the system more efficient. (Your Committee does not know what changed practices support this claim.)

4. In earlier years unusually large numbers of school buildings were built in proportion to the enrollment. The system is now burdened with old buildings which have high maintenance costs. At 125 schools, 90 percent of the buildings are over twenty years old; 37 of these buildings are over 50 years old. Schools are being closed; Linnton, Holiday and Mt. Tabor Annex were closed last year, and next year Kennedy and Markham Annex will be closed. It is expected that six more schools will close in the next few years.

5. In the view of the School Board, operating funds take priority over building funds as a short-range hedge against inflation. (Your Committee suspects a reluctance of the Board to approach the people for the large amounts necessary to improve the plant at this time.)

6. The Multnomah County Intermediate Education District (IED) taxes do yield some funds and services to the schools of District No. 1. However, due to the wealth of Portland relative to that of other districts in this IED, the result is a net outflow of revenue over which Portland has no control.

IV. CASE FOR ADDITIONAL OPERATING FUNDS

A summary of the School District No. 1 budget for 1974-75 is given in *Appendix A* to this report. *Appendix B* shows the sources of revenue available to the District. These appendices give the dollar amounts the District works with now, so the following brief description of the financial pinch is made in round figures.

The cost of operating the schools is increasing faster than is the available revenue. It is estimated that general inflation will increase the cost by at least ten percent per year for the next two years. Without the proposed levy (Measure No. 19) the property tax revenue can increase not more than six percent next year, which means a four percent increase available to the operating budget.⁵ The School District thus sees six percent of the rise in cost not covered by the tax base next year. On the present budget of \$93,000,000 this is, in dollars, \$5,600,000, which must come essentially from a tax base increase. Teachers pay increases for next year is still to be negotiated. This explains the \$6 million special levy request.

Looked at another way, ten percent of the present budget is \$9,300,000, which is the extra money needed for next year. Property taxes this year will yield \$60 million (see *Appendix B*), of which six percent is \$3,600,000. That sum is \$5,700,000 short of the necessary increase. This is practically the same amount arrived at in the preceding paragraph.

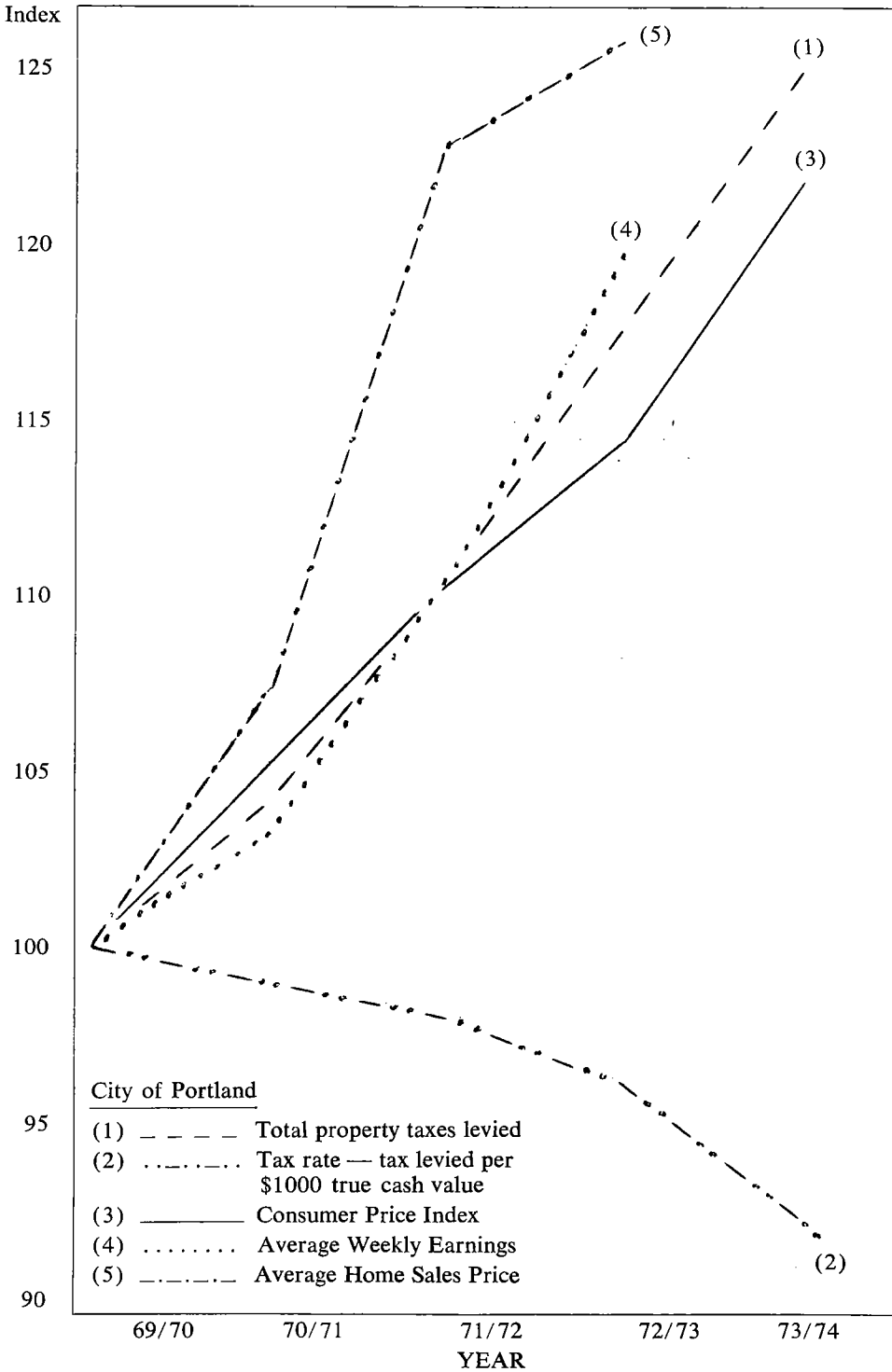
Unless the school program is to be severely attenuated, your Committee has found no way to juggle these hard facts to give a different answer than six million dollars.

V. TAX RESOURCES IN DISTRICT NO. 1

Relative to other school districts in Multnomah County, School District No. 1 has a low tax rate, and uses its money sparingly per student enrolled in school. Comparative figures for 1972 are given in *Appendix C*. In District No. 1, the tax rate of \$8.91 per \$1000 yielded \$57,951,000, which rounds off to \$920 per enrolled student. The tax rates in the other school districts in the County are higher, and only David Douglas has a lower tax rate per student (\$830). It would be thus difficult to make a case that District No. 1 is imprudent or wasteful.

We call your attention to the chart presented here.

⁵Property tax revenue is approximately $\frac{2}{3}$ of the total revenue available for the schools. (See *Appendix B*)



The question is, "Can the voter afford this tax (Ballot Measure No. 19)?" Property taxes are reflected in housing costs to both homeowners and renters.

We take the year 1969-70 as a base and give each index the value of 100, then we compute these indices for each of the four ensuing years. An index for the City of Portland is computed for each of 1) total property taxes levied, 2) tax rate per \$1000 true cash value (assessed value), 3) Consumer Price Index, 4) average weekly earnings, 5) average home sale price. All of these indices rise sharply, with home sale prices literally zooming, except for the tax rate, which fell significantly. The figures which these graphs represent are given in *Appendix D*.

We concluded that:

- 1) Total dollar amount of property taxes levied parallel very closely the consumer price index and the average weekly earnings.
- 2) The average sale price of a home has run well ahead of consumer prices, earnings, and taxes. Consistently, tax rates per \$1000 assessed value have decreased.
- 3) The actual sales price of a home has run six to ten percent above the assessed value.
- 4) If ability to pay is measured by the relation between average weekly earnings and the consumer price index, then the wage earner has the ability to pay a higher tax.
- 5) If equity is a measure of ability to pay, the increased market value of homes suggests they can bear more of the tax load.
- 6) The figures in *Appendix D*, illustrated by the Chart, are not extended to include the double-digit inflation rate of recent months. This may alter some relationships that the Chart depicts. The taxpayer may suddenly feel a reluctance to assume additional obligations for the next two years. This could especially be true for those on fixed incomes who do not intend to sell their homes, and for whom the wage and home sales lines on the Chart are meaningless. Property tax relief would be a help to these people.

Your Committee feels that, on the average, the taxpayer in Portland can afford this additional tax, which would add six million dollars to the current sixty million dollar levy, or not more than an additional \$1.25 per 1000 assessed value.

VI. OTHER CONSIDERATIONS

Members of your Committee have discussed Ballot Measure No. 19 informally with several people other than those whose names are listed in Section II of this report. Opposition to this measure does not appear to be based on a belief that additional money is not needed to operate the schools at a presently acceptable level. Rather, it is based upon a variety of criticisms of the school administration which are unrelated to financial needs of the system.

It is pertinent to comment here on this rather sharp criticism of the schools. Your Committee has not verified allegations made to it of shortcomings in administrative practices. However, the existence of such allegations may indicate why some voters, losing sight of the impact of inflation, are reluctant to vote extra money for school support. As people feel, so do they vote, and we should be aware that there is dissatisfaction with the way the schools are now operated. We believe the people can and would find money for a school system of whose high value they are convinced. Significantly, complaints have not been made about teachers, but scepticism has been expressed to us about the effectiveness of the "system" personified in the administrative officials. We emphasize again that this Committee has not examined the basis for, or the validity of, such scepticism.

There are two alternative inferences that we draw from our informal interviews. First, if the allegations are not true, and the criticisms invalid, then the school administration ought to explain its practices to the public more adequately. It has a public relations problem. Second, if there is substance to the adverse comments we heard, then the school operation should be improved. Progress on either alternative would increase financial support of the school system by the people of Portland.

We perceive a rather pessimistic feeling that this measure may fail to pass at this election. The Chairman of the School Board is aware of this feeling, and he told us he favors resubmitting the levy to the voters in the event of its failure. This can be done four more times during the current school year before the budget for next year, 1975-76, must be approved. We understand that in case the levy is not finally passed, the school administration intends to reduce the budget uniformly rather than to terminate existing programs.

VII. CONCLUSIONS

There is evidence of a lack of understanding of the school operation by the public, and of insufficient consultation with the public by school officials. There is a suspicion in the minds of some people that the children are not educated as well as they could be. We think it urgent that the City Club undertake a thorough study of the validity and significance of allegations referred to in Section IV of this report, and that it explore ways to improve public school education in the City.

School District No. 1, as it presently operates, is suffering from an unexpected inflation of costs, which certainly will not abate during the next two years. A budget for next year is certain to be minimal, unless there is a major alteration in school policy which is not foreseen as likely. The money this special levy would provide is clearly needed to operate the school system, as is, for the next two years. Our recommendation is directed to this financial problem.

VIII. RECOMMENDATION

In view of our conclusions, your Committee recommends that the City Club support Ballot Measure No. 19, and urges a "YES" vote on this measure at the November 5, 1974 general election.

Respectfully submitted,
William S. Dirker, Jr.
Neil Farnham
James K. Gardner
Alfred G. Hatch
Henry C. C. Stevens
Lloyd B. Williams, *Chairman*

APPENDIX A¹

School District No. 1 Budget Summary 1974-75

Instruction (including administrative staff in each school building)	\$63,688,645
Other (Health, transportation, food service, etc.) ..	5,232,269
Fixed Charges	510,119
District Support Services	2,981,126
Plant Maintenance	399,526
Maintenance and Capital Construction	9,494,685
Operation of plant	8,749,375
Administration	608,890
Capital Outlay	879,738
Total General Fund (Operating)	\$92,544,373

APPENDIX B

School District No. 1 Operating Revenue 1974-75

Property Taxes	\$59,870,895
Basic School Support Fund	16,400,627
Intermediate Sources (County School Fund, and MCIED)	2,383,300
Other State Sources	4,490,326
Net Working Capital	3,129,420
Other Sources (Tuition, sale of equipment, investment earnings, etc.)	6,269,805
Total General Fund	\$92,544,373

¹These summaries are for the current year 1974-75. The 1975-76 budget costs will increase more than expected revenue as explained in Section IV of this report.

APPENDIX CComparison of District No. 1 with other school districts in Multnomah County 1972-73²

District	Grades	Enrollment	Tax Levy (in thousand)	Tax Rate	Levy per Student
No. 1	K-12	62,509	\$57,951	\$ 8.91	\$ 920
Parkrose	K-12	5,168	4,998	11.07	960
Reynolds	K-12	3,541	3,934	12.33	1110
David Douglas	1-12	8,235	6,927	12.22	830
Gresham	1-12	8,254	7,613	15.25	920

²Latest data available to the Committee [4]

APPENDIX D

Data plotted on the Chart of Section V of this Report. Brackets [] refer to Section II, Bibliography.

Table I

Year	(1) Taxes levied [4]		(2) Tax rate [4]		(3) Consumer Price Index [5]	
	mills	(index)	rate	(index)	CPI	(index)
1969/70	97	(100)	29.93	(100)	110	(100)
70/71	101	(104)	29.56	(99)	116	(105)
71/72	107	(110)	29.37	(98)	121	(110)
72/73	114	(117)	28.92	(96)	125	(114)
73/74	120	(124)	27.73	(92)	133	(121)

Table II

Year	(4) Avg. Weekly Earnings [6]		(5) Avg. Home Sales [5]	
	amt.	(index)	price	(index)
1969	141.12	(100)	16,560	(100)
1970	145.72	(103)	17,611	(107)
1971	155.94	(110)	20,264	(122)
1972	167.35	(119)	20,681	(125)

**REPORT
ON
REVISES CONSTITUTIONAL REQUIREMENTS FOR
GRAND JURIES**

(State Measure No. 3)

Purpose: Amends Section 5, Article VII, Oregon Constitution, to eliminate the right to grand jury indictment in all felony criminal cases (and Circuit Court misdemeanor cases) in which the District Attorney elects to proceed by preliminary hearing before a magistrate. Provision for defendant's waiver of presentation before the grand jury or a preliminary hearing remain intact.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was requested to report on State Measure No. 3, Senate Joint Resolution No. 1, referred to the voters by the 1973 Legislature. The measure totally rewrites Section 5 of Article VII (amended). The existing Oregon Constitutional provision provides:

"No person shall be charged in any circuit court with the commission of any crime or misdemeanor defined or made punishable by any of the laws of this state, except upon indictment found by a grand jury."

The proposed amendment would make the following substantive changes in the existing Constitution:

1) Permit the district attorney, in felony¹ cases, to proceed without grand jury indictment:²

(a) if after a preliminary hearing³ a magistrate⁴ has found probable cause that a crime has been committed by the person charged; or

(b) if the person charged knowingly waives preliminary hearing.

2) In misdemeanor cases which the district attorney desires to try in Circuit Court, eliminates the requirement of grand jury indictment altogether.

The proposed amendment would eliminate the requirement that before he is brought to trial on a felony charge, a person first must be indicted by a grand jury of his peers.

This could occur at the option of the district attorney if he elects to proceed by information⁵ after a preliminary hearing is conducted. If the district attorney proceeds on

¹A felony is a crime which is punishable by imprisonment in a state corrections facility. Misdemeanors are minor crimes punishable by no more than one year in a county jail.

²An "indictment" is a written accusation, against one or more persons of a crime, presented to and preferred upon oath or affirmation by a grand jury. It is returned by a grand jury if probable cause is found to warrant a belief that the defendant committed a crime.

³A "preliminary hearing" is a court proceeding conducted in those prosecutions commenced by the filing of an information of a felony at which the district attorney must present evidence that probable cause exists to believe that a crime has been committed by the person charged. The proceeding is conducted by a magistrate who decides under the existing constitutional provision whether such probable cause exists so as to warrant holding the defendant for the offense and sending the case to the grand jury.

⁴A "magistrate" is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime. The term includes all state judges and justices of the peace as well as municipal officers authorized to act as a justice of the peace. In most sections of the state, the magistrates who conduct preliminary hearings are District Court judges.

⁵An "information" contemplated by the proposed amendment is an allegation or statement which the district attorney could sign and file, charging a person with a crime, and upon which the accused could be brought to trial. Under the present system an "information of felony" is the document which charges a crime in the magistrate's court and upon which the case proceeds to preliminary hearing.

an information rather than an indictment the defendant will always have the right to a preliminary hearing.

Grand juries will still be authorized under the proposed amendment but their use will be completely at the discretion of the district attorney. Presently grand juries are comprised of seven laymen and hear and review evidence in all felony cases. They determine whether there is sufficient proof to constitute probable cause to believe that a crime has been committed and that the accused committed the crime. At least five grand jurors must vote to indict. The grand jury operates under the direction of the Circuit Court. Evidence is presented to it by the district attorney who may not be present while the grand jurors vote on whether to indict.

Presently a felony case may go to trial without a grand jury indictment if the defendant waives his right to have his case presented to the grand jury. Under the proposed system, this decision on waiving grand jury presentment will be made by the district attorney.

II. BACKGROUND

The grand jury system of initiating criminal charges was included in the Magna Carta signed by King John in the thirteenth century. Many historians claim that it goes back much farther. In any event, it was established at that time because the Crown was judge, prosecutor and jury and filed criminal charges against those who stood in its way. It was intended to protect people from unfounded criminal charges and was expected to be a bulwark between the Crown and the individual. It was a part of the common law which we adopted by constitution when we attained our independence and the States generally have adopted the same constitutional requirement.

The requirement of grand jury indictment was included in the original Oregon Constitution even though there was considerable sentiment in the Constitutional Convention in 1857 against it. In the final draft, provision was made for grand juries and for the charge of a criminal offense to be made by indictment. However, there was added a provision that gave to the Legislature the right to modify or abolish the grand juries.

In 1899 the Legislature used this authority to authorize prosecution by information without grand jury indictment. However, this authorization only lasted until 1908 when the Constitution was amended to its present form to provide that no person could be charged, in the Circuit Courts, with commission of a crime or misdemeanor except upon indictment found by a grand jury.

Later in this century the grand jury began to fall into disfavor as an effective screening instrument in the criminal judicial process. It has been called everything from a district attorney's "rubber stamp" to an impediment to the speedy administration of justice. The uses which district attorneys make of grand juries have been frequently criticized. One of the principal objections has been the practice of district attorneys' obtaining grand jury indictments before the defendants have had an opportunity to obtain a preliminary hearing on serious charges, such as murder. This practice denies defendants a valuable opportunity to discover the evidence against them. The proposed amendment would not change this practice.

The British abolished the use of grand juries in 1933. Our neighboring state of Washington has no provision for grand juries unless a judge calls one into special session. New York recently adopted an amendment facilitating waiver of grand jury presentation. A number of other states have provisions similar to those in the proposed amendment, however, the exact number of states with this system was not surveyed by your Committee. The federal government is required by the Bill of Rights to the U. S. Constitution to proceed by grand jury indictment in all felony cases. Federal grand juries function much like their state counterparts except that they are comprised of a larger number of citizens.

In 1971, the Criminal Law Revision Commission prepared a bill, similar to Ballot Measure No. 3, which was submitted to the 1971 Legislative Assembly. This bill passed the House, but was defeated in the Senate. At meetings in 1972 the Commission explored

other alternatives and developed the present proposal, which the 1973 Legislative Assembly referred to the voters as submitted.

The Oregon District Attorneys Association voted at its meeting in June, 1974, to support this measure because it would preserve all the prosecutor's options, but would "streamline the process." The legislative history reveals that the district attorneys insisted that the procedural choice be left entirely in their hands to proceed toward trial either by indictment or by information in a given case. At the recent 1974 convention of the Oregon State Bar, the members voted to oppose the measure, primarily expressing fears of abandoning a crucial constitutional right and of potential abuse of discretion by the district attorneys.

In addition to the constitutional amendment in 1908 this issue has been referred to the voters on at least one other occasion. In 1960, a constitutional amendment was proposed which was virtually identical to the present proposed amendment. The Portland City Club voted with the minority committee report (see Bibliography) at that time in recommending against the measure. The amendment was defeated by the people in the general election.

III. ARGUMENTS IN FAVOR OF MEASURE NO. 3

1. It could expedite the pre-trial process by saving tax money and witness time, thus necessarily producing speedier resolutions of criminal cases.
2. A district attorney would be able to charge on information in Circuit Court in misdemeanor cases thus circumventing the current process of misdemeanor trials initiating in District Court, followed by repeat trials on appeal to Circuit Court.
3. The grand jury has become merely a ceremonial body which rarely serves the protective function for which it was originally established.
4. It may enable grand jury sessions to concentrate on appropriately important cases, and not waste their time on "routine" matters.
5. It will not radically change the way the system operates now, but will encourage the use of preliminary hearings and will therefore be politically more palatable than complete abolition of the grand jury system.

IV. ARGUMENTS AGAINST MEASURE NO. 3

1. It vests too much power in the district attorney since it puts the decision to charge crimes solely in his hands and eliminates citizen review of this important matter.
2. The broad discretion lodged in the district attorney to charge crimes has no limits to insure that it be exercised consistently by district attorneys so as to dispense even-handed justice.
3. It invites district attorneys to misuse the grand jury power to obtain an advantage in trial preparation over defendants. The proposed amendment will allow district attorneys to subpoena and force testimony from witnesses before grand juries even though the case is to be tried on an information. In effect, this gives the district attorney the exclusive right to take depositions.
4. It may violate the Equal Protection Clause of the U. S. Constitution since defendants charged with the same crime may receive unequal treatment depending on whether their case is presented by information or indictment.
5. As "Watergate" has shown, the grand jury, when functioning ideally, is a valuable protector of individual rights from governmental oppression. Efforts should be toward strengthening its role, rather than augmenting the options at the district attorneys' disposal.
6. The measure would take away an important constitutional right, especially for those defendants who want to present their cases in the secrecy of grand jury sessions before they are irretrievably harmed by unfavorable courtroom publicity. This is especially true where charges involve political corruption or "white collar" crime.

7. Its cost savings are only speculative and such considerations cannot prevail over the rights of the accused.
8. It is unnecessary since the benefits sought by the proposed amendment can be accomplished by district attorneys encouraging defendants to waive their right to grand jury review where defendants do not determine it to be important.
9. For those opposed to grand juries, it does not go far enough; the grand jury should be eliminated entirely.

V. DISCUSSION

On an initial examination of this proposal, the majority of your Committee found it to be rather innocuous and a step toward streamlining the pre-trial procedure of criminal prosecutions. However, as we read and listened more carefully, we began to sense features of State Measure No. 3 which we found disturbing and our opposition to it evolved by this process.

Testimony to your Committee indicated that the drafters of the proposed legislation discussed several options as to where the decision to charge crimes and select pre-trial procedure (grand jury vs. preliminary hearing) should be lodged. Should these decisions to charge be made by the district attorney alone or also by the grand jury? Should the pre-trial procedure be decided upon by the judge, the district attorney or the defendant and his attorney? The district attorneys let it be known that they would actively oppose the measure if that choice was in any hands but their own. The desire to see some kind of grand jury reform go through this time (coupled with the consensus that the Oregon voters were not ready to adopt the Washington system) dictated State Measure No. 3 as submitted.

This impression was reinforced by the speakers who urged your Committee to recommend a "yes" vote. Their support expressed for the measure was lukewarm at best: "half a loaf is better than none;" "it won't change things much but it might help certain policy drafts;" "I can work with it." Support for SM 3 seems to have become essentially a matter of political speculation, instead of a positive effort at criminal justice reform. Supporters generally want to find some way to curtail or eliminate grand juries by some proposal that would still appeal to the electorate.

Standards set up as national models suffer in the proposed amendment. While Standard 4.4 of the National Advisory Commission on Criminal Justice Standards and Goals (1973) recommends that the grand jury only be used in certain cases, the Commission combines that suggestion with the recognition:

"that preliminary hearings may serve a discovery function that grand jury proceedings do not. Consequently, to avoid unfairness to the defendant who has been the subject of indictment, the standard calls for the prosecutor to make available the information that would have been revealed at a preliminary hearing, had one been held." (National Commission: 1973, 75)

Under the proposed amendment these standards are not followed since no provision exists for defendants obtaining grand jury transcripts for purposes of discovering the testimony of state's witnesses. Accordingly, State Measure No. 3 only incorporates the provisions of the National Advisory Commission standards which aid prosecutors without providing the corresponding aids to defendants.

That Commission also recommended that "Prosecutors should develop procedures that encourage and facilitate . . . waivers (of grand jury indictment by the accused)." It seems to the majority of your Committee that this is a much better way of achieving the ends desired by State Measure No. 3's proponents than the proposed drastic constitutional amendment excising an important safeguard. With adequate disclosure of a "cut and dried" grand jury case to a defendant, not only waivers, but guilty pleas might even increase, and the grand jury would be freed to pursue more complex considerations.

In view of the marginal advantages of State Measure No. 3 it appears unnecessary to even consider granting additional power, discretion and discovery tools to the district attorney. Moreover, this broadening of the rights of prosecutors is not accompanied by

a corresponding increase in the rights of defendants. Not only are defendants denied grand jury transcripts but they are denied the right to subpoena and compel testimony from witnesses in depositions, a right prosecutors will have without making a full grand jury presentation under State Measure No. 3.

The most positive input came from former grand jury members (both state and federal) who were interviewed by members of your Committee. It was heartening to learn of cases where the grand jury *had* performed its traditional function and where, by asking questions independent of the prosecutor's presentation, important facts were brought out which made or broke a case. With the Watergate grand juries' role very much in the background of these discussions, it became increasingly clear that grand juries have a crucial part to play, and not merely in those cases where a district attorney saw fit to call them into session. The former grand jurors were unanimous in agreeing that their term was a very beneficial experience for themselves, as well as for the public.

VI. MAJORITY CONCLUSIONS

In this instance, "half a loaf" (as State Measure No. 3 was so frequently characterized) is decidedly no better than none, especially when that half is only in the hands of the district attorney. We must emphasize that we do not inherently distrust district attorneys (two of the Committee formerly served in that capacity and another is currently prosecuting criminal cases). Nonetheless, this amendment, should it pass, is bound to be unevenly administered from individual to individual, county to county, and year to year when discretion is vested in the prosecutor whether to convene a grand jury for a particular case. We are convinced that this intended reform would cause more problems than it would solve.

Moreover, the right to have one's case considered in secrecy by a group of peers before being publicly charged may be of substantial benefit to an accused. If defendants were informed of what the prosecutor's case consisted they might concede that securing an indictment would be a waste of time, but that critical choice should remain theirs. We agree that what seems to have developed in usual grand jury sessions needs reform (and we would recommend that the City Club devote its energy to examination of ways to buttress and revitalize this system), but State Measure No. 3 is not the way to do it. While laudable in purpose, this measure has fallen far short of its mark.

VII. MAJORITY RECOMMENDATION

The majority of your Committee, therefore, respectfully recommends that the City Club of Portland oppose passage of State Measure No. 3 and urges a "NO" vote at the November 5, 1974 general election.

Respectfully submitted,
William L. Hallmark
Kristine Olson Rogers
Diane W. Spies
Jerome E. LaBarre, *Chairperson*
(for the Majority)

VIII. MINORITY STATEMENT

While the opponents of Measure No. 3 find things about it that render it imperfect, we believe that it should be passed. The requirement that a prosecutor is required to initiate felony prosecutions by means of a grand jury indictment has been criticized for many years by many authorities in the field of the administration of justice. Critics of the requirement note that it duplicates other pre-trial investigative procedures, causes unnecessary expense to the state and grand jurors, and results in needless court delay.

In light of these faults, in 1971 the U. S. Advisory Commission on Intergovernmental Relations in "State-Local Relations in the Criminal Justice System" had recommended that prosecutors be allowed discretion to bring indictment through either grand jury or information procedures. Use of prosecutorial discretion regarding the manner of bringing indictments would reduce pre-trial delay while still allowing the prosecutor to use the grand jury system when deemed in the public interest. In 1973, a similar recommendation was made by the Courts Task Force of the National Advisory Commission on Criminal Justice Standards and Goals. However, as stated in the majority discussion, this recommendation is not consistent with State Measure No. 3.

It should be noted that neither State Measure No. 3 nor this minority report is recommending that the grand jury be eliminated entirely. Authorities in the administration of justice have pointed out that the grand jury can perform an important role in the investigation and accusation that leads to the prosecution of crime, a role not satisfactorily filled by the prosecutor-information system in some serious, doubtful, or politically sensitive cases.

IX. MINORITY RECOMMENDATION

For these reasons, the minority respectfully recommends that the City Club support passage of State Measure No. 3, and recommends a "YES" vote at the November 5, 1974 general election.

Respectfully submitted,

Michael L. Call
Gary R. Perlstein
Donald J. Morgan
(for the Minority)

Approved by the Research Board October 8, 1974 for transmittal to the Board of Governors.

Received by the Board of Governors October 14, 1974 and ordered printed for presentation to the membership for discussion and action.

APPENDIX "A"

SCOPE OF RESEARCH AND BIBLIOGRAPHY

I. Persons Interviewed:

Hon. Harl Haas, Multnomah County District Attorney
 Hon. James M. Burns, U. S. District Court Judge
 Hon. George Juba, U. S. Magistrate
 Bruce Baker, Portland Chief of Police
 Gregg Lowe, Multnomah County Deputy District Attorney
 Donald L. Paillette, Former Director, Criminal Law Revision Committee
 James Hennings, Metropolitan Public Defender
 Robert Lucas, Columbia County District Attorney; Past President, Oregon District Attorneys Assn.; State Representative NDAA
 Lee Johnson, Oregon Attorney General
 Chief Judge Herbert Schwabe, Oregon Court of Appeals
 Sidney Lezak, Oregon U. S. Attorney
 Jack Collins, First U. S. Attorney
 Charles Turner, Asst. U. S. Attorney
 Etoile Curry, Former Grand Juror, State & Federal Court
 Mildred F. Clark, Former Grand Juror, State Court
 Mary L. Wong, Former Grand Juror, State Court

II: Written Sources Studied:

Gustafson, Bert (Feb., 1972) "The Grand Jury in Oregon, Some Future Alternatives."
Criminal Law Revision Commission. Minutes, Oregon Criminal Law Revision Commission.
 (March 7, 9, 10, 1972; April 18, 22, 1972).
Minutes, Judiciary Committee Meetings of the Oregon Senate, Feb. 7, 1973, and Oregon House of Representatives, May 2, 1973.
 First Annual Report to the Governor. *Oregon Law Enforcement Council, p. 150.*
 Karlen, Delmar "Anglo-American Criminal Justice." *New York-Oxford University Press, 1967; p. 153.*
 Boudin, Leonard (1972) "The Federal Grand Jury."
Vol. 61, Georgetown Law Journal, p. 1.
 Weisman and Postal, "A Symposium, The Grand Jury,"
Vol. 10, American Criminal Law Review, p. 671 (1972).
 Calkins, R. M. (1966) "Abolition of the Grand Jury Indictment in Illinois."
University of Illinois Law Forum (Summer).
 Johnson, D. D. and Amner, William (1962) "Waiver of Indictment by a Grand Jury."
Ohio Bar Journal 35 (January).
 National Advisory Commission on Criminal Justice Standards and Goals (1973) *Courts.*
 Washington, D. C.: U. S. Government Printing Office.
 (1961) "The Grand Jury as an Investigatory Body." *Harvard Law Review 74 (January).*
 U. S. Advisory Commission on Intergovernmental Relations (1971).
State-Local Relations in the Criminal Justice System. Washington, D. C.: U. S. Government Printing Office.
 Whyte, J. P. (1959) "Is the Grand Jury Necessary?" *Virginia Law Review 45 (April).*
 Lieck, Albert (1934) "Abolition of Grand Jury in England."
Vol. 25, Journal of Criminal Law, 623.
New York Times article, June 23, 1974, pp. 1 and 35.
 "Wilson Veto Stirs Debate Over Role of Grand Jurors."
City Club Bulletin, Report on Permitting Prosecution by Information or Indictment (SM No. 4), Vol. 41, No. 22, Oct. 28, 1960. Pp. 185-194.

**REPORT
ON
PROHIBITS SALE OR PURCHASE OF STEELHEAD
(State Measure No. 15)**

Purpose: "Declares it to be the policy of the state to manage steelhead and other rainbow trout for recreation angling and to protect wild native stocks. Recognizes that steelhead intermingle with food fish and directs regulation to minimize incidental catch of steelhead by commercial gear. Prohibits purchase or sale of such incidental catch and directs delivery to state for distribution to public institutions or charitable organizations. Indian treaty fishing rights not affected. Repeals ORS 509.030."

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was requested to study and report on State Measure No. 15 which was put on the general election ballot for November 5, 1974 by initiative petition.

Present law and the new law proposed by State Measure No. 15 (see appendix) both recognize steelhead as a game fish. Major differences between present law and the proposed law are:

1. Under present law steelhead lawfully caught by commercial fishing gear *may be sold* as food fish. The new law would *prohibit* sale of steelhead and require disposal of the incidental catch of steelhead by the state.

2. Present law requires *regulation* of the incidental catch of steelhead *consistent with continuing an optimum legal commercial fishery* of food fish. The new law would require the Fish Commission *to regulate to minimize* the incidental catch of steelhead.

II. SCOPE OF RESEARCH AND SOURCES OF INFORMATION

During its study and investigation the Committee as a group or in subcommittee interviewed the following:

Robert W. Phillips, formerly Biologist with the Oregon Game Commission, now Fish Habitat Manager, U. S. Forest Service

Dr. Thomas E. Kruse, Director, Fish Commission of Oregon

John W. McKean, Director, Wildlife Commission of Oregon

Cliff Millenbach, Chief, Fisheries Division, Washington Department of Game

Walter T. McGovern)

Henry R. Rancourt)

Don S. Willner)

Vernon Cook)

Sponsors of Petition and speaking for Save Oregon's Rainbow Trout, Inc.

Ross Lindstrom)

Lloyd Weisensee)

John Lansing)

Opponents of the measure and speaking for Salmon for All, Inc.

The Committee reviewed:

Newspaper clippings, letters and research excerpts furnished to the Committee by parties interested in the measure.

We also reviewed material from City Club reports of 1962 and 1964 that dealt with similar measures. Our background statement draws directly from the 1964 report.

III. BACKGROUND

The management of the Columbia River is a complex problem involving several departments of three state governments and several federal government agencies. It requires accommodation to the often conflicting interests of user groups, whose members demand that priority be given to hydroelectric power, environmental protection, commercial fishing or recreational resources. The complexity is increased by Indian rights embodied in treaties and by the impact of off-shore fishing and fishing agreements with other countries.

The Columbia River System is one of the world's largest breeding grounds for anadromous fish (fish that return from the ocean to spawn in fresh water). The main runs of salmon are spring Chinook, summer Chinook, fall Chinook, Silver, Chum and Sockeye (Blueback). With the exception of Chum and Sockeye, these fish are harvested by the commercial off-shore troll fishery from California to Alaska, by the commercial Columbia River fishery, and by sports fishermen both off-shore and in the river. Chum and Sockeye are harvested by the commercial fishery only in the river. There are also two runs of steelhead, winter and summer, which are harvested almost entirely in the river by both sport and commercial fishermen. A steelhead is a subspecies of Rainbow trout that migrates to the sea and returns to fresh water to spawn. Other subspecies do not migrate to the sea, but remain in fresh water.

The Columbia River below Bonneville Dam comprises the only Oregon inland waters in which commercial fishing for either salmon or steelhead is presently permitted. The runs of salmon and steelhead are depleted by commercial and sports fishing below Bonneville and by sports fishing and Indian fishing above Bonneville in waters subject to jurisdiction of Oregon, Washington and Idaho. Escapement to the spawning grounds is made up of those fish not caught by the commercial, sports or Indian fisheries.

The authority to regulate, protect, propagate and perpetuate commercial species of fish in the State of Oregon resides in the Oregon Fish Commission. Based on the findings of its staff of biologists and acting in concert with the Washington Department of Fisheries, the Fish Commission now regulates commercial fishing seasons in the Columbia River as it deems necessary to protect and perpetuate the food fish of the Columbia River. For example, the number of days allowed for commercial fishing on the Columbia is jointly determined by the Oregon Fish Commission and the Washington State Department of Fisheries. In regulating the commercial catch, the Commission estimates the size of the run and limits the length of the commercial fishing season so that there will be sufficient escapement of fish to the spawning grounds to perpetuate the runs.

Gill nets are used by commercial fishermen in the Columbia River. The mesh size allowed currently is 7¼". This allows smaller fish, including 6 to 8 pound steelhead, to escape and swim up-stream. Larger fish, including steelhead, are caught in the nets.

Authority to regulate sport angling resides in the Wildlife Commission of Oregon. The Commission can limit or stop completely sport angling if it finds a fish resource is endangered by excessive harvest.

The regulation of anadromous fish is not an exact science. Despite the quantities of scientific data systematically collected, many factors affect the size of fish runs which are not subject to accurate evaluation. Among these are the cycles that appear in nature, water conditions, damage to spawning grounds, and others. Also involved to an indeterminate extent is the size of the ocean catch of Columbia River fish. It is undisputed that the Columbia River system will never again support the number of fish that it once did, because of dam construction, pollution, logging, and the consequent loss of natural spawning grounds and food. Because of these factors, it is not possible to judge how large a run will result from a given escapement. Two conclusions, however, appear beyond dispute: First, that a run cannot be maintained without adequate escapement, but a large escapement does not necessarily result in a large subsequent run; and second, that the remaining spawning grounds on the Columbia River are limited and that beyond a certain point, additional escapement can produce only waste.

IV. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. The number of summer steelhead in the lower Columbia River is declining. This measure is one way to assure that steelhead will not become extinct.
2. Oregon is the only state that allows commercial fishing of steelhead. Our laws should be the same as Idaho and Washington with whom we share the Columbia River.
3. Removing the profit motive from the incidental commercial catch of steelhead is necessary because the catch by commercial fishermen is still a major factor in the decline of steelhead.
4. This measure will increase the recreational value of publicly owned streams and tributaries.

V. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. While there is evidence that steelhead in the lower Columbia are declining, the incidental catch by commercial fishermen is not a major factor causing the decline.
2. Even if this measure is approved the increase in the number of steelhead available for sports fishing will be minimal. The dams, Indian fishing and natural causes appear to account for a far greater portion of the loss. There is no commercial fishing above Bonneville Dam to account for the loss this year of 126,400 steelhead between Bonneville Dam and Little Goose Dam, 252 miles up-stream.
3. The incidental commercial catch of Steelhead is being regulated by the Fish Commission under present law. For example, the Fish Commission regulates the mesh size of the nets used by commercial fishermen; limits the number of days of the commercial season and the area of the river where commercial fishing is allowed.
4. "Minimizing" the incidental commercial catch of steelhead may well result in regulations that severely decrease the commercial catch of salmon.
5. Fish biologists have recently found that steelhead can be effectively propagated in hatcheries, suggesting that steelhead may be increased by effective hatchery programs.

VI. DISCUSSION

Present law allows the sale of steelhead trout taken as an incidental catch by commercial fishermen.

Information prepared by the Fish Commission and approved by proponents and opponents of the measure for inclusion in the Voter's Pamphlet reports the 1973 commercial catch of salmon and steelhead as follows.

	By weight		Estimated Value at Fisherman's level	
	Pounds	%	Amount	%
Salmon	6,016,000	95.5	\$5,700,000	97.6
Steelhead	284,000	4.5	142,000	2.4
.TOTAL	6,300,000	100.0	\$5,842,000	100.0

The Wildlife Commission which has endorsed Measure No. 15 estimates that the effect of the measure will be to reduce commercial landings of steelhead by approximately 40 percent. A letter from the Director of the Commission estimates the equivalent income resulting from the reduced incidental catch distributed to city, county, state or charitable institutions will be approximately \$62,000. The direct income loss to commercial fishermen would be \$142,000.

Although we did not obtain official statements from the governors of either state, it seems fair to say that both Washington and Idaho would favor the passage of a measure that would provide additional restriction on the commercial catch of steelhead in the Columbia River.

The Fish Commission reports that 23,600 steelhead were landed by commercial fishermen in 1973. Accepting the estimate that passage of this measure would reduce the incidental catch by 40 percent, there would be about 9,500 more steelhead available for catch by some 280,000 anglers if not caught by up-stream Indian fisheries or destroyed in the fish ladders. This would add only five percent to the 1973 run of 188,700 summer steelhead and would increase the fish chances per angler by 1/30th of a fish per angler.

Since the steelhead game fish law became effective in 1969 requiring the Fish Commission to regulate the incidental catch of steelhead, statistics compiled by the Commission show a significant reduction in the commercial catch of steelhead:

Year	Summer Steelhead			Winter Steelhead		
	Total Fish in Run	Commercial Catch Number of Fish	% of Run	Total Fish in Run	Commercial Catch Number of Fish	% of Run
1960	199,800	86,700	43	60,900	6,300	10
1	227,900	89,200	39	56,500	9,600	17
2	251,700	88,700	35	94,400	9,900	10
3	228,800	100,400	44	78,600	7,800	10
4	178,500	43,700	24	78,500	5,400	7
5	226,800	41,600	18	81,200	9,500	12
6	208,300	36,300	17	120,300	8,000	7
7	166,400	25,900	16	133,700	8,400	6
8	161,400	27,100	17	112,100	8,400	7
9	180,000	21,300	12	123,900	12,800	10
1970	143,300	16,100	11	67,700	3,600	5
1	238,500	20,600	9	138,500	5,000	4
2	225,600	24,900	11	170,300	8,600	5
3	188,700	23,600	13	(Not available at this time.)		

Source: Fish Commission of Oregon, Table 16 Estimate Number of Summer Steelhead Entering the Columbia River, 1938-'73 and Table 4, Numbers of Winter Steelhead That Can Be Accounted For by Run Year in the Columbia River System, 1953-'54 through 1971-73.

A 1962 initiative proposal that did not reach the ballot because of a technicality would have closed the Columbia River to all commercial fishing until the end of September in any year after the commercial catch of summer steelhead had reached ten percent of the expected total run. The 1964 initiative that was rejected by the voters sought to eliminate all commercial fishing on the Columbia River.

With this background and given the legislative history of the present law, there was agreement in the Committee that changing the language of present law from: "that the Commission shall use all reasonable means to regulate the incidental catch of rainbow trout . . . consistent with an optimum legal commercial fishery of food fish," to: "The Fish Commission of Oregon shall regulate to minimize the incidental catch of rainbow trout . . . that may be taken by commercial gear," would be taken by the Commission and by the Courts as a mandate from the voters to limit the incidental catch of steelhead trout even at substantial jeopardy to the harvest of food fish.

VII. CONCLUSIONS

1. The commercial landing of steelhead is only one factor affecting the survival of steelhead in the Columbia River. The Fish Commission and the Wildlife Commission already have the authority and the responsibility to impose adequate regulations of sport and commercial fishing. These Commissions should be allowed the freedom to regulate in the public interest without the restriction of specific legislation applied to one class or user.

2. Our interest is in conservation that will assure the effective harvesting of fish as an important food source while also assuring the survival of game fish and protecting recreational resources as well. We think this is best done by appropriate commissions with regulatory authority, not by laws that set unlimited priority of one user interest over another.

3. The 1964 City Club study commented about suggested merger of the Fish Commission and the Game Commission (now Wildlife Commission) to have a single agency with exclusive jurisdiction over the regulation of anadromous fish. A proposal for such a merger was before the last Legislature. We suggest that a study of proposals for such a merger be undertaken by the City Club prior to the next session of the Legislature.

VIII. RECOMMENDATION

A majority of your Committee recommends that the City Club oppose passage of this measure and urges a vote of "NO" on State Measure No. 15.

Respectfully submitted,

Donna Dunbar
Donald G. Hoffard
David J. Lewis
Barbara Radmore, M.D.
Frank Wetzel
Robert J. Yanity
Charles Davis, *Chairperson*

Approved by the Research Board October 9, 1974 for transmittal to the Board of Governors.

Received by the Board of Governors October 14, 1974 and ordered printed for presentation to the membership for discussion and action.

APPENDIX

COMPARISON OF PRESENT LAW WITH PROPOSED CHANGE

Ballot Measure No. 15

Present Law

ORS 509.030

“(1) Any *salmo gairdneri*, commonly known as steelhead trout, taken as an incidental catch in the operation of any fishing gear during any lawful open fishing season, by any person having in possession a valid license issued by the commission under ORS 508.025 to 508.035, is regarded as having been lawfully taken. Steelhead trout so taken may be bought, sold, disposed of or otherwise dealt in, and canned, cured, processed, manufactured or otherwise converted into fish products or by-products, as provided for in ORS 508.025.

(2) Subsection (1) of this section does not apply to:

(a) Any waters inland from the mouth of all streams, or tributaries thereof, that empty into the Pacific Ocean south of the mouth of the Columbia River.

(b) Any waters of the Columbia River, or tributaries thereof, during such times as it is unlawful to take salmon for commercial purposes.

(3) Recognizing steelhead trout as game fish, and recognizing that they are intermingled in the Columbia River with other food and game fish, the commission shall use all reasonable means to regulate the incidental catch that may be taken under subsection (1) of this section by commercial fishing gear, consistent with continuing an optimum legal commercial fishery of food fish at the same time, and shall protect the ultimate supply as provided in ORS 506.141.”

Proposed Change

ORS 509.030

“Title—Relating to rainbow trout; creating new provisions; and repealing ORS 509.030.

Be it enacted by the People of the State of Oregon:

Section 1—ORS 509.030 is repealed and Section 2 of this act is enacted in lieu thereof.

Section 2—(1) It shall be the policy of the State of Oregon that rainbow trout, *Salmo gairdneri*, including steelhead trout are game fish, and shall be managed to provide recreational angling for the people and to protect wild native stocks. Recognizing that rainbow trout are sometimes intermingled with food fish, the Fish Commission of Oregon shall regulate to minimize the incidental catch of rainbow trout that may be taken under subsection (2) of this section by commercial fishing gear, including but not limited to regulations as to season, gear and area.

(2) Any rainbow trout, *Salmo gairdneri*, including steelhead trout taken as an incidental catch, by any person fishing commercially may be possessed for the purpose of delivery to the state but shall not be bought or sold within the state. Such fish shall be distributed to city, county, or state institutions within Oregon or to charitable organizations in such manner as the State Wildlife Commission prescribes.

(3) Nothing in this act is intended to affect Indian fishing rights as granted by federal treaties.”