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City Club of Portland

BULLETIN

Portland, Oregon

Vol. 57, No. 20

Benson Hotel, Crystal Room

12:00 Noon

Friday, October 15, 1976

A JOINT APPEARANCE
Candidates
for
Secretary of State

NORMA PAULUS
Republican

BLAINE WHIPPLE
Democrat

A debate format will be used, with each candidate making an opening ten-minute statement, followed by five minutes for each candidate to question the other. Twenty minutes will be allowed for questions from the members alternately to the candidates. Each candidate will conclude with a two-minute closing statement.

Also to be presented for discussion and action

REPORT ON
STATE MEASURE NO. 6
ALLOWS CHARITABLE, FRATERNAL, RELIGIOUS
ORGANIZATIONS TO PLAY BINGO

*The Committee: Joyce Chambers, John S. Marandas, James McKillip,
Robert R. Rogers, D. Patricia Smith, Patricia C. Taylor,
William W. Kinsey Chairman.*

— Printed herewith —

PLEASE NOTE:

This meeting will be held in the CRYSTAL ROOM of the Benson Hotel

REPORTS PRESENTED

At the meeting of October 8, the following ballot measure reports were presented for consideration and action to the members present and voting:

State Measure No. 2 (Allow Changing City, County Election Days). Presented by Lloyd Kearl. Recommended "NO" vote adopted.

State Measure No. 5 (Allow the State Legislature to Call Itself into Emergency Session). Majority, presented by Tom Landye recommended a "NO" vote; minority report by chairman Lloyd Keefe was rejected. "NO" vote adopted.

State Measure No. 7 (Partial Public Funding of Election Campaigns). Majority report, presented by Irv Luiten, recommended a "NO" vote; minority, presented by Barry Marks, recommended a "YES" vote. Minority report and the "YES" vote adopted.

Multnomah County Measure No. 26-13 (Charter Amendment to Reorganize the County Commission). Presented by Tom Hamann. Recommended "NO" vote adopted.

Multnomah County Measure No. 26-14 (Edgefield Operation and Serial Levy Ordinance). Majority report given by Lloyd Hammel recommended a "NO" vote; minority, represented by Pete Plumridge, a "YES" vote. Majority report and a "NO" vote adopted.

BALLOT MEASURE REPORTS COMING UP:

November Ballot Measures yet to be reported and voted on will be presented on the following dates:

October 22: SM No. 8 — One Cent Gas Tax; SM No. 9 — Nuclear Safeguards; Municipal No. 52 — E/R Commission Charter Amendment; Municipal No. 53 — Coliseum Expansion Bonds; Municipal No. 54 — City Purchase of PP & L.

October 29: SM No. 10 — Repeals LCDC; SM No. 12 — Repeals CRAG; Tri-County Measure No. 26-15 — Port Drydock Levy.

The Fluoridation Measure (SM No. 11) will be presented as an oral report, probably on October 29.

Reports on the above will be published and mailed the week they are to be considered.

PROPOSED FOR MEMBERSHIP

If no objections are received by the Executive Secretary prior to October 29, 1976, the following applicants will be accepted for membership:

Joan Smith, Community Volunteer. Proposed by Cindy Banzer.

Edward Reckford, Clerical Worker, Manpower. Proposed by Carol Wood.

Rod Johnson, Retired broadcaster. Proposed by Susan Johnson.

H. L. Grover, Director of Personnel, Oregon Department of Transportation. Proposed by Gus Mattersdorff.

ELECTED TO MEMBERSHIP

John Parkhurst, Attorney, In practice. Sponsored by Michael L. Ellmaker.

Robert E. Duea, Executive Director, Lutheran Family Service of Oregon. Sponsored by Jenny Steward.

Peter A. Nathan, M.D., Surgeon. Sponsored by Phillip M. Mayer.

John Irwin, Staff Accountant, John F. Forbes & Co., CPA. Sponsored by Lee Irwin.

Nicky Tom. Sponsored by William Comrie.

CITY CLUB OF PORTLAND BULLETIN

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REPORT ON
STATE MEASURE NO. 6
ALLOWS CHARITABLE, FRATERNAL, RELIGIOUS
ORGANIZATIONS TO PLAY BINGO

Purpose: This measure would amend the constitutional provision prohibiting lotteries to permit the legislature to allow charitable, fraternal and religious organizations, defined as such and exempt from income tax under the federal tax laws, to conduct bingo or lotto games.

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

I. INTRODUCTION

Although the adoption of this measure would withdraw the game of bingo or lotto from the constitutional prohibition against lotteries, the game still could not be played unless and until the legislature first adopts implementing legislation.

The proposed amendment reads:

Article XV

Sec. 4. (1) *Except as provided in subsection (2) of this section*, lotteries, and the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.

(2) *The Legislative Assembly may provide for the establishment, operation, and regulation of the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal, or religious organizations mean such organizations as defined by law which are also exempt from payment of federal income taxes because of their charitable, fraternal, or religious purposes.* (Additions in italic)

A bingo or lotto game containing the elements of consideration, chance and a prize is a lottery and prohibited by Oregon's Constitution. Lotto and bingo are synonymous. This report uses the term bingo to refer to both games.

The amendment, if approved, imposes one major limitation on the legislature in its consideration of bingo. Only charitable, fraternal or religious organizations could be permitted to conduct bingo games. Except for this one major limitation, the conditions under which bingo could be played would depend upon what type of bill the legislature enacted. The legislature could impose limitations of its own or could allow local governments to decide whether or not to permit the playing of bingo.

II. ARGUMENTS IN FAVOR OF THE MEASURE

1. Oregon's Constitution should contain only those provisions which relate to the basic functions of government and principles under which the people within the government's jurisdiction are to be governed. Regulation of the playing of bingo is within the competence of the legislature and is not a matter crucial to the functioning of government.
2. Any legislative enactment or ordinance regulating the game of bingo may be subsequently amended to rectify problems which may arise. Citizens are provided additional safeguards through principles of initiative, referendum and recall.
3. Substantial adverse effects will not result from the playing of bingo.

4. Bingo could provide an important source of income for a tax exempt religious, fraternal or charitable organization.
5. Bingo is an inexpensive source of entertainment and recreation for participants.
6. A sponsoring organization benefits from the camaraderie created by bingo as a social activity.
7. Passage of State Measure No. 6 will remove the prohibition against bingo that is virtually unenforceable and will free police to combat more serious crimes.
8. Other forms of gambling are already allowed under limited circumstances.

III. ARGUMENTS AGAINST THE MEASURE

1. State Measure No. 6 inadequately defines bingo, lotto, and charitable, fraternal and religious organizations.
2. Adoption of State Measure No. 6 could encourage compulsive and irresponsible gambling.
3. The discriminatory aspect of State Measure No. 6 may make it unconstitutional because it limits those who can play bingo only to exempt charitable, fraternal and religious organizations.
4. The measure relies upon the Internal Revenue Service to determine which organizations qualify as exempt and therefore eligible to conduct bingo games. The IRS definitions are imprecise.
5. The measure gives us no idea of what the legislature will do respecting the regulation of bingo games:
 - a. Passage of the measure may create an additional agency or layer of government necessary for the regulation of bingo games;
 - b. Passage of the measure may create additional cost of regulation and enforcement;
 - c. An organization may allow an outside organization to conduct a bingo game for its own benefit;
 - d. Passage of the measure may create an opportunity for profit making, i.e., without adequate regulations, an organization may skim a substantial amount from the gross proceeds and use them for other than charitable purposes;
 - e. Adoption of the measure may be a step toward other forms of gambling such as a state lottery;
 - f. State Measure No. 6 imposes no limits on the amount of money that one could risk when playing bingo.
6. The playing of bingo creates substantial adverse societal effects.

IV. DISCUSSION

The major issue in the consideration of State Measure No. 6 is whether the playing of bingo constitutes a subject that should be contained in Oregon's Constitution or whether the subject should be removed from the Constitution and referred to the state legislature for treatment. A secondary issue is whether a typical bingo game should be played at all and, if so, under what conditions and circumstances the game should be allowed.

A. Constitutional vs. Legislative Regulation of Bingo

A constitution is intended to act as the fundamental law which establishes the character of a government and sets forth the basic principles by which the people under its jurisdiction are to be governed. Other matters should be referred for decision to the legislature, a body of representatives that has been specifically created for determining how to treat societal problems.

State Measure No. 6 transfers the matter of prohibition of bingo or lotto from the

constitutional to the legislative realm. Because a majority of the Committee does not regard bingo as a subject sufficiently basic to the operation of government to warrant inclusion in Oregon's Constitution, the majority believes that the transfer accomplished by Ballot Measure No. 6 is desirable. The majority believes that the transfer should be regarded as desirable even by those who do not believe that bingo should be played at all. After the subject of bingo is transferred to the legislative realm, such opponents could then express their views before the legislature when it considers the subject of bingo.

Transfer of the subject of bingo from the constitutional to the legislative realm should be made only if substantial adverse societal effects will not result from the playing of the game. If such effects would result, the Committee would then be inclined to regard bingo as a subject worthy of inclusion in Oregon's Constitution.

In order to determine whether adverse societal effects would result from bingo, the Committee contacted various individuals and members of groups that would be affected by passage of State Measure No. 6. (See Appendix A for list of persons interviewed.)

B. Individuals and Members of Charitable, Fraternal and Religious Groups

Generally, persons interviewed were aware of State Measure No. 6 but not necessarily with its specific terms. While there were some expressions of concern about gambling, virtually no direct opposition to the measure was encountered.

Although relatively few organizations presently conduct bingo games, those that do, do so on a donation basis so as to exclude the element of consideration which is essential to the definition of an illegal lottery. These organizations gave two reasons for conducting bingo games: They provide an inexpensive source of entertainment for participants and a source of revenue for the organization conducting the game.

Concerns expressed by some persons interviewed were:

- a. Persons should support a church by giving money as a gift and not by giving money connected with the hope of a personal gain such as a prize;
- b. No matter how small the price for playing bingo may be, some people will not be able to afford the money that they lose. Bingo, like any gambling, is a form of exploitation.
- c. Any form of gambling encourages the concept of getting something for nothing. Encouragement of this concept is inconsistent with the need for people to assume responsibility for themselves and to be responsible, working members in our society.
- d. The allowance of bingo constitutes a first step towards additional gambling activities. It will encourage crime and attract persons desiring to profit from the conduct of gambling.

C. Enforcement Agencies

Without exception, those members of the law enforcement community interviewed favored passage of State Measure No. 6, primarily because they are presently faced with enforcement of a law which, as it relates to charitable, fraternal and religious organizations, is virtually impossible of enforcement and subsequent conviction. Realistically, law enforcement authorities can only enforce those laws which their individual communities, as a whole, find necessary to the preservation and welfare of the community. Bingo games conducted by fraternal, religious and charitable organizations to fund their various endeavors do not seem to represent a threat to the standards of most communities. In addition, it was the view of several of those interviewed that in these days of budgetary tightness priorities in manpower and funding must be established, and that time expended attempting to enforce the prohibition against bingo, as it relates to these organizations, could better be used toward enforcement of laws against major crimes.

However, there were concerns expressed by law enforcement personnel about the content of implementing legislation. Certain safeguards were suggested:

- a. A maximum percentage of income permitted for administration costs to eliminate the possibility of "skimming," i.e., the "house" takes a substantial percentage "off the top" leaving only a small remainder going toward the purpose for which an organization received its IRS exemption;

- b. A statement by participating organizations to be filed with those responsible for enforcement, stating where funds derived from bingo games will go;
- c. Police inspection at any time;
- d. A prohibition against contracting the operating of a game to "outside" organizations;
- e. A precise definition of each authorized organization to prevent the formation of pseudo-organizations, primarily for the purpose of conducting such games;
- f. A maximum limit on the "pot";
- g. Criminal or civil sanctions for violators.

D. Legislative Discretion

State Measure No. 6 raises many uncertainties previously identified which, if the measure passes, will be left to the legislature to resolve in subsequent implementing legislation.

If the Committee were analyzing Measure No. 6 as a proposed statute instead of as a proposed constitutional amendment, the Committee would regard the questions as sufficient to warrant a vote against enactment. However, because it is analyzing a constitutional amendment, the majority of your Committee believes that, as a constitutional amendment, State Measure No. 6 is too detailed as it is and that additional provisions defining bingo, lotto and charitable, fraternal and religious organizations should not be inserted in the Constitution and can be better left to the legislature to decide after the measure, if it passes, becomes law. The legislature should give careful consideration to defining these terms so that it will not subsequently discover that it has allowed (1) games to be played that it did not intend to be played; and (2) organizations to conduct bingo that it did not intend to allow to conduct bingo.

V. MAJORITY CONCLUSIONS

The constitutional prohibition against bingo as it applies to religious, fraternal and charitable organizations should be removed. Regulation of the playing of bingo is within the competence of the legislature and is not a matter crucial to the functioning of government.

Testimony clearly indicates that groups and law enforcement agencies potentially affected by passage of State Measure No. 6 either favor passage of the measure or are not overly concerned about adverse effects from the playing of bingo. The majority of your Committee believes that substantial adverse societal effects will not result if bingo is permitted under the limitation imposed by State Measure No. 6.

The implementing legislation which may be enacted subsequent to passage of Measure No. 6 must be carefully drawn. The legislature should:

- a. define the terms: bingo, lotto, charitable, fraternal and religious organization;
- b. prohibit an organization permitted to play bingo from hiring an outside organization or individual to operate or supervise the game;
- c. place a limit upon the income from a bingo game which may be applied to administrative expenses;
- d. allow local governments to prohibit bingo games within their jurisdictions;
- e. establish limits on the amount that can be risked when playing bingo.

VI. MAJORITY RECOMMENDATION

A majority of your Committee recommends that the City Club of Portland support passage of State Measure No. 6, and recommends a YES vote at the November 2, 1976 general election.

Respectfully submitted,

Joycè Chambers

John S. Marandas

James McKillip

D. Patricia Smith

Patricia C. Taylor

William W. Kinsey, *Chairman*

For the Majority

VII. MINORITY CONCLUSIONS

In matters of gambling (bingo), prior to the removal of any constitutional prohibitions, the people of the State of Oregon are entitled to know how the playing of bingo will be regulated. In State Measure No. 6, a constitutional amendment, we know only one-half of the program. The half we know is the limited removal of the present constitutional prohibition against playing bingo. The half that we do not know is if and how the legislature would permit bingo to be played.

In addition, the amendment may be unconstitutional. First, it restricts those who could operate a bingo game to charitable, fraternal and religious organizations. This classification could be regarded as arbitrary and therefore invalid. Second, the amendment defers to the Internal Revenue Service for definitions. This could constitute an improper delegation of legislative authority to a federal agency.

The people are being asked to approve a poorly written amendment. The City Club should recommend to the legislature that they submit an amendment to a vote of the people that would entirely remove from the Constitution any reference to gambling. It should at the same time adopt a statute regulating lotteries that would go into effect when the amendment is passed. Thus, at the outset, the people of the State of Oregon would know the entire program.

VIII. MINORITY RECOMMENDATION

The Minority of this Committee recommends the City Club oppose the passage of State Measure No. 6 with a "NO" vote on November 2, 1976.

Respectfully submitted,

Robert R. Rogers

For the Minority

Approved by the Research Board September 23, 1976 for transmittal to the Board of Governors. Received by the Board of Governors September 27, 1976 and ordered published and distributed to the membership for consideration and action October 15, 1976.

APPENDIX

PERSONS INTERVIEWED

Bruce R. Baker, Chief, Portland Police Bureau
The Rev. Albert Bauman, Sacred Heart Catholic Church
Matthew P. Bigliardi, D.D., Bishop, Diocese of Oregon, The Episcopal Church
in Western Oregon
Max Bolte, Chairman, Northwest District Association
James Brazil, Oregon City Senior Service Center
Gretchen Casey, Sandy Senior Service Center
Jan Conover, Senior Citizen
Dan Cooper, Assistant City Attorney, Portland
Robert Denton, Friendly House
Loeta Doyon, Mental Health Association of Oregon
James Gates, City-County Commission on Aging
Harl Haas, District Attorney, Multnomah County
Ethel Harris, Senior Citizen
Orville Harris, Senior Citizen
Robert Holdridge, Portland-Multnomah County Area Agency on Aging
J. Pat Horton, Lane County District Attorney
V. J. Huffman, CRAG, Area Agency on Aging
Jeri Hunt, Hollywood Senior Citizen Center
The Rev. John Ilg, Our Lady of Sorrows Catholic Church
The Rev. Joseph Jacobberger, Chancellor, Catholic Archdiocese of Portland
Carolyn Johnson, Portland S.E. Senior Service Center
Mrs. Tony Leppaluoto, Hemophilia Foundation
Chuck Maylender, Oregon Non-Profit Organizations
The Rev. Walter McGettigan, Governor's Commission on Aging
Jack Olson, Umatilla County District Attorney
James Overgaard, Westmoreland Union Manor
The Rev. Robert H. Reed, Associate Synod Executive, Presbyteria of the Cascades,
United Presbyterian Church
Norman F. Reiter, Commander, Special Investigations Division, Portland Police Bureau
Lyle Remington, Clackamas County Division on Aging
Harry W. Stephens, Board of Directors, American Legion Post, Hood River
Robert Tepper, Washington County Agency on Aging
Floyd Wellton, American Baptist Church