10-26-1956

Prohibiting Certain Fishing in Coastal Stream (State Measure 7); City Services, Salaries (Portland Measure 55); Legislator's Salaries (State Measure 5); Tax Emergency Clause (State Measure 1)

City Club of Portland (Portland, Or.)

Let us know how access to this document benefits you.

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

Part of the Urban Studies Commons, and the Urban Studies and Planning Commons

Recommended Citation

City Club of Portland (Portland, Or.), "Prohibiting Certain Fishing in Coastal Stream (State Measure 7); City Services, Salaries (Portland Measure 55); Legislator's Salaries (State Measure 5); Tax Emergency Clause (State Measure 1)" (1956). City Club of Portland. Paper 175.

http://pdxscholar.library.pdx.edu/oscdl_cityclub/175

This Report 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. For more information, please contact pdxscholar@pdx.edu.
REPORT

ON

CITY SERVICES, SALARIES

Act amending Portland charter to levy for each of two years, beginning with fiscal year 1957-1958, special tax of two mills, or $1,400,000, whichever is lesser, outside tax limitations, for city services at present efficiency levels, cost increases under present conditions, and wage increases and adjustments.

No. 55 Yes □ No □

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

NATURE AND SPONSORSHIP OF MEASURE

This measure makes the amount specified available to the City Council to advance police patrolmen and fire fighters three steps in the existing wage scale and to bring the salaries and wages of other city employees in proper relation thereto. The amount would also provide for next year's budget a replacement for two small non-recurring sources of revenue (from Civil Defense and Highway 99), eliminate transfer from the Parking Meter Fund for patrolmen's salaries, and provide for rising costs in other categories.

The measure is placed on the ballot by the City Council.

BACKGROUND

In its report on the then proposed Special Five Year Salary Adjustment Levy* in May, 1956, the Committee discussed the need for salary increases in certain wage classifications in the City of Portland, and recommended that the City Club favor passage of the measure which would provide necessary funds. This recommendation was accepted by the club. The present measure is placed on the ballot for a substantially similar purpose now, following the failure of the previous measure to pass at the last election. There are differences in the provisions of the two measures which this report will discuss. The justification for the present measure was outlined and the figures used were provided by Mr. Grayson, assistant to Commissioner Bean.

DISCUSSION

The Portland City Council has made public its intent to increase the salaries of patrolmen and fire fighters from the present maximum this year of $384 per month to a maximum next year of $432 per month. The Council intends to adjust salaries and wages in other classifications to what it describes as a "proper relation" only where this adjustment is justified.

If the proposed measure does pass, then there will be available for next year, the additional amounts below:

<table>
<thead>
<tr>
<th>Provided by the proposed measure</th>
<th>$1,400,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less 3%, standard cushion for non-collection taxes, etc.</td>
<td>42,000</td>
</tr>
<tr>
<td><strong>Total New Money Available</strong></td>
<td><strong>$1,918,055</strong></td>
</tr>
</tbody>
</table>

Except as noted in this report, the Council proposes to retain this year's budget allotments next year. On this assumption, the new money will be allotted as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To make up for non-recurring assessment collection</td>
<td>$123,091</td>
</tr>
<tr>
<td>To make up for non-recurring Civil Defense and Highway 99 revenues</td>
<td>$18,500</td>
</tr>
<tr>
<td>Salary increases</td>
<td>$1,143,067</td>
</tr>
<tr>
<td>To return transfer from Parking Meter Fund</td>
<td>$163,179</td>
</tr>
<tr>
<td>City expenses other than wages</td>
<td>$470,218</td>
</tr>
<tr>
<td><strong>Total New Expense</strong></td>
<td><strong>$1,918,055</strong></td>
</tr>
</tbody>
</table>

The Committee concluded in its previous report* that the wage increases are justified. The $163,179 transferred from Parking Meter Fund would be returned to its originally intended use—traffic control equipment. The only item about which it may have doubts now is the $470,218 item for increase of general expense. However, the Committee is ready to assume that this represents a realistic view of generally rising costs. It is noted that this is close to the difference between the $900,000 requested in the previous measure and the $1,400,000 requested in this one.

If the proposed measure does not pass, then the Council must find the following amounts for next year:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment Collection, non-recurring</td>
<td>$123,091</td>
</tr>
<tr>
<td>Replacement for Civil Defense and Highway 99</td>
<td>$18,500</td>
</tr>
<tr>
<td><strong>Total increase for 1956-57 over 1956-57</strong></td>
<td><strong>$1,284,658</strong></td>
</tr>
</tbody>
</table>

If this proposed measure fails, the income for 1956-57 remains unchanged, the only additional revenue available is provided by the tax increase under the constitutional 6% limitation, of $560,055. This leaves a net anticipated deficit of $724,603. Allotments for next year would then, have to be cut by this amount. One proposal considered by the Council is to lay off 159 city employees (including 30 patrolmen and 30 firemen) of a total staff of 3740 to 3900, depending on the season.

**CONCLUSION**

The Committee reaffirms its conclusions 1 and 2 of its previous report*. These are:

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 employes for whom there is no comparable job classification in private industry, such as firemen and policemen.

Based on its current discussion, your Committee also feels:

3. The new measure fairly represents the needs of the city.

**RECOMMENDATION**

Therefore, your Committee recommends that the City Club go on record in favor of the measure and urges a vote of 55 X Yes.

Respectfully submitted,

Edward P. Devecka
Tom Temple
Lloyd Williams, Chairman

Approved October 16, 1956, by the Research Board for transmittal to the Board of Governors.
Received by the Board of Governors October 18, 1956, and ordered printed and submitted to the membership for discussion and action.

REPORT
ON
LEGISLATOR'S SALARIES

Purpose: The purpose of the proposed amendment to Sec. 29, Article IV, Oregon Constitution, is to provide that members of the State Legislature shall receive for their services a salary of $1200.00 per year instead of the $600.00 per year presently provided. Vote No. 5 Yes........ No........

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

Your Committee was appointed for the purpose of studying and reporting on the proposal to amend Sec. 29, Article IV, Oregon Constitution, to provide that members of the State Legislature shall receive $1200.00 per year instead of $600.00 as presently provided for their services.

In considering this measure, your Committee consulted with members of the Oregon State Legislature, the editors of the Oregon Journal and the Oregonian and, by research, determined the salary, frequency of meeting, length of sessions of all of the legislatures of the 48 states, Alaska, Guam, Puerto Rico and the Virgin Islands.

It is difficult to compare relative salaries in other States because of the variations in length of sessions, allowance of expenses and other remunerations, such as payment for committee meetings. Oregon now stands probably in the lowest quarter of per diem salaries among all of the states. The proposed raise would barely lift Oregon out of this lowest one-quarter category, if at all. Because of the variations set forth above, it is impossible to make an exact ranking of Oregon among the other States.

The Oregon Legislature now meets for approximately four months once every two years and, therefore, though this increase is broken down to $1200 per year, it is for all practical purposes earned during the four months legislative session. It includes services which might be required by a special session, but Oregon has not had a special session of the legislature since 1933. It also includes interim committee work that might be required.

The questions considered were the adequacy of compensation and the effect upon the biennial budget of the State of passage of the measure. Your Committee was unable to find any argument or proponent of arguments against the measure. The arguments in favor stemmed chiefly from the obvious inadequacy of the present salary, which limits greatly the number of citizens who are available for legislative service.

The last change in the legislative pay schedule was in 1950 when the rate of pay was changed from $8.00 per day for the first 50 days to $600 per year. The measure would increase the biennial expenditure of the State by $108,000, which bears relative insignificance to the biennial budget of the State, which currently is approximately $225,000,000.

RECOMMENDATION

The Committee therefore recommends that the City Club go on record as favoring the passage of the constitutional amendment.

Respectfully submitted,

Tom F. Humphrey
William B. Webber
Frank E. Day, Chairman

Approved October 16, 1956, by the Research Board for transmittal to the Board of Governors.
Received by the Board of Governors October 18, 1956, and ordered printed and submitted to the membership for discussion and action.
REPORT
ON
FISHING BILL

Purpose: To prohibit any person from fishing for salmon or steelhead by any method except hook and line in any coastal stream south of the Columbia River. Imposing penalties. Commercial chum salmon fishing and incidental catch of other species permitted in Tillamook Bay area.

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

THE MEASURE

This measure prohibits all fishing for salmon and steelhead trout, with certain exceptions as to chum salmon in Tillamook Bay and tributary rivers, in all streams and bays south of the mouth of the Columbia River except by hook and line, commonly known as angling. Its effect is to prohibit commercial fishing for or netting of such fish in such waters and to place jurisdiction of all angling therein in the State Game Commission.

The principal waters to be affected by this measure, in which commercial fishing has heretofore been administered by the State Fish Commission, are as follows: Alsea River and bay; Yaquina Bay and tributaries; Siletz River; Drift and Schooner Creeks; Coquille River; Nehalem River and bay; Tillamook Bay and tributaries, and the Siuslaw River and bay.

The following waters have heretofore been closed to commercial fishing and angling therein has been regulated by the State Game Commission, with note of the year of original closure; Nestucca Bay and tributaries, 1927; Coos Bay and tributaries, with certain limitations, 1933; Rogue River and bay, 1935; Chetco River, 1935; Elk River, 1935; Sixes River, 1935; Winchuck River, 1935; Umpqua River and bay, 1947; and Euchre, Hunters and Floras Creeks and Pistol River, 1945.

SOURCES OF INFORMATION

In addition to the backlog of information available to it from two of its members who served on the previous City Club committee which studied and reported on a similar prior measure in 1954, and the valuable report of such prior committee, your Committee held comprehensive interviews with Mr. Tom McAllister of the Oregon Journal, Mr. James H. Cellars, representative of the Columbia River Packers Association, Dr. John Rayner, biologist of the staff of the State Game Commission, and Mr. A. R. Morgan biologist in charge of coastal streams investigations of the State Fish Commission. A veritable welter of statistics submitted by those interviewed was inspected by your Committee, as well as the data of the Oregon Salmon Conservation League in opposition to the measure.

ARGUMENTS SUBMITTED AGAINST THE MEASURE

1. The measure is an attempt to regulate the management of an important natural resource upon a foundation of selfishness and emotion rather than upon facts.

2. The State Fish Commission, a competent and independent body charged by law with the administration of this resource and having a competent staff with a comprehensive backlog of experience and knowledge, is doing and can continue to do a good job in this field.
3. The measure would completely "throw aside" the findings established through the years by the trained personnel of the State Fish Commission.

4. The measure is unnecessary in that there has been an adequate escapement of fish for natural spawning under the regulations of the State Fish Commission.

5. The measure does nothing to correct the major reasons for declines in fish runs, such as impaired spawning areas, stream pollution, impairment of watersheds and detriments to such fish arising from logging practices and dams.

6. Under past and present control of the State Fish Commission there has been an increase in the offshore troll catch of 60% of silver salmon and 140% of Chinook salmon.

7. It is not good governmental policy to turn over the management of and right to enjoy a resource to one segment of the people.

8. The measure would deprive netters of income and would result in a dearth of fresh salmon to local community markets.

9. There is a danger in over-escapement of fish to spawning grounds as evidenced by the fact that large runs have not come from cycles of biggest escapement.

10. The measure does not regulate or limit the growing sports fishery, which is guilty of certain abuses such as use of commercial fishing license to take unconscionable catches, of taking a large number of immature "feeder" salmon and of wanton killing of spawning salmon to secure roe eggs for other fishing.

11. The measure is dangerous as setting a precedent for possible future improper and damaging restrictions, such as possible improper regulation of Columbia River fishing.

ARGUMENTS SUBMITTED FAVORING THE MEASURE

1. The salmon and steelhead runs have steadily declined, and the measure is necessary to bring back and even to maintain the runs.

2. The past history on closed streams, particularly the Rogue and Umpqua Rivers, has demonstrated a great increase in runs and has built up a very valuable tourist and sports fishing industry.

3. The additional streams closed to commercial fishing by this measure should increase fish runs and would be of tremendous value to the tourist industry, one of Oregon's largest industries.

4. There has been a tremendous increase in the sports fishery, with more and more people turning to angling for recreational purposes, which should increase as time goes on.

5. Vast sums of money are spent by the sports fishery, with consequent benefits to the communities close to sports-patronized streams as well as to the State in general.

6. The measure would affect only approximately 3% of the present commercial catch and represents but a small loss to the commercial fishery.

7. Only about 165 commercial net licensees who have heretofore been fishing the streams to be closed to such fishing by the measure, would be directly affected, and their income therefrom is purely supplemental to their normal income from regular employment in other lines.

8. Natural spawning is essential to maintain or increase the resource, artificial hatchery propagation and stocking being only supplemental to nature, and the measure would insure an increase in natural spawning.

9. Sports fishing can take only a small fraction of a run of fish, fostering an adequate escapement of fish for spawning.

10. Experience has shown that the estimation of runs to determine netting quotas,
as well as enforcement of the fixed poundage quotas heretofore determined by the State Fish Commission, is practically impossible of administration or satisfactory enforcement so as to seriously endanger adequate escapement of fish for spawning.

11. Any increase of fish runs from the closed streams will be of direct benefit to the offshore commercial fishery, and the measure should benefit such runs.

12. A good escapement of salmon to spawn and die appears to have a beneficial effect in enriching a stream in nutrients, giving it a greater capacity to support fish life, including the salmon and steelhead fry as well as the other fishlife.

13. Community sentiment in areas at or close to presently closed waters is opposed to a return to commercial netting.

14. The trend in management of this resource is in the closure of streams to netting. California, British Columbia and Alaska have closed all coastal streams to netting and a large portion of Washington streams are similarly closed.

15. There has been considerable illegal netting on Coastal streams which could be more effectively policed if no netting were permitted.

CONCLUSIONS

The measure under consideration is extremely well drawn, is terse and concise, and provides only normal penalties for violations. A somewhat similar measure was presented to the electorate at the 1954 general election and was rejected by the voters by a rather close margin. At that time a committee of your club made a detailed study and report thereon, recommending the rejection of the measure. Two of the members of the present committee served on that committee. The negative recommendation of the previous committee was based principally upon seriously objectionable features of the prior measure, including (a) its operational effect to close practically the entire Oregon coast within the three-mile limit to all commercial fishing with consequent possible curtailment of the commercial catch by as much as 35%; (b) extremely harsh and concededly unusual penal provisions for violations; and (c) search and seizure provisions which might have been found unconstitutional. The present measure contains none of these objectionable provisions.

Your Committee is most seriously impressed by the evidence of a steady decline in this natural resource and recognizes the imperative need of prompt application of all reasonable measures to preserve and, if possible, to restore the fish-carrying capabilities of Oregon's coast streams. It appeared, both from proponents and opponents of the measure, that the situation is critical, but not hopeless. While there are other important limiting factors in sustaining or increasing salmon and steelhead runs, including the protection and improvement of the natural spawning areas of the streams, and a preservation or improvement of watershed conditions in order that summer stream levels be adequately maintained and that temperatures be held at a sufficiently low degree to permit maturing fry to survive and make their way back to the sea, it clearly appears that natural spawning is the crux of maintenance of this resource, and that artificial propagation and planting is only supplemental thereto.

The impracticability, if not impossibility, of estimating anticipated runs of fish for the various streams for the purpose of establishing a proper annual poundage quota of net catch therefor, as has heretofore been applied to commercial netting under State Fish Commission administration, impressed your Committee. Established quota catches sometimes were grossly exceeded, despite the best efforts to enforce the set quota. This presented a situation where almost an entire run on a particular stream could well be taken by netting, permitting virtually no escapement for spawning. Sports fishing is at best capable of decimating but a small portion of a run, assuring an adequate escapement for spawning.

No serious impairment of the total commercial catch would be effected by the measure, since it appears that any such immediate decrease would be in the neighbor-
hood of 3%. There are only approximately 165 commercial licensees on the streams affected, and their income therefrom is chiefly supplemental to income from their normal occupations. There would be no material loss to the State from elimination of such license and poundage fees. Experience establishes that income to communities on closed streams more than offsets the loss from the commercial catch by netting.

It was felt that passage of this measure would not in any wise operate to curtail or limit the activities of the State Fish Commission, and we do not advocate any such curtailment.

Certain elements of a damaging nature to this resource came to the attention of the committee during its investigation, none of which are involved in the merits of the measure under consideration, but which require immediate attention and correction. These include avoidable damage to or destruction of spawning areas by logging operations; inadequate fish transmission facilities at dam sites; highly objectionable use by so-called sports fishermen of commercial licenses; a serious depletion of immature "feeder" salmon by herring or "mooching" sports fishermen; and the reprehensible practice of entirely too many so-called sports fishermen of taking, killing and leaving to rot spawning salmon to secure roe eggs as bait for jack salmon and steelhead angling.

All of these elements of damage to this resource impels your Committee to recommend a greater degree of cooperation of the various state and federal agencies affecting its administration.

Your Committee feels that this measure is definitely a step in the right direction, although by no means the entire solution of the problem of this dwindling resource. Its passage would be of material benefit to the resource, to Oregon's coastal communities and valuable tourist trade, while working but small hardship, if any, upon the commercial fishing industry, and not too great a hardship on those few who have heretofore netted such streams.

RECOMMENDATION

In view of such conclusions, your Committee recommends that the City Club go on record in favor of the passage of Initiative Measure No. 7 on the ballot in the 1956 General Election.

Respectfully submitted,

John Allen
Kenneth Klarquist
Arthur Markewitz
Ernest Markemitz
James P. Forsyth, Jr., Chairman

Approved October 16, 1956, by the Research Board for transmittal to the Board of Governors.
Received by the Board of Governors October 18, 1956, and ordered printed and submitted to the membership for discussion and action.
REPORT
ON
TAX EMERGENCY CLAUSE

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

PROPOSAL

At the General Election on November 6, 1956, the people will vote upon a proposed constitutional amendment, enacted as Senate Joint Resolution No. 4 by the 1955 Legislative Assembly, which is a referendum measure designed to remove from Article IX, Section 1a of the Oregon Constitution the present prohibition against attaching the emergency clause to tax measures. The proposed amendment will appear on the November ballot as Proposition No. 1 under the following ballot title:

STATE TAX LAWS—Immediate Effect Authorized—Purpose: To authorize legislature to place an emergency clause on any tax law, thus permitting it to go into effect immediately. Further provides that filing of an initiative petition to submit question to the people shall not suspend operation of any existing tax law until after people have voted on question.

In the Voters' Pamphlet, the measure will be shown under the foregoing ballot title with the following descriptive summary:

DESCRIPTIVE SUMMARY

The proposed amendment to section 1a, Article IX, Oregon Constitution, would remove the present constitutional prohibition against declaring an emergency in any Act regulating taxation or exemption and authorize the legislature to place an emergency clause on any tax law, thus permitting the law to go into effect immediately.

The proposed amendment further provides that the filing of an initiative petition to submit the question to the people shall not suspend the operation of any existing tax law nor affect the imposition, assessment, levy, collection, application or refund of any tax, or any penalty or charge relating to any tax accruing prior to the date of the enactment of the initiative measure submitting the question to the people.

INVESTIGATION

Your committee appointed to study and report on the proposed constitutional amendment interviewed the following: Mr. Samuel B. Stewart, Chairman of the Valuation Division Oregon State Tax Commission; Mr. Lee V. Ohmart, State Senator; Mr. Elmer C. McClure, Master, Oregon State Grange; and Mr. Thomas L. Scanlon, Director of Research and Education, Oregon State Labor Council. Your Committee has also studied certain material assembled by various organizations, including data furnished by the Oregon State Tax Commission, literature prepared by the Emergency Tax League of Oregon and a report by the Oregon Legislative Conference Group, an organization formed at the conclusion of the last legislative session by labor groups and others for the study of legislative measures. Mr. Robert Hall, Chairman, Portland Chamber of Commerce Taxation Committee, and others qualified to speak on the matter were also
consulted by individual members of the Committee, and newspaper articles and editorials and the arguments appearing in the Voters Pamphlet were reviewed. Your Committee found strong feeling both for and against the measure and endeavored to weigh impartially the arguments of both opponents and proponents of the amendment.

INTRODUCTION

The prohibition against attaching the emergency clause to revenue measures appears in Article IX, Section 1a, of the Oregon Constitution, which now reads as follows:

Article IX, Section 1a. No poll or head tax shall be levied or collected in Oregon. The Legislative Assembly shall not declare an emergency in any act regulating taxation or exemption.

The amendment contemplated by Proposition No. 1 would change Article IX, Section 1a to read as follows:

Article IX, Section 1a. No poll or head tax shall be levied or collected in Oregon. An initiative measure shall not affect the imposition, assessment, levy, collection, application or refund of any tax (or any penalty or charge relating to any tax) accruing prior to the date of the enactment of the initiative measure.

The existing prohibition against use of the emergency clause originated in 1912. At the preceding General Election in 1910, in connection with the repeal of the poll and head tax, Article IX, Section 1a, had been amended through initiative petition to provide that no bill regulating taxation or exemption should become law until approved by the people at a regular General Election. This extreme and unworkable limitation was repealed in 1912 but there was still strong public sentiment in favor of constitutional limitations on the power of the Legislature in tax matters, and as a compromise the present limitation was adopted forbidding the use of the emergency clause on tax laws.

Unless the emergency clause is affixed to a bill it does not become effective until 90 days following adjournment of the legislative session. If the legislature attaches the emergency clause, it becomes effective immediately upon being passed by the Legislature and signed by the Governor.

In Cameron v. Stevens, 121 Or. 538, (1927) the Oregon Supreme Court held that under Article IV, Section 1, of the Oregon Constitution, in which provision is made for both the initiative and the referendum, once the emergency clause is attached to a bill by the Legislature it is no longer subject to referendum. The court also held (and such still appears to be the law) that the only limitation on the Legislature's power to attach the emergency clause was that found in Article IX, Section 1a, of the Constitution, with the result that the emergency clause could be used on all legislation except tax measures, and that what constitutes an emergency is purely a legislative question.

If within the 90-day period following the close of the legislative session before a tax measure becomes effective a petition for referendum is filed, the measure is thereupon held in abeyance until approved by the voters at the next General Election. In contrast, an initiative petition does not suspend the effectiveness of a law pending a decision by the voters. Unless ordered by the Legislature, a referendum requires a petition signed by 5% of those voting for Supreme Court Justices at the last general election, with the result that 20,047 signatures were sufficient to refer a tax measure passed by the 1955 Legislature.

The purpose of the constitutional amendment is to enable the Legislature to affix the emergency clause to a tax measure to the same extent now permitted in the case of other legislation, thereby making it possible for the law to go into effect immediately unless the emergency clause is vetoed by the governor. This in turn would prevent it from being held in abeyance by a petition for referendum pending the next General Election (a period estimated to range from 18 to 22 months).

Your Committee has endeavored to evaluate the arguments advanced for and against the proposed constitutional amendment, the principal arguments pro and con being as follows:
ARGUMENTS IN FAVOR OF THE AMENDMENT

1. Special interest groups can and do use the threat of delay through a referendum to force the Legislature to pass tax legislation acceptable to the particular minority group or groups involved, irrespective of the legislation's inherent merits, thereby preventing the Legislature from developing a fair, well-balanced and economically sound tax program.

2. Resort to the referendum enables a small minority group to hold up operation of a tax measure for periods ranging up to 22 months, with serious loss of revenue during that interval, even though the voters may be overwhelmingly in favor of the measure and ratify it at the next General Election. A case in point was the Weight-Mile tax passed by the 1951 Legislature which was held in abeyance through resort to the referendum with an estimated loss of $2,000,000 in highway revenue although approved by the voters at the next General Election.

3. Oregon is the only state which does not permit the Legislature to attach the emergency clause to tax legislation. In fact, some states give special expedited treatment to revenue measures, permitting them to go into effect immediately although authorizing referral of other bills.

4. In Oregon, the emergency clause may be used on all legislation except tax measures, although this is the area where a genuine emergency is most likely to occur, particularly in view of the basic instability of the income tax as the State's primary source of revenue.

5. The people should repose more trust in their elected representatives, who are charged with the responsibility of providing funds to meet the State's financial obligations. Much of the State's budget, such as the Basic School Support Fund, Veterans' Bonus and Welfare are in the nature of fixed charges, yet the Legislature is denied the authority to work out an equitable and effective tax program to finance these and other State services.

6. The emergency clause ban and the threat of referral compel the Legislature to concentrate on tax measures more often founded on expediency than on equity and long-range tax planning. As a result, Oregon has the highest income tax and one of the worst tax structures of any state in the Union. A case in point was the 45% surtax enacted at the last session of the Legislature, which was adopted not because it was considered a satisfactory solution but because it represented the only plan which could be adopted without fear of referral. Ironically, unless the emergency clause is authorized in the November election, even this surtax, which has resulted in widespread dissatisfaction, cannot be repealed by the Legislature in time to apply to the 1956 returns. The repeal would not become effective until 90 days after adjournment of the Legislature, and this would be after the April 15 due date of the returns.

7. If the emergency clause amendment were adopted, the people would still have adequate safeguards against rash and unwarranted action on the part of the Legislature: (a) Tax legislation would still have to pass both houses of the Legislature; (b) The Governor would have the right to veto either the legislation or the emergency clause itself, thereby giving opponents the right to invoke the referendum; (c) In any event the voters could invoke the initiative by petition signed by 8% of the legal voters and the law could be repealed at the next General Election, after it had been given a fair trial period; (d) At the same General Election, the voters could replace the offending legislators, who would be very much aware of public sentiment in their political approval of tax legislation.
ARGUMENTS AGAINST THE AMENDMENT

1. The power to tax is the power to destroy, and the people should retain their control over that power. For 44 years, Oregon has been unique as a "working democracy" and the referendum has been a part of its basic governmental philosophy. This fundamental right should not be lightly cast aside.

2. The "Oregon system" has given the State one of the most progressive and successful tax programs in the country. In contrast to other states Oregon has a substantial surplus, a well-financed school system, excellent State services, no State debt (general fund) and a nondiscriminatory tax structure based on ability to pay.

3. The emergency clause amendment is championed by advocates of the General Sales Tax. Freed of the referendum, the Legislature could enact a sales tax which the voters could not repeal for almost two years, notwithstanding overwhelming public opposition, as shown by rejection of the sales tax when put to a vote of the people on five different occasions.

4. The initiative is not an adequate substitute for the referendum, since it can be utilized only after the offensive tax legislation has been in effect for almost two years, and there is no practicable means of recovering the taxes paid during the interim. Moreover, by use of the emergency clause, the Legislature at its next session could re-enact the same legislation notwithstanding its repeal and the people would have no recourse until the next General Election.

5. Proponents of the emergency clause exaggerate the influence of the so-called special interest groups and overlook the importance of recognizing the minority in our democratic form of government. It is not easy to obtain the signatures necessary to a referendum petition. If 5% of the voters is considered insufficient, the remedy is to increase the percentage instead of scrapping the precious referendum.

6. If the emergency clause is authorized, it will be used indiscriminately on every tax measure, and the Oregon Supreme Court has held that neither the court nor the voters can question the legislative finding of an "Emergency."

7. The amendment proposed would give the Oregon Legislature greater power than most other state legislatures, since the emergency clause could be attached by vote of a mere majority. In most states, there are special restrictions on its use, such as the requirement of a two-thirds majority vote.

CONCLUSIONS AND RECOMMENDATIONS

Your Committee has found it difficult to choose between the opposing arguments and recognizes that there is merit on both sides. Nevertheless, from the standpoint of long-range constructive tax planning the Committee believes that the interests of the people of Oregon will be better served if the constitutional amendment is adopted.

Your Committee feels that the constitutional prohibition against use of the emergency clause not only presents an obstacle to the development of a well balanced tax program but also poses an ever present threat to the legislature's ability to deal with current fiscal problems. It seems anomalous that in Oregon, in contrast to most other states, the emergency clause can be freely attached to all types of legislation except tax measures, when lack of revenue to finance vitally necessary State services is the very situation in which an emergency is most likely to occur.

To the extent that the amendment may be said to abridge the people's constitutional right of referendum, at the same time it affords them protection against abuse of that right by organized minorities. It seems self-evident that the Legislature cannot func-
tion effectively if its efforts can be delayed or influenced by referral or threat of referral on the part of special interest groups before the legislation has received a fair trial or even when it is clear that the measure will have overwhelming public approval. Your Committee is not convinced that Oregon can "point with pride" to a progressive and exemplary tax system, as opponents of the amendment contend. On the contrary, we believe that major overhauling of our tax structure may be long overdue. Authority to use the emergency clause on tax measures, rather than inviting rash and irresponsible action on the part of the Legislature would, in our opinion, actually encourage sounder, more responsible legislation. The Legislature would have the authority not only to act effectively in emergencies but to proceed with comprehensive tax reforms free of pressure from small, organized minorities.

Your committee recognizes that the initiative may not afford as complete a remedy as the referendum, since the initiative can be utilized only after a tax measure has been operative for almost two years and meanwhile the taxes collected cannot be recovered. At the same time, it is this very power to nullify tax legislation at the outset that makes the referendum such a formidable weapon in the hands of a small minority. In matters as complex and urgent as the tax and fiscal problems of the State, your Committee believes that the people should place more confidence in their elected representatives, relying on their right to vote them out of office or to invoke the initiative if they enact unwise legislation.

Your Committee considers it unfortunate that the emergency clause amendment has become identified in the eyes of many with the current sales tax controversy. Admittedly, it is possible that the amendment, once adopted, might be utilized by the next or a succeeding Legislature to install a general sales tax, notwithstanding rejection of that tax by the voters of five different occasions. Most of those interviewed by your Committee, including some opponents of the amendment, expressed doubt, however, that the Legislature would avail itself of the emergency clause on a matter so controversial and feel that in all likelihood the Legislature itself would refer the sales tax if one should be adopted at the next legislative session. In any event, your Committee feels that the long-range importance of the amendment is such as to overshadow any single issue which might turn on its adoption.

Your Committee has concluded that the arguments in favor of authorizing the use of the emergency clause on tax measures outweigh those advanced against it. Accordingly, your Committee recommends that the City Club go on record as favoring the adoption of this constitutional amendment.

Respectfully submitted,

Paul L. Boley
Timothy F. Maginnis
Roger Meier
Harvey Pullin
Glen W. Cruson, Chairman
*E. T. Parry

Approved October 18, 1956, by the Research Board for transmittal to the Board of Governors.
Received by the Board of Governors October 22, 1956, and ordered printed and submitted to the membership for discussion and action.

*Mr. Parry was not able to attend most of the meetings of the Committee but concurs in its conclusions and recommendations on the basis of his review of the data assembled by the Committee.