5-11-1956

Special Five Year Salary Adjustment Levy (Portland Measure 54); Prohibiting Pinballs, Certain Other Mechanical Games (Portland Measure No. 53); Proposal to Increase School Tax Base

City Club of Portland (Portland, Or.)

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REPORT

on

SPECIAL FIVE YEAR SALARY ADJUSTMENT LEVY

AN ACT amending charter to provide special tax levy of one and one-third mills or $900,000, whichever is lesser, each year, for five successive years beginning with fiscal year 1956-1957, outside constitutional limitations, for increasing and adjusting salaries and wages of city employes.

54 Yes □ No □

TO THE BOARD OF GOVERNORS
THE CITY CLUB OF PORTLAND

NATURE AND SPONSORSHIP OF THE MEASURE

This measure makes the amount specified available to the City Council to increase the salaries of those city employes who are now paid from the General Fund. It is not intended solely to provide an "across-the-board" raise, but to provide also for adjustments in those classifications for which it is determined the present pay rate is too low.

The measure has been placed on the ballot by the City Council.

SOURCES OF DATA

Your Committee has undertaken a study which, to be at all complete, should occupy far more than the short month which the impending special municipal election has dictated. Hence, no extended salary and wage study could be made independently.

The Committee has interviewed representatives of the firemen, policemen and laborers, and the Oregon Public Employees Council, all of whom clearly favored the measure. The city office of the Civil Service Commission provided helpful facts but no opinion, pro or con. As possible critics of the measure we called the Chamber of Commerce, the Oregon Tax Research, Inc., the Property Owners Association, and the Real Estate Board. All of these were conducting studies parallel to ours and had no comment to offer at the time. The Committee also consulted with Mr. C. C. Chapman, associate of the Oregon Voter.

In addition to the interviews, the Committee has examined statistical data from studies made by the Bureau of Municipal Research and Service of the University of Oregon, the Heller Committee for Research in Social Economics of the University of California, the Oregon State District Council of Laborers, the District Council of AFL-CIO Trade Unions, the Municipal Yearbook (1953) and from the Discussion of Proposed Special Five (5) Year Continuing Tax Levy prepared by Robert M. Shepherd, Supervisor of Employee Relations of the City of Portland. Although the Committee had insufficient time for independent statistical analyses, certain of the data examined have been cross-checked and no significant discrepancies were found.

In the area of more intangible facts concerning morale of employes, trends in employe turnover, quality of work done for the City by its employes, and the relative attractiveness of fringe benefits, there is more divergence of opinion.

REPRESENTATIVE COMPARISONS

From the data available, the following comparisons are informative:

I. COST OF LIVING: In order to compare the cost of living in four Pacific Coast cities, we summarized the "wage earner family budget" for a family of four living in a rented home. These figures are taken from the Heller Report (April 6, 1956). The new state surtax on income is not included for Portland.
II. WAGES IN THE CITY AND IN PRIVATE INDUSTRY IN THE AREA: The Bureau of Labor Statistics listing of average payrates and the middle rates for the same or similarly classified municipal jobs as provided by Mr. Shepherd's Report throw light on City rates relative to "prevailing scales."

<table>
<thead>
<tr>
<th>City</th>
<th>Annual Wage Earners Budget</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portland</td>
<td>$5222</td>
<td>100</td>
</tr>
<tr>
<td>Los Angeles</td>
<td>5394</td>
<td>103.3</td>
</tr>
<tr>
<td>Seattle</td>
<td>5422</td>
<td>103.8</td>
</tr>
<tr>
<td>San Francisco</td>
<td>5466</td>
<td>104.7</td>
</tr>
</tbody>
</table>

III. WAGE COMPARISONS FOR PATROLMEN AND FIRE FIGHTERS: The police and fire fighters do not find easily comparable job classifications in other than municipal occupations. Your Committee has found no absolute basis on which to judge what their pay should be. The only indication of necessary adjustments is given by looking at the rates in other cities. Of ten West Coast cities, Portland pay is lowest; in particular for the cities cited under I. above, according to material drawn from Mr. Shepherd's report:

<table>
<thead>
<tr>
<th>Portland Area Rate (April 1955)</th>
<th>City Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Punch Operator</td>
<td>$57.00 per week</td>
</tr>
<tr>
<td>Office Worker</td>
<td>42.00</td>
</tr>
<tr>
<td>Typist</td>
<td>57.00</td>
</tr>
<tr>
<td>Senior Draftsmen</td>
<td>94.50</td>
</tr>
<tr>
<td>Maintenance Carpenter</td>
<td>2.38 per hour</td>
</tr>
<tr>
<td>Maintenance Electrician</td>
<td>2.38</td>
</tr>
<tr>
<td>Maintenance Painter</td>
<td>2.32</td>
</tr>
<tr>
<td>Janitor (Male)</td>
<td>1.49</td>
</tr>
<tr>
<td>Material Handler</td>
<td>1.85</td>
</tr>
<tr>
<td>Light Truck Driver</td>
<td>1.88</td>
</tr>
</tbody>
</table>

DISCUSSION

The figures listed above appear to the Committee to be representative of these comparisons and can be taken to indicate the relative economic position of city employees. Although the salaries of professional people are involved in the measure (in industry, the "executive" group), and certainly their salaries are important in attracting and keeping highly qualified persons in these posts, the Committee decided to limit its comments to non-professional classifications where most of the appropriation would be expended.

The cost of living is practically the same in the larger metropolitan areas of the West Coast. Small variation in measures of this cost could be due to statistical uncertainty, and it is likely that variation from such "mean" figures within a particular area removes any
significance that might attach to differences between areas. This leaves the remaining two comparisons as our only basis for arriving at conclusions. Comparison II can throw light on the City's competitive position and Comparison III on its pay scale as "fair" or "unfair."

Certain other cities in the country have statute provisions which tie city pay scales to "prevailing" wages in the respective area. (A partial list of these made by the Civil Service counsel for the A. F. of L. has been shown to the Committee). Portland has no such provision, but it seems reasonable that, in order to compete for personnel, and in justice to employees committed for various reasons to a career with the city, the city should take this into account as a basis for equitable treatment of its workers. Comparison II illustrates a need for adjustment here.

As to what we have characterized as "intangible" in which, for brevity, we include fringe benefits, your Committee finds it can make no absolute evaluation. An employee in private industry always has the right to strike. In addition, he may have advantages of employer contribution to prepaid health plans, unemployment insurance and the opportunity to submit grievances to arbitration. On the other hand, the City does provide a retirement plan, can give more assurance of steady year-round employment due to the continuing nature of its jobs and the lack of jurisdictional restrictions on types of work, admits employees by examination which relaxes the emphasis on prior experience, and, particularly in the lower trade classifications, provides a "career" flavor to its jobs. How these different qualities balance out varies in the minds of different individuals, and the relative weight given these in arguments about pay scales varies among the disputants. Without further study, your Committee stands in doubt as to whether the intangible benefits are greater in city or private employment.

Your Committee was told by employee representatives of the fire fighters and patrolmen that these employees tend to leave for other West Coast cities where pay is higher, resulting in a concomitant expensive turnover in these positions in Portland and pressure to lower examination standards. We have no figures to support this opinion, and, in fact, the Civil Service office informed us that there is little interchange of fire fighters or patrolmen between cities, and that although the local office sets its own standards, they are kept comparable with those for the same services in comparable West Coast cities. In only one classification (draftsman) is it presently difficult for the city to find qualified applicants, but this appears to be a common experience of employers in the area.

The presently observed inequities in City pay scales have accrued over recent years. Salary increases have been granted each year since 1950, except 1954 (Mr. Shepherd's report). Even with these raises, City pay has lagged significantly.

The rationale for the determination of firemen and police salaries is indefinite. Mr. Shepherd's report states that relative to other classifications, Portland is in line with comparable West Coast cities, but how this relation is defined is not clear.

The apportionment of tax funds available for salaries among the various classifications is presently at the discretion of the City Council with whatever advice is available to it. Mr. Shepherd, whose report has been referred to above, has during the past year, initiated a study of job classification and wage studies. Mr. Carl L. Roberts, President of the District Council of AFL-CIO Trade Unions, representing Public Employees, has suggested that:

"After the wage structure of city employees has been equalized with private industry, they should be maintained at this level through one of two methods: (1) Free collective bargaining; (2) Agree upon a private industry association group whose work operations are most comparable to work performed by city employees and grant the same wage increases to city employees as negotiated by labor unions with such private industry association group each year or at such times as wage increases are negotiated and granted by such associations."

Mr. C. C. Chapman of the Oregon Voter felt that the City Council should study the use of its tax funds more generally before a specific levy is made for salaries only.

These observations, while not directly germane to the need for emergency redress in city pay inadequacies, bear on the need for long range planning for pay scale determination.
The City Council has at present the obligation to maintain fair competitive salary scales, and it estimates that an average 7% increase is necessary now. Mr. Shepherd's report states that, "Seven percent of the present personnel budget is approximately $900,000."

CONCLUSIONS

Based on this discussion, your Committee concludes that:

1. The city should establish a procedure for a continuing review of pay scales to prevent a recurrence of the lag we now observe, and to anticipate insofar as possible variations in prevailing scales in industry. So-called fringe benefits should be recognized as an integral part of such scales. In the performance of these duties, the Council should make full use of the services of a staff arm such as the Civil Service Commission.

2. The City should determine a clearly defensible basis for salaries of municipal employees for whom there is no comparable job classification in private industry, such as firemen and policemen.

3. Your Committee feels additional funds are needed immediately for salary adjustment. The measure should be approved to authorize the Council to make required adjustments. It is hoped that the Council will then effect the needed continuing investigation and analysis necessary to give the City Government an orderly approach to salary determination.

RECOMMENDATION

Therefore, your Committee recommends that the City Club go on record in favor of the measure and urge a vote of 54 x Yes.

Respectfully submitted,

EDWARD P. DEVECKA
RICHARD FRANKEL
ANTHONY PACK
TOM TEMPLE
LLOYD WILLIAMS, Chairman

Approved May 3, 1956, by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors May 4, 1956, and ordered printed and submitted to the membership for discussion and action.
REPORT

on

PROHIBITING PINBALLS, CERTAIN OTHER MECHANICAL GAMES

AN ORDINANCE prohibiting all varieties of pinball games, digger machines and other electrical or mechanical amusement devices containing any inherent element of chance, bonus or prize, exempting transportation and warehousing and certain repairs for use outside city, but not prohibiting music, vending or service machines.

TO THE BOARD OF GOVERNORS
THE CITY CLUB OF PORTLAND

An ordinance which prohibits all forms of pinballs and similar devices within the city is to be submitted to the voters of the City of Portland at the Municipal Nonpartisan Primary election and Special Municipal election on Friday, May 18, 1956.

BACKGROUND

State Regulation

All lotteries are prohibited by Article XV, Sec. 4., Oregon Constitution, and by state statutes, ORS 167.405 et seq. The word "lottery," as used in anti-gambling legislation, is generally construed by courts as including many things not considered to be a "lottery" within the ordinary meaning of the word. In 1938, the Oregon Supreme Court held, in State vs. Coats, 158 Or. 102, 122, that a pinball game a person paid to play, that paid out in cash when the ball dropped in a winning hole, and on which the player could not exert control over the ball after starting it in motion, was a lottery and was therefore illegal.

The only state anti-gambling statute specifically mentioning pinball games is ORS 167.555, which states:

"Regardless of whether their operation requires an element of skill on the part of a player, all games of chance such as slot machines, dart games, pinball games, or similar devices or games, when operated or played for a profit, either in cash, merchandise or other article of value, hereby are declared unlawful, and their licensing is prohibited."

In 1940 the Oregon Supreme Court held in State vs. Fuller, 164.383, that a pinball game played for amusement only, on which there was no opportunity for the player to win a prize in cash or merchandise, was not a lottery and did not violate any of the above statutes.

In addition to the state statutes already mentioned, ORS 167.505, aimed primarily at prohibiting gambling on cards, dice and roulette, and ORS 167.535, aimed primarily at prohibiting gambling on slot machines, contain general language that may be broad enough to cover gambling on pinball games. Each state anti-gambling statute carries its own penalty for violation, ranging up to a fine of $1000 or imprisonment for one year for the first offense of carrying on a lottery, and imprisonment for three years for the second offense.

City Regulation

On July 10, 1951, the City Council enacted an ordinance, Sec. 16-1129 of the Police Code, which prohibits certain coin-in-the-slot mechanical games and devices, including pinball games. Shortly thereafter, litigation was instituted challenging the power of the
City to enact such an ordinance, and ultimately the Oregon Supreme Court held that the City had such power. The case was then taken to the United States Supreme Court, but that tribunal declined to consider the case and the litigation was finally terminated in 1955. During the time this litigation was pending, an injunction prevented the City from enforcing the ordinance.

Prior to the lifting of the injunction, Portland pinball machine owners and operators installed various devices on the pinball machines so that the machines could be operated without using the coin-in-the-slot mechanism and the coin slots were plugged or covered over. The pinball games in operation today are of this type. When a person wishes to play a pinball game, he pays his money to an attendant who by means of a key or other device adjusts the control mechanism to permit the player to play the number of games for which he has paid. The City contends that the "coinless" pinball games as presently operating violate Sec. 16-1129 of the Police Code, while the pinball machine owners take the opposite position. This issue is presently before the Multnomah County Circuit Court in a suit brought by a pinball machine owner, Lou Dunis, for a declaratory judgment determining whether Sec. 16-1129 does or does not prohibit "coinless" pinball machines.

In addition to Sec. 16-1129 of the Police Code, the City has a general, anti-gambling ordinance, Sec. 16-1102 of the Police Code, which appears broad enough to cover gambling on pinball games.

THE PROPOSED ORDINANCE

Because of the possibility that the courts will decide that a "coinless" pinball machine is legal under Sec. 16-1129, Commissioner Earl, in the summer of 1955, presented to the City Council the ordinance now before the people. Mr. Earl attached an emergency clause to the ordinance as first introduced, in order to prevent a referendum. The Council passed the ordinance, but without the emergency clause. In due course, referendum petitions were filed and the ordinance was referred to the people for their approval or rejection in the forthcoming election.

The proposed ordinance would prohibit the use and operation of "any mechanical or electrical game or amusement device which contains any element of chance, bonus or prize inherent in such game or device." The ordinance specifically permits, however, the transporting, warehousing and repairing of such machines for use outside the City, and also specifically permits operation of music and vending machines. The proposed amendment to the Police Code is supplementary to Sec. 16-1129 and does not amend, modify or repeal that section.

Should the proposed ordinance be defeated, the future operation of pinball machines will depend on the decision of the courts as to whether the "coinless" pinball game violates Sec. 16-1129.

SCOPE OF STUDY

In the course of your Committee's study of the proposed ordinance, the following individuals were interviewed: Stanley Earl, City Commissioner; David H. Brewer, Assistant City Attorney; Stan Terry, Coin Machine Men of Oregon; Lloyd Hildreth, representative of the International Brotherhood of Teamsters, Miscellaneous Driver's Local No. 223; Ron Moxness, public relations; Miles Brandon, Oregon Licensed Beverage Association; Clyde DeGraw, Dekum Tavern; J. E. Bennett, former City Commissioner; Joe Dobbins, President, Committee to License Pinballs.

In addition your Committee contacted Judge Virgil H. Langtry, Court of Domestic Relations; Gus B. Lang, Administrator, Multnomah County Public Welfare; Wallace Turner and Herbert Lundy, the Oregonian. Members of the Committee also observed pinball play in various locations in the City.

Arguments Advanced in Favor of the Proposed Ordinance

1. LAW ENFORCEMENT — The Oregon Constitution and statutes and city ordinances contain anti-gambling provisions rendering it unlawful to "pay off" on pinball games. Enforcement of these laws is extremely costly and time-consuming. As a result,
it is impractical to control illegally operated pinball games. Policing problems are greatly simplified by making the mere physical possession of pinball machines illegal.

2. CITY COUNCIL'S INTENTIONS — Litigation now in the court seeks to establish the legality of “coinless” pinball machines under the 1951 ordinance. It was the City Council's intention in 1951 to ban any and all types of pinball machines regardless of whether or not a “pay off” is involved and the new ordinance merely restates this intention in terms so drawn up as to “plug” all possible legal “loopholes” in the 1951 ordinance. If the court should rule that “coinless” pinball machines are not banned by the 1951 ordinance, they would still be banned by the new ordinance.

3. ESTABLISH PUBLIC MANDATE — A favorable vote on the ordinance under consideration would indicate that the citizens of Portland support the Council's stand on the pinball problem.

4. RACKETEERING — Allowing the illegal operation of pinball machines provides a foothold for organized criminal syndicates. In seeking to maintain and increase their illegally earned profits, organized gambling interests attempt to control candidates and elections and encourage the breakdown of law enforcement by payment of graft for protection. Accomplishment of these goals by the gambling interests would result in the introduction of other forms of gambling and illicit operations to the detriment of the majority of law abiding Portland citizens. Recent revelations of organized gambling activity as reported in the local press indicate the existence of such organized gambling interests.

5. PERSONAL ECONOMIC HARDSHIPS — Many homes are broken up because the wage earner squanders all or considerable portions of his income on pinball machines. Dependents of such individuals are often forced on public welfare rolls for financial assistance.

6. EFFECT ON YOUTH — If pinball machines are allowed to operate freely in the City, minors will have free access to these machines in local grocery and confectionery stores and would be encouraged to gamble away their money.

7. PINBALLS ARE FRAUDULENT DEVICES — The “sucker” doesn’t have a chance to win on a pinball machine.

8. MORALITY — Pinballs are a gambling device and all gambling is immoral and should be prohibited by law.

Arguments Advanced Opposing the Proposed Ordinance

1. ECONOMIC LOSS — Many taverns, small restaurants, cigarette shops and other small business enterprises are dependent on pinball machines for a supplementary, if not major, portion of their income.* In addition to the proprietors and employees of these establishments, other individuals earn their livelihood through the servicing of these businesses. Loss of pinball income would force the closure or reduce the operations of many of these small establishments. As a result, large numbers of culinary workers, truck drivers, salesmen and warehousemen would be deprived of a livelihood.

2. LOSS OF TAX REVENUE — Since 1951 the City has lost over $600,000 in tax revenue by refusing to accept the license fees tendered by the pinball operators. Refusal to accept these fees has thrown an additional burden on the already hard-pressed taxpayers of the City of Portland. With taxes continually on the increase, the City should not deprive itself of any source of tax income.

3. DOUBLE STANDARDS — Gambling in the form of horse racing and dog racing is authorized under the state constitution. It is an act of discrimination to point out the pinball machine for public opprobrium. Far more money is squandered on dog racing in the City of Portland than is spent on pinball machines. Authorities overlook gambling in the form of lotteries conducted by churches and other groups. In like manner various forms of gambling are allowed to exist in the numerous private social clubs in the city.

*There are approximately 2000 pinball machines in operation within the Portland city limits. Estimates of the annual revenues received from these machines as reported to your Committee ranged from about $850,000 to $10,000,000. Your Committee has no means of determining the accuracy of any of these estimates.
Since the local tavern serves as the workingman’s club, banning pinball machines deprives its patrons of relaxation and amusement to which they are as much entitled as members of private clubs.

4. FREEDOM OF THE INDIVIDUAL — The ordinance is an unwarranted invasion of the freedom of the individual to enjoy recreation of his own choice.

5. SCOPE OF THE ORDINANCE — The proposed ordinance is faulty in that the broad wording of the ordinance bans many other types of entertainment devices such as shuffleboards, mechanical pinsetters in bowling alleys and other amusement devices.

DISCUSSION

1. Pinball machines are supposedly played “for amusement only,” and every machine is so labeled. Rewarding a player in cash or merchandise for his play or score violates state and city anti-gambling statutes and ordinances. Nevertheless, it is the general practice in the City of Portland to “pay off” on pinball play. While an occasional individual might play a pinball machine in order “to watch the pretty lights flash on and off,” the average player anticipates the possibility of running up a winning score and “cashing in.” Most pinball operations are violating the law and are illegal under existing state statutes and city ordinances. No witness before the Committee denied this fact.

2. To prosecute successfully, there must be evidence of “pay off” and the only way practical to obtain such evidence is for the arresting officer to witness the “pay off” and so testify in court. While there may be some degree of validity to this argument, your Committee has concluded that law enforcement officials, except for sporadic activity have demonstrated little desire to clamp down on illegal pinball operation. Committee members had no difficulty in witnessing pinball “pay offs” at various locations, and they assume that law enforcement personnel would find it no more difficult to do the same, at an expense of time and money commensurate with that required for other enforcement activities.

Although a license to serve alcoholic beverages may be revoked for illegal activity on the part of the licensee, and although gambling is illegal, nevertheless, illegal pinball operations in local taverns apparently continue unmolested.

3. It has been pointed out to your Committee that a number of taverns, small restaurants and other establishments are dependent on the income received from pinball operations, as, indirectly, are the individuals employed in servicing these establishments. The sale price of these establishments is in part determined by the anticipated income from pinball games. It is said that removal of pinball machines and the subsequent loss of revenue would force the closure of many of these small establishments and deprive a number of individuals of their livelihoods. No person has a vested right to continue operation of any enterprise which may be considered to be inimical to the public interest, and anyone entering into a business dependent to any degree upon receipts from such activities must be assumed to do so with the knowledge that governing laws and regulations are subject to change and that enforcement of these laws might at any time deprive him of this income.

No governmental body should become dependent to any degree upon revenues obtained from the licensing or taxing of any illegal activities. To use the argument that pinball machines are a source of revenue and for that reason should be allowed to operate would suggest that the city encourage other types of illicit operations in order that they too may be subjected to taxation.

4. It is asserted that leaders in the Teamsters Union control the local pinball “industry.” Establishment of such control supposedly follows a pattern reported developing elsewhere in the county. (See Appendix A.)

The original ordinance banning pinball operations was passed by the City Council on July 1, 1951. While pinball interests have resorted to litigation in an effort to circumvent the intentions of this ordinance, it is undeniable that the City Council originally intended to ban any and all types of pinball machines. It was subsequent to the passage of this ordinance by the City Council that the pinball operators were taken into the Miscellaneous Drivers Local No. 223 of the International Brotherhood of Teamsters. Your

*In 1965, sixteen arrests were made. In 1966, two arrests have been made.
Committee is unable to understand or justify the reasoning by which a recognized labor organization would associate itself with any type of "fringe" activity, especially one whose very existence is maintained only by the drawout process of judicial procedures.

5. Your Committee questions the moral attitude of the City Council in presenting an ordinance which states that the operation of pinballs within the City of Portland is an evil thing and therefore would prohibit such operation, while at the same time the ordinance by allowing the warehousing, transporting and repairing thereof, fosters the operation of pinball machines anywhere beyond the city limits.

6. The ordinance would apply against any person who as proprietor, lessee, lessor or employee (or agent of any of them), or as operator, user or player, shall perform any of the following prohibited acts within the city: maintain, control, lease, use, operate or play (or allow any of such acts as to) any of the games or devices described in the next paragraph.

The machines against which the ordinance is directed are those which possess the following characteristics: (1) games or amusement devices which are either mechanical or electrical; (2) games or amusement devices which contain any element of chance bonus or prize; (3) the element mentioned in (2) must be inherent in the game or device described in (1).

The key to the understanding of the ordinance lies in the use of the word "inherent"—which merely means that the thing itself (the element of chance, bonus or prize) is intrinsic to the machine or device and necessarily exists within it. If a machine or device even though mechanical or electrical does not necessarily contain within itself an element of chance, bonus, or prize, it is not banned by this ordinance.

The type of game or device aimed at is that which by its very nature and operation must put into play any of the elements of chance or gain or prize. That this is the intention of the ordinance is indicated by the express provision that the ban would include pinball games and digger devices or grabbing devices but shall of course not be limited to them, and also by the express provision that it would exempt music devices or mechanical or electrical devices vending, supplying or measuring services, commodities, merchandise or privilege, unless, of course, there be an inherent element of chance, bonus or prize therein. The acts banned by the ordinance do not include the following: (1) warehousing such games or devices at a warehouse devoted solely to warehousing or to warehousing and repairing; (2) transporting such games or devices; (3) repairing such game or device for use outside the City of Portland, but such repair shall not be done at a retail establishment unless such establishment is devoted exclusively to repair service.

7. The question arises as to the justification for banning pinball machines when gambling on horse racing and dog racing is sanctioned by law and police authorities overlook other types of gambling. If pinballs are to be banned simply because they may be used for gambling purposes, why not playing cards? They certainly could be and are used for gambling.

The majority of your Committee does not feel this comparison to be analogous. It is a fact accepted by our entire Committee that pinballs generally "pay off." These "pay offs" violate anti-gambling statutes and ordinances. This means that the pinball machines in the city are being operated in violation of the law. Organized illegal activity of any sort encourages the creation of a system of buying protection from those charged with law enforcement. Once developed, such a system paves the way for general graft and corruption of enforcement authorities, and an extension of illicit operations.

Justification of the proposed ordinance must be viewed in light of the existing situation. With this viewpoint in mind, the majority of your Committee considers the proposed ordinance to be a reasonable exercise of the Council's "police power."

MAJORITY CONCLUSION

A majority of your Committee concludes:

1. That, in general, pinball machines are operated in an illegal manner.

2. That such illegal operation creates an environment conducive to the corruption of law enforcement personnel which provides a wedge to be used in expending illicit activities.

3. That law enforcement personnel are not actively enforcing the anti-gambling statutes and ordinances affecting pinball play in the City of Portland.
4. That by absolutely prohibiting pinball machines, there should be no difficulty in enforcing the law.

5. That the proposed ordinance would ban only pinball machines, digger machines and similar devices, and its wording is not to be construed as outlawing shuffleboards, mechanical pin setters in bowling alleys, toys, and other amusement equipment.

6. That while the proposed ordinance is not perfect, the advantages accruing from its passage outweigh its faults.

**MAJORITY RECOMMENDATION**

The majority of your Committee recommends that the City Club go on record as favoring the passage of the ordinance, and urge a vote of 53 X Yes.

Respectfully submitted,

BRUCE H. RUSSELL
WM. K. SHEPHERD
BYRON L. VAN VLEET
MORTON T. ROSENBLUM, Chairman

**Minority Report**

In the opinion of the dissenting member of the Committee, the primary objection to the proposed ordinance is that it would constitute unwarranted governmental interference with the freedom of the individual. This conclusion is based first of all on the principle that the American system of government permits and tolerates any conduct on the part of an individual that does not infringe upon the personal or property rights of others, or violate the moral standard of the community; and, secondly, upon the corollary to that principle, that any attempt by government to prohibit conduct that neither infringes on personal or property rights, nor violates the community's moral standard, should be resisted.

It is not out of place to note in passing that one of the basic differences between our system of government and the police-state system, is that we seek to preserve the freedom of the individual wherever possible, whereas the police-state disregards individual freedom. Under the police-state system a law can be justified solely because it makes the policeman's job easier, but not under the American system.

Before reaching a decision on the merits of the proposed ordinance, it is necessary to determine exactly what change in the law it would produce. Gambling and paying off to a winner on a pinball game are already prohibited by state law and city ordinance, and will continue to be prohibited by other laws whether this ordinance is adopted or rejected. The only significant change in the law that would result from passage of this ordinance is that playing a pinball game without gambling on it would be prohibited, and maintaining a pinball game without paying off to winners would be prohibited.

It would appear that such conduct on the part of an individual could not possibly infringe on the personal or property rights of others, nor violate the moral standard of the community, and that the ordinance should therefore be rejected.

There may be rare circumstances when the prohibition of innocent conduct can be justified on the ground that such prohibition is necessary in order to protect the public from some great danger, but such prohibition violates basic principles and resort should be had to such a prohibition, if at all, only in extreme circumstances. An illegal five cent wager on a pinball game does not appear to be such a great danger to the public, particularly in a community that has legalized betting on horse and dog racing.

For the sake of simplicity, the minority report thus far has treated the proposed ordinance as though it only applied to pinball games of the type that a person pays to play. The fact that the ordinance is much broader than this in scope presents another serious objection to its enactment. The proposed ordinance is limited neither to games a person pays to play, nor to pinball games. Absence of the first limitation brings the playing of certain toy games within the prohibition, and absence of the second limitation results in uncertainty. The lawyer members of the Committee, after considerable legal research, were unable to agree on the sort of games and amusement devices that would be prohibited, in addition to pinball games.

If the ordinance is aimed only at pinball games, as some proponents believe, then it
should be restricted by its terms to pinball games. If the ordinance is also aimed at other specific games or amusement devices, they should be specified so the public will, first of all, know what it is voting on, and secondly, if the ordinance is approved, know what is illegal.

The criticism of the broad scope of the ordinance cannot be answered by saying that the police will only enforce this ordinance as it applies to commercial pinball games. The duty of the policeman is to arrest all violators of an ordinance. If we create a situation wherein we expect the policeman to use his discretion and arrest certain violators but leave others unmolested, we have created a situation particularly conducive to graft and corruption.

MINORITY CONCLUSION

For the reasons above, the proposed ordinance should be rejected.

Respectfully submitted,

JACK L. HOFFMAN

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APPENDIX A.

One instance where the union did apply pressure to a local tavern owner who was attempting to install his own coin-operated shuffleboard table involves a dispute between William Goebel, a member of the Coin Machine Men of Oregon and Clyde Degraw, owner of the Dekum Tavern, 6801 N. E. Union Avenue. Goebel, like all other members of the Coin Machine Men of Oregon — a non-profit trade association of businessmen owning coin-operated amusement devices — is a member of the Miscellaneous Drivers Local No. 223 of the International Brotherhood of Teamsters.

Committee members interviewed the late Clyde Degraw on March 29, 1956 at his place of business and obtained the following account of his dispute with the Miscellaneous Drivers Local No. 223 of the International Brotherhood of Teamsters:

For an extended period of time, Degraw had attempted to have Goeble either replace or refinish the shuffleboard set up in the Dekum Tavern. According to DeGraw's account, this machine was in such poor condition that his customers wouldn't play it. Because they went elsewhere to find amusement, he also suffered the loss of beer sales. Goeble simply ignored DeGraw's complaints.

DeGraw then purchased a shuffleboard from the American Shuffleboard Sales Company of Seattle, in September, 1955. Goeble refused to remove his machine and DeGraw hired a public transfer company to remove it. Goeble refused to accept delivery and the machine was placed in a public warehouse.

DeGraw's own machine wasn't even set up when Miscellaneous Drivers Local No. 223 pickets appeared in front of his establishment. The installing mechanics walked off the job and the picket line prevented delivery of beer and other supplies. The music machine, owned by another member of the Coin Machine Men of Oregon, was removed. Picketing was halted by an injunction obtained against the union from U. S. District Judge William G. East, who declared that the effect of the union's activities was to prevent DeGraw from owning and operating legitimate property and was therefore wrongful.

DeGraw owned, in addition to his shuffleboard table, his own music box and pool table. He claimed that while receipts from Goeble's old board averaged only $35 a month, his own shuffleboard table, which was in good playing condition, grossed from $215 to $240 a month. At the same time, his beer sales had increased because his customers were now content to remain on the premises instead of going elsewhere to seek amusement.

Lloyd Hildreth, representative of the Miscellaneous Drivers Local No. 223, claims the two provisions found objectionable by Judge East* have been deleted from the contract between the union and the Coin Machine Men of Oregon.

Your Committee has been informed that a union repair man will now service a non-union machine, but his bill is alleged to be several times higher than for similar work on a union machine.

*Paragraph 3: Service to equipment on location shall be limited to installations of equipment owned by recognized Union operators under contract to Local No. 223 except where non-coin operated equipment is involved.

Paragraph 15: Employes shall service only equipment owned by their Employer and shall not service location owned equipment.
REPORT

on

PROPOSAL TO INCREASE SCHOOL TAX BASE

"Local revenue has failed to keep pace with the increased and increasing cost of operation of schools of the District occasioned in the first instance by an increase in the cost of personnel, and also by increases in the cost of maintenance, material, equipment and supplies resulting from increases in the number of pupils in the schools, to the extent that whereas its tax base for the fiscal year commencing July 1, 1956 is $13,466,922, it will be necessary in order to meet the financial requirements of the District for a normal school program to levy in excess of said sum for said fiscal year, and not less than $16,920,937 for the fiscal year commencing July 1, 1957, and not less than said amount for each ensuing year.

Shall School District No. 1, Multnomah County, Oregon, increase its tax base under Article XI, Section 11, Oregon Constitution, from $13,466,922 to $16,920,937?

"( ) Yes. I vote for the new tax base.

"( ) No. I vote against the new tax base."

TO THE BOARD OF GOVERNORS
THE CITY CLUB OF PORTLAND

The proposal to be submitted to the voters at the May 18 election provides for an increase in the tax base from the present $13,466,922 to $16,920,937. Under Oregon law taxes cannot be increased in excess of 6% over the total amount levied in any one of the preceding three years, except by direct vote of the people. Under present law the tax base for the fiscal year 1956-57 will be $13,466,922 and for 1957-58, $14,274,937. On the basis of the tentative budget approved by the Board of School District No. 1 for the fiscal year 1956-57, this amount will fall short of meeting the needs of School District No. 1 by $1,373,355. This will require the tax levy to be increased $1,510,000. (The excess is to provide for allowances for discounts and delinquencies). The Board further estimates that revenues for fiscal 1957-58 will be short by an additional $2,421,170. Allowing for discounts and delinquencies the base tax levy would have to be raised to $16,920,937 to meet the School District’s needs.

The tax base increase proposal states that “local revenue has failed to keep pace with increased and increasing costs of operation of schools of the district occasioned in the first instance by the increase in the cost of personnel, and also by increases in the cost of maintenance, material, equipment and supplies resulting from increases in the number of pupils in the schools.”

In considering this measure, your Committee has interviewed representatives of School District No. 1; the Oregon Education Association, the Oregon Tax Research, Inc., Robert Hall, a recognized tax authority, and members of the school board supporting and opposing the proposal.

At the outset of our study your Committee found that the majority of the school board was concerned primarily with (1) establishing equality of pay among teachers in the Portland system on the basis of experience, and (2) facilitating the recruitment of experienced teachers for the system.

The teachers in School District No. 1 are now under a multiplicity of salary schedules as a result of recruitment procedures in effect in the year the teachers entered the system. Basically the differences are the result of failure to fully compensate teachers
with experience outside the system. In some years beginning teachers with no experience were paid as much as teachers with 1 to 3 years. In 1953 teachers when entering the system with 8 or more years of outside experience were paid only $300 more than teachers with no experience. These differences have been carried forward from year to year and are considered by some as having created a growing problem in teacher morale. The majority of the school board further stated that recruitment of teachers would be facilitated if the board recognizes experience outside the Portland system on the same basis as experience within the system.

The School Board has authorized a salary schedule which will start beginning teachers with a B.A. degree at $3700; with an M.A. degree, at $3900. These salaries increase in $200 annual steps to $6200 for teachers with a B.A. degree, and $6600 for those with an M.A. It should be noted that this schedule has been approved by the school board and will become effective July 1, 1956, regardless of the vote on this measure. This already approved schedule is separate and distinct from the experience placement program which is the major immediate justification advanced for the proposed ballot measure.

If this proposed increase in the tax base is approved, the board would then place all teachers on the above schedule in accordance with their experience, except that teachers with a B.A. degree serving in the system or entering the system with maximum experience allowance, who have not completed the three-year probationary period, would be paid $5700 during the first year of probation, $5900 during the second year of probation, and $6100 during the third year of probation. Teachers with an M.A. degree and maximum experience would be paid $5900, $6100 and $6300 for each probationary step.

This experience placement program will cost School District No. 1 an estimated $1,242,980 for the fiscal year 1956-57. Ninety percent of the revenue that would be raised in the year 1956-57 by the proposed increase in the tax base will be required to finance this proposed experience placement adjustment. Other increased costs are due to new schools, increased materials, etc., and are estimated to be $131,075, which is 10 percent of the total revenue.

This experience placement program is distinct from the $200 salary increase granted teachers on January 23, 1956. The school administration minimum salaries for the fiscal year 1956-57 were raised from $3400 to $3700 for a B.A. degree. To avoid compounding difficulties as the experience placement schedule is expected to correct, all teachers have been granted a $200 increase. This increase plus the normal $200 annual increment would result in a $400 increase for all teachers now in the system. This increase can be financed with the present tax base.

No funds that are to be raised by the proposed increase will be used for construction of the new facilities. The special ten-year levies approved by the voters in 1947 and in 1951 are providing these funds for new construction.

What alternatives exist if this tax base proposal be defeated at the May 18th election? The School Board has indicated that no major curtailment of the educational program for fiscal year 1956-57 will be necessary. If it is determined that the proposed budget for 1957-58 cannot support an adequate program, a special election would be necessary in the opinion of the majority of the School Board to provide funds for one year. A special election would cost the District an estimated $130,000. It is anticipated that the tax base measure that would be proposed for 1958 would incorporate the required increase and provide for future needs. The cost of the present election to the School District, and all other measures placed on the ballot at regular elections, is nominal because of statutory requirements of electing school directors at such elections.

Arguments for the Act

1. The present salary policy for teaching personnel in the Portland School District is antiquated, unrealistic and contains inequities which should be corrected. The new experience placement schedule will facilitate the recruitment of career teachers and reduce the proportion of inexperienced teachers entering the system.

The Portland School System has been operating with a personnel program that has grown like "Topsy." Teachers entering the system have been hired and paid in accordance with the labor market prevailing at the moment.
During depression years, all teachers were required to have at least two years outside experience. This requirement was dropped when teachers became scarce, but the practice of discounting outside experience has been continued to avoid placing teachers entering the system at higher salary rates than teachers with the same experience already in the system.

For example, teachers with eight or more years of experience entering the system in 1953 were paid only $300 more than new teachers. These differences have been carried forward to the present time and make it extremely difficult to attract experienced career teachers to the Portland system. Career teachers, now employed elsewhere, are naturally reluctant to come into the Portland system at a salary which fails to recognize their experience. The experience placement program made possible by the passage of this measure will permit the District to pay for experience, no matter where received, and should encourage career teachers wishing to move from their present job to enter Portland schools.

While salaries for career teachers in the Portland system have lost their attractiveness, salaries for beginning teachers have been competitive and new teachers have been attracted to Portland. During the past year, 36 percent of all new teachers were without previous experience. The turnover of new teachers has been extremely high due to matrimony, moving and maternity. Over a six-year period, 60 percent of the teachers hired did not complete three years. Thirty-five percent stay but one year. The Portland School system has also found it necessary to take 30 experienced teachers from the classroom to give supervision to these new teachers. The Portland Schools will benefit doubly if recruitment of career teachers can be stepped up and all or part of these experienced teachers returned to their regular classrooms.

The present salary policy is unrealistic and penalizes the teacher with years of experience. Despite the fact that over 900 teachers have been in the Portland System from 15 to 45 years, no teacher will earn the maximum in fiscal year 1956-57 if the experience placement program is not put into effect. Career teachers have been working under a policy of blanket increases in salary which raised maximum limits faster than the teachers have been able to advance on the schedule under the limitation of a rate of $200 a year.

The fact that we have the teachers now under this inequitable system does not mean that we can always keep them, particularly as other areas are exploring the possibilities of similar changes. The School Board should be supported in its acknowledgment of an unfair and unjust policy adopted under pressure and expediency in the past.

2. The cost of putting the experience placement program into effect and maintaining it will decline annually.

The cost of the experience placement program will decline annually. Teachers in the system with sufficient experience will be placed at the maximum. At the maximum, teachers will no longer receive the annual $200 increment. Approximately 1,000 of the 2,318 teachers now employed will be placed at the maximum, if this measure passes.

3. Passage of this measure will provide funds for the biennium 1956-58 and save the cost of an off-year election in 1957.

While only 10 percent of funds to be raised by the present measure will go for increased costs, other than the experience placement program, during fiscal year 1956-1957, additional funds will be needed for fiscal year 1957-1958, even if the present measure is rejected. If this measure fails a special election will be necessary to raise the money needed. A special election in 1957 will cost the School District an estimated $130,000. The cost of presenting the present measure to the voters is negligible in view of the statutory requirements for electing school directors at the May election.

Tax base measures can be submitted to the voters only at regular elections and passage of a special election levy would provide funds only for one year.
It will still be necessary to increase the tax base in 1958 or some subsequent year to avoid the necessity of passing annual levies.

4. Adoption of this experience placement program can lead to recognition of the superior teacher.

A merit system for advancement can be incorporated in the framework of this program. At the time this proposal was made, both the School Board and the teacher representatives agreed that a thorough study of such a system would be made. Only after the inequities of the present salary schedule have been corrected can a merit system be successfully adopted. A majority of those appearing before this committee favored consideration of a merit system. School districts throughout the country have tried this in the past with varying success and before School District No. 1 can adopt such a program it will require exhaustive studies of all the problems inherent in the merit system.

Arguments Against the Act

1. The tax measure as drawn is misleading.

The major issue involved is not for funds to meet the new salary schedule, neither is teacher recruitment a paramount issue nor funds for increased operating expenses — it is essentially a measure to wipe out salary differences, by reason of experience, for teachers already in the system. Of over $2,000,000 that would be obligated for experience adjustments in the next two fiscal years, by far the greatest portion will go to teachers with prior experience in other school systems who did not receive full credit when they entered this district. All adjustments would be accomplished by means of “placement” on the new salary schedule on the basis of experience.

The ballot title states that funds are needed to take care of increased and increasing costs of operation. It should be emphasized that passage of the measure would create, in itself, the major portion of the “increased costs.”

This proposal, if passed, obligates the major portion of the additional funds for salary increases. These increases are above and beyond the benefits of the new salary schedule which provides a $400 increase for all teachers, regardless of experience placement. The experience pay adjustments for teachers represents 90% of the additional funds to be raised the first year and the major portion of these funds over the first and second fiscal years combined, ending July 1958. Obviously, once these experience adjustments are made they continue to draw against revenue as long as any of the teachers affected remain in the school district. These future costs will run into additional hundreds of thousands of dollars. Opinion we have sampled indicates there would be no significant depletion of teachers presently in the system if the measure is not passed.

2. Passage of this measure would not solve the teacher shortage problem.

The teacher problem is national in scope, and any plans to overcome the shortage locally, based on granting full experience credit, would be temporary, of negligible effect numerically to the district schools and could work to the disadvantage of neighboring areas.

The minority of the Committee is of the opinion, shared with others, including some school board members, that any local gain would be short-lived as other districts with the problem of having their good experienced teachers pirated would be forced to make upward adjustments to meet the competition.

No one has presented to us any forceful arguments indicating there would be an appreciable increase in the number of experienced teachers entering the district. In fact, it might be assumed that in the long run very few additional
experienced teachers would be obtained because of the universal shortage, counter propositions, high cost of moving, and severance of local ties.

The proposal adjusts salaries of teachers already in the system and gives additional credit for incoming experienced teachers—it has no effect on recruitment of new inexperienced teachers who will apparently still be in the great majority in future years.

3. The question of teacher experience pay placement, being a substantial departure from measures previously considered by district voters, should be handled separately.

The voter should not be required to accept experience pay placement in order to favor the familiar proposition of increased tax base to provide funds for operating expenses.

In considering the present measure the voter may be faced with the persuasive argument of "if you are opposed to the teacher experience and recruitment elements, you should still vote for the measure since we'll need additional funds for other necessary expenditures anyway." As a further argument, the voter may be told that an adverse vote now would create need for a special election next year that would cost from $110,000 to $130,000. This places the voter in an unnecessary squeeze.

If the informed voter is opposed to the true purpose of the measure the above arguments should not alter his vote. The total funds obligated for teacher experience adjustments are so much greater than funds for all other purposes that the price of a special election, if actually needed to meet normal operating expenses, would be of small consequence.

It is of interest that at least one school board member is of the opinion that without any tax base increase at all, the school program could be maintained for the next two fiscal years without harm merely by a 2% adjustment within the budget.

**MAJORITY CONCLUSION**

The proposed increase in the tax base will, in the opinion of the majority of your Committee, support a realistic and long overdue change in salary policy in the Portland system. The proposed experience placement program will recognize and correct the inequalities of the present salary policy, improve morale and encourage recruitment of career teachers for the Portland School System. We further believe that the new experience placement program is a basic step to consideration of a merit system of salary adjustments in the Portland schools. The present measure will provide funds for a biennium. Failure to pass this measure will make a special election in 1957, at a cost of an estimated $130,000, almost a certainty in the opinion of most board members, and the inequalities of present policies will continue.

The majority of your Committee believes that the argument, "that the tax measure as drawn is misleading," has little merit. While the measure itself does not say that 90 percent of the funds to be raised the first year will go to pay for the experience placement program, the School Board and the administrative staff have frankly supported it on the basis of correcting inequalities and as an aid to recruitment of career teachers.

**MAJORITY RECOMMENDATION**

On the basis of the above argument, the majority of your Committee recommends that the City Club go on record as approving the proposal and urge a vote for the new tax base.

Respectfully submitted,

JOHN K. DUKEHART
THE REV. LEONARD ODORNE
JAMES E. MAXWELL, Chairman
MINORITY CONCLUSION

We wish to emphasize that we appreciate the problems facing the District in the matters of teacher recruitment, salary schedules and teacher experience placement. However, in our opinion, the measure to be submitted to the voters does not state the real reason why additional funds are being requested. We think it could and should.

We do not intend to pass judgment on whether the proposed experience pay adjustments are desirable from the standpoint of morale and equality—these same questions might be raised about any job situation. We are convinced, however, that the measure, if passed, will not solve or appreciably affect the teacher shortage problem. We are also convinced that failure of the measure would not cause present district teachers to leave in significant number. We further feel that if the voters are to have opportunity to consider experience pay adjustments, the question should be clearly labeled and divorced from the present confusing tie-in with other familiar elements of cost.

MINORITY RECOMMENDATION

The minority of your Committee, therefore recommends that the City Club go on record as opposing the proposal and urge a vote of X 1 No.

Respectfully submitted,

V. W. PIERSON
FRANK W. KOEHLER, JR.

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