11-2-1956

Authorizing State Acceptance of Certain Gifts (State Measure 2); Charter Amendments on the Exposition Recreation Center (Portland Measures 54 and 57); Parking Commission and Parking Facilities (Portland Measure 52)

City Club of Portland (Portland, Or.)
REPORT
ON

AUTHORIZING STATE ACCEPTANCE
OF CERTAIN GIFTS

Purpose: To amend the Oregon Constitution to authorize the State to accept, hold and dispose of corporation stock which has been donated or bequeathed to the State by will.

No. 2 Yes □ No □

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

Your Committee was appointed to report on a referendum which, if passed, would amend Sec. 6, Article XI of the Oregon Constitution passed to allow the State and its agencies to hold, and dispose of stock, including stock already received that is donated or bequeathed to the State, such authorization to be as provided by law.

BACKGROUND

The proposed constitutional amendment is receiving its principal support from the State Board of Higher Education, although the amendment is applicable to all state agencies. It could conceivably affect the State Land Board, which in fact holds shares of stock received by way of escheat, as well as the State Board of Control and the State Highway Commission among other agencies. The State Board of Higher Education, acting pursuant to statute ORS 351.130, has encouraged and accepted gifts of corporate stock from time to time. The statute cited, since 1941, has permitted gifts to the state colleges and the Board of Higher Education to "be invested in securities which constitute legal investment for trust funds held for charitable or educational purposes, * * * ". Article XI, Section 6 of the Oregon Constitution provides, however, "the State shall not subscribe to or be interested in the stock of any company, association, or corporation."

According to information furnished by Mr. H. A. Bork, Comptroller of the State Board of Higher Education, of the total State endowment funds of $1,948,000.00, the State Board of Higher Education holds capital stock of the book value of approximately $53,000.00 and a market value as of June 30, 1956, of $153,000. About two-thirds in value of these securities are held in three funds for the benefit of the Doernbecher Hospital. Around 30% in value of the securities are held in three funds, the income of which is used for scholarships at the University of Oregon, and one smaller fund is held for scholarship purposes at Oregon State College. The principal security holdings include stock in the following companies: American Telephone & Telegraph Co., Tidewater Associated Oil Co., E. I. DuPont DeNemours Co., American Trust Company, Home Insurance Co., Fundamental Investors, Incorporated Investors, and United States National Bank of Portland. Of the securities reported by Mr. Bork as being held by the State Board of Higher Education, only one security in a closely held corporation is held, and that corporation operates a building. All the other securities are actively traded.

In 1952 the State Treasurer's office, noting dividend checks being received by the State Board of Higher Education, raised the question of the constitutionality of the holding of such securities with the Attorney General, who, in July, 1952, issued his opinion No. 2187 to the effect that the acceptance of stock by the State Board of Higher Education and the holding of such stock both were in violation of Article XI, Section 6 of the Oregon Constitution. His opinion seems to indicate, however, that the holding of corpor-
rate stock by a private trustee for the benefit of the State would not be unconstitutional. In the 1953 legislative session, the State Board was unsuccessful in an effort to refer a constitutional amendment to the people, the legislative resolution passing the Senate but being buried in the House of Representatives in the rush to terminate the 1953 session. Considerable study thereafter was given by the Attorney General and the Board as to alternatives which would permit the Board to continue to hold and accept stock, the other alternatives to a constitutional amendment being a Court test of its rights and turning the stock over to a private trustee. The Board finally determined to make another attempt to secure a constitutional amendment, which was passed as House Joint Resolution No. 11, with little opposition by the 1955 Legislature.

There is no organized opposition to the constitutional amendment. However, Mr. Alfred Corbett, a state legislator, has pointed out to your Committee some objections to the amendment.

Your Committee has had the benefit of legal research and a report by the Student Legal Research Service of Willamette University, College of Law. The report shows that eighteen states have absolute prohibition against state ownership of stock, six states have no constitutional prohibition as to state ownership of stock, and other states have provisions allowing it which are limited to certain types of stocks, to stock held for educational purposes or to stock which is not acquired by subscription.

ARGUMENTS ADVANCED IN FAVOR OF AMENDMENT

1. In light of the recent history and present prospects for continued inflation, the State revenues are given additional protection by allowing state agencies to accept and hold corporate stock.

2. Because of the tax advantages to a donor in making gifts to the State of stock of an appreciated value, any acceptance of such gifts give the State the means of encouraging increased endowment through gifts, and further, gives a broader range for seeking additional endowment by way of bequests. In this respect it should be noted that the State has on occasion received shares of stock by way of gift or bequest through the mail without having an advance opportunity to consult with the donor.

3. Doubts have been expressed as to whether the State could legally dispose of stock which it could not legally hold. The State Board of Higher Education has questioned whether it could legally comply with the Attorney General's opinion as to the stock which it already holds.

4. It is conceivable that a donor of stock who has indicated his judgment by investing in such stock may not feel disposed to make a gift of such stock or any gift at all, or may resent the refusal of the State to accept it.

ARGUMENTS ADVANCED AGAINST THE AMENDMENT

1. Permitting the State to hold corporate stock will make the State an owner of corporations which it is also regulating. This may lead to undesirable pressure upon the legislature or upon other state agencies to take or withhold action affecting corporations whose profits are accruing to the State.

2. While the proposed amendment would allow the State to accept, hold and sell stock which is received by gift or bequest, it would not allow reinvestment of the proceeds in other stock. Stock held in trust for the State, on the other hand, can be sold and reinvested in other stock, thus providing real protection against inflation. In an inflationary period it is likely that funds held for the State in private trusts will increase considerably more than stock or its proceeds held under the limitations of the proposed amendment.

3. Amending Article XI, Section 6 of the Constitution would still leave in the Constitution unchanged, Section 9 of Article XI prohibiting municipal corporations and counties from becoming stockholders. It is argued that not only would this create an inconsistency, but it might also create a demand for amendment of Article XI, Section 9 to conform with the amendment now under consideration.
4. Such an amendment would enable the State to compete for endowment income with the privately endowed colleges which have no access to tax revenues.

5. As a matter of political philosophy, it is undesirable for the state to be an owner of commercial and industrial enterprises through the ownership of corporate stock.

DISCUSSION

In view of the tremendously increasing needs for higher education in the State, the Committee feels that the advantages in permitting the State to hold stock, thus providing revenues to the State at no expense to the taxpayer and offering a hedge against inflation, are quite apparent. The basic issue is whether these advantages outweigh the disadvantages suggested by the arguments advanced against the Constitutional Amendment. Accordingly, these arguments will be considered in order.

1. Conflict of interest argument.
   a. No one, including legislators with whom this matter was discussed, has presented any information of any conflict of interest which in fact has occurred in the past, bearing in mind that the State has held corporate stock for many years.
   b. From a practical standpoint it is rather doubtful that either legislators or members of State regulatory bodies would have knowledge of the State's interest in any particular security if it were held as a portion of the State's endowment funds.
   c. The constitutional amendment contemplates legislation to define the limits of the holding and disposition of stock by the State. Such legislation from time to time can minimize any possibility of conflict of interest.

   In this respect it should be noted that one of the principal arguments advanced by some of the opponents of this amendment is that it does not require the State to dispose, within a reasonable time, of securities which are given to it. The State Board of Higher Education feels that such a requirement would work to its detriment in limiting its sources of income and the degree of inflation protection which it would prefer to retain. Accordingly, it was indicated that the State Board of Higher Education would oppose legislation to this effect if offered in the 1957 Legislative Session, although such legislation would not appear to be in conflict with the language of the proposed constitutional amendment.

   Representatives of the Board of Higher Education did indicate, however, that the Board would not oppose an amendment limiting the percentage of outstanding stock which the State could hold in an operating company. Another possibility for limiting the possibilities of conflict of interest would be to limit the percentage of its total endowment holdings in stock that the State could hold in the stock of any one particular company.

d. According to Mr. Bork, Comptroller of the State Board of Higher Education, the only closely held stock the State Board has received in a corporation, actively engaged in business, is certain stock in Pacific Abstract & Title Company, which the Board disposed of as a matter of public policy as soon as a market was available because of the fact that the corporation was closely held and was an operating company. The high caliber of appointments to the State Board of Higher Education offers considerable safeguards against the holding of stock in closely held corporations or corporations in which the State would have more than an ordinary interest in regulating, and it is believed that the policy represented by the decision to sell the Pacific Abstract & Title stock would probably be carried out in the future.

e. At the present time gifts can be made to private trustees, such as banks or trust companies, with the State as beneficial owner. Several such trust funds are presently in existence. There seems to be no legal objection to such trust
funds being invested in corporate stock. The possibilities of a conflict of interest in this respect are virtually as great as would exist if the State owned the stock outright. It seems likely, as a matter of fact, that if the State consulted in advance with a donor, it would recommend that a contemplated gift be made to a private trustee for the benefit of the State, rather than directly to the State Board of Higher Education.

2. Possibility of cost due to inflexibility of investments. Your Committee does not entirely agree as to the extent of loss of revenue, which might result from the State's being prohibited from reinvesting the proceeds of sale of stock in other stock, although they agree there would be a potentiality for loss. A majority of your Committee feels that this possibility of loss is rather small, and the entire Committee recognizes that there are economic situations which arise from time to time where it would be good investment practice to convert the proceeds of stock into bonds or an interest in real estate rather than to make the investment in other issues of corporate stock.

3. Inconsistency with Article XI, Section 9. Although there may be such an inconsistency, no particular harm can be seen as a result. The most likely governmental subdivision to seek an amendment to the Constitution to enable it to hold corporate stock is thought to be School District No. 1 in Portland, which at the present time already has six or more special trust funds for various school purposes. Two directors of School District No. 1, when interviewed on this matter, indicated there is no reason to believe at the present time that School District No. 1 would seek such a constitutional amendment.

4. Competition with private institutions. Whether furtherance of the educational institutions of the State of Oregon in their competition for available funds is an evil or a good thing may well depend upon the point of view of the observer. To a taxpayer it is probably an advantage. To one primarily interested in a private college it might be of some concern. However, it should be noted that the principal beneficiary of the State Board of Higher Education's Endowment Funds at the present time is the University of Oregon Medical School, through Doernbecher Memorial Hospital. The State Board of Higher Education indicated that it was likely that the Medical School would continue to be the principal beneficiary of gifts of stock. The University of Oregon Medical School, of course, is the only medical school private or public, in the State of Oregon. It should also be considered that this argument would not be applicable to other state agencies which could conceivably benefit by the proposed amendment. For example, it is conceivable that the State Highway Commission would wish to accept gifts of stock as endowment for the maintenance of State Parks or waysides.

5. State ownership of private enterprise. Your Committee agrees that as a general proposition, state ownership of private enterprise is not desirable, but concludes that the extent of ownership which is likely to result from this constitutional amendment would not be particularly significant.

CONCLUSIONS

The benefits to the State afforded by this amendment outweigh the objections which have been advanced.

RECOMMENDATIONS

Your Committee recommends that the City Club go on record as approving the proposed constitution amendment and urging a vote of No. 2 Yes.

Respectfully submitted,

John Crawford
Carmie Dafoe, Jr.
Gerson F. Goldsmith, Chairman.

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.
REPORT
ON
CHARTER AMENDMENTS ON
THE EXPOSITION RECREATION CENTER

EAST, WEST FACILITIES, EXPOSITION-RECREATION CENTER

Act amending Portland Charter by: Requiring $4,000,000 expenditure for east-side Exposition-Recreation facility for large shows, including Livestock Exposition, at Delta Park or nearby property; requiring west-side facility near Auditorium; requiring transfer of city property, reimbursement therefor; changing or repealing of contrary provision; confirming original Commission powers, duties.

Shall The Charter Be So Amended  Vote 54 Yes □  No □

and

RESTORING EXPOSITION-RECREATION COMMISSION POWERS, DUTIES

Act amending Portland Charter by repealing Section 14-108 limiting Exposition-Recreation Commission to construction, equipment and repair of facility easterly of Willamette River main channel; repealing Section 14-109 making city-owned land available without charge; and re-enacting and confirming all powers, authority and duties originally vested in Commission.

Shall The Charter Be So Amended  Vote 57 Yes □  No □

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

Your Committee was appointed to report on two charter amendments proposed by the City Council relative to the powers and authority of Exposition-Recreation Commission. Measure No. 54 proposed by the Mayor and Commissioner Bean and Boody would amend Section 14-108 (the east side limitation section approved by the voters in the last May election) by fixing dual site requirements and location of dual facilities, one in the Delta Park or Vanport areas and one in the area in Southwest Portland near the Public Auditorium. Not less than $4,000,000 must be spent on the east side facility and that facility must be "adequate to accommodate the Pacific International Livestock Exposition." A west side facility for sports events is to be constructed with any funds that may remain after the east side facilities have been provided for. This measure also repeals Section 14-109 (the section adopted by the voters in May relative to free transfer of city-owned property to the E-R Commission) and restores all other powers and authority of the E-R Commission.

Measure No. 57, proposed by Commissioners Earl, Bowes and Boody, simply repeals the measure adopted by the voters in May and re-enacts and confers all of the original powers, authority and duties of the E-R Commission.
SCOPE OF COMMITTEE'S WORK

An earlier committee made an extensive study relative to the E-R Commission and its proposals in connection with the May ballot measure. Its report was printed in the Bulletin for May 4, 1956. The chairman and one member of the present committee served on that committee. Insofar as possible, this committee has attempted to refrain from duplicating the work of the previous committees studying the E-R question.

Your present Committee interviewed Mr. Alexander G. Brown, city attorney; Mr. Lloyd Keefe, planning director of the City Planning Commission; Mr. Carvel Linden, Chairman; Mr. Alden Krieg, Executive Secretary of the E-R Commission; Mr. Edward Werlein, chairman of the Mayor's East-West Advisory Committee; Mr. R. L. Clark, President of the Pacific International Association; City Commissioner Stanley Earl; Mayor Fred L. Peterson, and Mr. Vernon K. Jones, engineer and head of flood control section, Corps of Engineers, U. S. Army.

INTRODUCTION

Both of these measures were proposed in part as an effort to remove the uncertainty as to the Commission's powers which some people feel exists as a result of the language used in Section 14-108 adopted in May. But neither measure is addressed to that issue alone. The sponsors of each measure seem to have used that uncertainty as a springboard from which to launch an effort to substantially alter or to repeal the principal provision adopted by the voters last May.

Your Committee has considered this question of respecting the expressed view of the voters. In our opinion it is not good government for public officials to withhold action so recently approved by the voters while they seek to have that action reversed at the next election. Nor does the closeness of the vote influence our opinion in this regard. The voters have spoken and despite all the cries about confusion in the ballot title, we think the title was clear and the voters knew what they were doing.

However as long as the repeal measure is on the ballot and is to be voted on, we feel that it should be discussed on its merits. Nothing in this report is to be construed as giving our endorsement to the action of resubmitting to the voters a matter they so recently approved.

The prolonged and bitter controversy over the E-R Center is part of the price Portland is paying for launching major public developments with little or no overall civic planning. To a considerable extent this controversy can be traced to the haste in placing on the ballot in May, 1954, a catch-all measure which had not been developed in conjunction with the City Planning Commission. If the sponsors of that measure had a fairly definite and limited proposal in mind, they did not seek voter approval on that proposal. Instead they asked the voters to create a Commission for the purpose of selecting from a wide variety of possible facilities, $8,000,000 worth. By holding out many possible prizes, the sponsors attracted many votes. But when the Commission had to choose which prizes to give out, they attracted many headaches.

The proposal of last May was no better. It didn't cut down on the prizes in the wind. With the same disregard for the City Planning Commission and for the place of the E-R Commission in the overall development of the city's recreational needs, it just narrowed the area where the prizes could be used.

Now come the third and fourth shots in the dark, still with no recognition of the Planning Commission. No attempt has been made to assess the overall needs of the city; no attempt to place the E-R Commission in the larger framework as one part of a balanced civic development program; no attempt to evaluate what can be built with one $8 million check or two checks of lesser amounts. Proposition 54 closes its eyes, cuts the $8,000,000 in two pieces and says "spend part here and part there and let's see what we have when we're through."

Oregon statute law (ORS 227.130) provides in part:

"Before final action is taken by . . . any department of a city government,
on the location or design of any public building, bridge, statue, park, parkway, boulevard, playground or public grounds the same shall be submitted to the (City Planning) commission for consideration and report.”

The history of the E-R Commission illustrates the wisdom of this requirement and the consequences that follow from ignoring it.

Perhaps no one will ever be able to determine how much long range development of Portland civic facilities has been set back by this squabble over the E-R Center. Voter disgust over the bungling of this matter is bound to jeopardize future projects that Portland needs very much.

EFFECT IF BOTH MEASURES PASS

The City Attorney has stated that the two measures are in conflict and that if both measures are approved by the voters, only the one receiving the highest vote will be effective. ORS 254.150 provides that if conflicting charter amendments are approved by the people at the same election "then the measure which received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measure may not have received the greatest majority.” (Emphasis added.)

Measure No. 54 amends Section 14-108 whereas measure No. 57 repeals that section. Thus these would appear to be in direct conflict of this point. They both repeal section 14-109 and both restore the subsidiary powers of the E-R Commission. In the case of No. 54 these are subject to the limitation of section 14.108.

EFFECT IF BOTH MEASURES FAIL

If both measures are defeated the limitations voted in the May primary will remain in effect. Litigation may be necessary to establish the extent of those limitations.

BALLOT MEASURE No. 54—DUAL SITE AMENDMENT

This measure is a modified outgrowth of the recommendations of a six-man east-west advisory committee appointed by the Mayor to study the situation brought about by the passage of the east side limitation amendment in May. However, one of the measure's provisions was not recommended by the advisory committee, nor was it discussed in public, or with the City Planning Commission, the City Attorney's office or the E-R Commission prior to the day of its passage by the City Council. This proviso, inserted as an amendment by the Mayor, reads: “Provided also that not less than $4,000,000 be used in the east side development and that facilities be adequate to accommodate the Pacific International Livestock Exposition.” The Chairman of the Mayor's advisory committee stated that his committee had intentional refrained from recommending language similar to this proviso.

Much of the public discussion over the E-R Center prior to the May election concerned the need for adequate convention facilities. Measure No. 54 requires the east side facility to be adequate for livestock shows and large exhibitions and the west side facility to be suitable for sports events. Conventions are not mentioned, although both facilities may be designed for such of the other purposes of the original Act as the Commission finds desirable, including conventions. However, the Mayor's Advisory Committee reasoned that Portland lacks the hotel facilities for a really large convention, and small or medium conventions could better use the hotels or the Public Auditorium.

Many people erroneously believe that this measure calls for two facilities costing approximately $4,000,000 each, to be erected one on each side of the river. But the previously quoted proviso requires facilities costing not less than $4,000,000 in the Delta Park-Vanport area and these facilities must be adequate for the P.I. If, for example, it takes seven and three-quarters million dollars to provide a facility "adequate" for the P.I., there will be only one-quarter million dollars left for the west side facility. Moreover, measure No. 54 says that not less than $4,000,000 shall "be used" in the east side development, so the actual value of anything that may be available to the E-R Commission at little or no
cost (such as the P. I. facilities or the Delta Park properties) cannot be applied as a part of this minimum amount.

Where did the figure $4,000,000 come from? It does not appear to have been based upon any considered judgment of the probable cost of an east side facility adequate for the P. I. Officials of the P. I. told the Mayor's Advisory committee that facilities adequate for their purposes would cost about $6,000,000. Mr. R. L. Clark told your committee that the P. I. had now come up with a revised minimum estimate of four and one-half million. (This figure is analyzed below).

The report submitted in 1955 by Mr. Polhemus as Chairman of the original E-R Commission estimated the cost of a Delta Park development at $7,043,524 without any additional land acquisition. Neither the Planning Commission nor the E-R Commission has made any estimate of the cost of a separate east side facility. However, the planning staff director of the City Planning Commission has estimated that the minimum costs of a west side facility—assuming aid from urban renewal and assuming an arena setting 11,000 for basketball—would be $5,800,000. This includes $700,000 for 100,000 square feet of exhibition space.

"ADEQUATE" FACILITIES FOR THE P. I.

The measure does not specify who—whether the E-R Commission or the P. I. Board of Directors— is to determine what is "adequate" for the P. I. This determination should properly rest with the E-R Commission. In practical application the P. I. could control what is built and how much is spent on the east side development. The P. I. certainly will not turn over its facilities unless it is satisfied as to the adequacy of the E-R facilities for its purposes, and it will undoubtedly contest the construction of any facility which it does not believe will be adequate.

What does the P. I. feel would be adequate? In a letter to the E-R Commission dated June 17, 1955, Mr. R. L. Clark, on behalf of the P. I., set out their needs as follows:

1. A minimum of 50 acres of parking with ready access from all points. (Elsewhere described as the amount necessary to maneuver and park 7,500 cars.
2. Adequate adjacent railroad facilities. (Switching and siding.)
3. A minimum of 400,000 sq. ft. of livestock exhibit area so located as to make access to arena simple and convenient and to include all utilities—lights, water, gas, rest rooms and sewage disposal. (In a further letter dated Sept. 27, 1956, a minimum of 100,000 sq. ft. for commercial exhibits was mentioned in addition to the above, and in a July, 1956, statement to the Mayor's Advisory Committee, Mr. Clark described this as "a minimum of 10 covered acres of space in which quarters could be provided for housing beef cattle, dairy cattle, sheep, swine, goats, chickens, rabbits, and horse show entries that require box stall accommodations. Included in these facilities the Exposition has need for vast floor space for County displays and commercial exhibits.")
4. Arena to seat a minimum of 8,000 exclusive of arena floor; arena floor to be at least 130 x 260 feet. (Figure in later material is 10,000 persons.)
5. Livestock area to be fully equipped for P. I. Exposition including removable tie racks, stalls, pens, judging rings, wash racks, and what is regarded as a very important feature, an enclosed sales arena with a seating capacity of 1000.
6. Consideration be given to an underground litter carrier.

Other P. I. statements stress the importance of substantial storage space both for the removable stalls, pens, etc., and for crates, packing boxes, etc., during the shows. These statements indicate that this space is included in the 400,000 sq. ft. of livestock

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1 There are two corporations—the Pacific International Association which owns the land and buildings, and the Pacific International Livestock Exposition, Inc., which conducts the livestock show. The same persons serve as the Directors of each.
exhibit area. Other statements including the recent $4^{1/2}$ million cost estimate refer also to a junior dormitory adequate to house at least 800 junior exhibitors estimated in 1948 to cost $106,000.

As a condition to turning its facilities over to the city, the P.I. expects "access to and exclusive use of" the 400,000 sq. ft. of livestock exhibition area "free of any charge." It would, however, pay the going rate for the arena and the industrial or commercial exhibit space. We also assume it will insist upon priority on October use of the facilities because the P.I. has referred to its October date as "its most valuable asset."

A very recent stripped-down cost estimate of the split facility at Delta Park made by Mr. Wilcox for the P.I. and involving a reduction of the 400,000 sq. ft. of livestock area is:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coliseum (10,000 seats)</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>Exhibit area</td>
<td>750,000</td>
</tr>
<tr>
<td>Stalls, Pens, etc.</td>
<td>125,000</td>
</tr>
<tr>
<td>Jr. Dormitory</td>
<td>125,000</td>
</tr>
<tr>
<td>Utilities</td>
<td>100,000</td>
</tr>
<tr>
<td>Parking Lot</td>
<td>250,000</td>
</tr>
<tr>
<td>Preparation of Grounds</td>
<td>650,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$4,500,000</strong></td>
</tr>
</tbody>
</table>

These costs include only the costs of the facilities needed by the P.I. They do not include other costs that may be necessary at a multi-purpose facility. Expenditures necessary for flood control are not included, nor do they include any land acquisition costs. The measure requires the E-R Commission to pay the City the past acquisition, development and maintenance costs of city property transferred. Commissioner Earl estimates this at $100,000 for Delta Park. However, the Council has authority to release the land at a lower price.

Finally, we would point out that the P.I. has made no firm commitment as to what facilities it will accept, as to whether it will continue to use the facilities after they are constructed, or even whether the Exposition will remain in Portland.

ARGUMENTS FOR MEASURE No. 54

1. Unless adequate facilities are provided, Portland may lose the P.I. Livestock Exposition with all of the benefits that it brings to Portland business and the Northwest livestock industry.

2. Delta Park provides an outlying area with ample parking needed by the Pacific International Livestock Exposition and other large exhibitions. Measure No. 54 also makes residual provision of close-in facilities for sports events.

3. If sufficient funds are available, Measure No. 54 will permit renovation of the Public Auditorium by the E-R Commission for convention use or for concerts, stage events, etc.

4. Within financial limitations, it will enable the E-R Commission to provide facilities suitable for a greater number of the original purposes than is possible under the amendment adopted in May.
5. It will restore the subsidiary powers of the E-R Commission which may have been inadvertently repealed in May, without resort to costly and time-consuming litigation.

6. It will permit the E-R Commission to develop additional facilities anywhere in the city if sufficient funds are later made available to it for such purposes.

ARGUMENTS AGAINST MEASURE No. 54

1. The City Council has required split facilities and taken over the site selection function without adequately considering all of the professional and technical studies made or the factors involved in those matters.

2. It will require a wasteful splitting of facilities with insufficient funds to develop either into a useful multi-purpose facility.

3. None of the professional studies has recommended a split facility.

4. The $4,000,000 figure for the east side facility is unrealistic window dressing and the actual cost of an east side facility "adequate" for the P.I. and other large exhibitions will probably be much greater and will leave insufficient funds for an adequate west side facility.

5. Delta Park is subject to flooding and it would be dangerous and wasteful to locate a major facility there without considerable flood control investment.

6. By requiring that the east side facilities must be "adequate" to the needs of a specifically named private exposition without setting any more specific standards for these facilities or fixing the amount to be spent on them, Measure No. 54 may be delegating to a private corporation an improper and possibly unconstitutional degree of control over the use of public funds.

In our opinion the disadvantages of Measure No. 54 outweigh its advantages. The evidence and expert opinions available to us have convinced us that the $8,000,000 available to the E-R Commission is not enough to provide satisfactory multi-purpose facilities at each of the two locations named in the measure. The wording of the Mayor's amendment in the measure gives too much control to a private corporation over the use of public funds. Accordingly, we urge a vote against Measure No. 54.

In so doing we would also like to express our view that the Pacific International Livestock Exposition represents an asset which Portland should not lose and we would urge that the E-R Commission, if freed of the restrictive east side limitation, restudy the desirability of providing facilities which the Commission believes will be suitable for that Exposition.

BALLOT MEASURE No. 57—REPEAL OF EAST SIDE LIMITATION

This measure simply repeals the East-Side Limitation Amendment adopted by the voters in May. The City Club originally recommended against passage of the May amendment and your present committee found nothing that would cause it to recommend any change in the findings or conclusions of the City Club's May 4, 1956, report.

The only two matters which we feel call for further discussion in connection with Measure No. 57 are (1) the City Attorney's opinion on the effect of the May amendment, and (2) the question of respecting the expressed view of the voters.

In an opinion to the E-R Commission issued June 22, 1956, the City Attorney said:

"...the drafters of Section 14-108 struck at the entire grant of authority of Section 14-103 by saying: 'The powers and authority granted the Exposition-Recreation Commission by Section 14-103 shall be exercised only with respect to acquisition of real property, construction, erection, maintenance and repair of buildings and facilities located easterly of the main channel of the Willamette River.'
The unfortunate use of the word 'only' and its position in the section raises serious question as to whether the Commission has any of the powers and duties enumerated in Section 14-103 left, except those recited in Section 14-108."

The opinion goes on to cast doubt on the Commission's authority to obtain federal aid, select a site, acquire property for late transfer and do other things mentioned in Section 14-103.

These views had been expressed informally prior to the May election and the earlier City Club Committee stated that it was "unable to determine where the Commission would be precluded from exercising any of the powers referred to in Section 14-103 other than the power to manage and operate the facilities, so long as they were being exercised with respect to acquisition of real property, construction, erection, maintenance and repair of buildings and facilities located easterly of the main channel of the Willamette River." This would include the powers to accept gifts and donations, receive federal aid, etc." This Committee adheres to that view. We do not agree with the City Attorney that Section 14-108 strikes "at the entire grant of authority of Section 14-103," although admittedly an authoritative answer can come only from the courts. By immobilizing the E-R Commission we feel the City Attorney's opinion delays and renders more difficult the obtaining of a clarifying judicial ruling.

The Committee also considered the question of respecting the expressed view of the voters which was discussed in some detail in the introduction.

We point out that the repeal measure, No. 57, was not placed on the ballot until after another amendment, No 54, affecting the site selection was already on the ballot. Thus the repeal measure does not delay the matter any further. If this were a question of recommending whether or not to resubmit the East side limitation measure to another vote we would recommend against it. But, as long as the repeal measure is on the ballot and is to be voted on, we recommend, for the reasons expressed in the City Club's May 4th report, that the City Club go on record as favoring the repeal and urge a vote of 57 X Yes.

RECOMMENDATIONS

1. Your committee unanimously recommends that the City Club favor a vote of 54 X No on the Dual Site Amendment.

2. Your Committee unanimously recommends that the City Club favor a vote of 57 X Yes on the repeal of the East Side Limitation Amendment.

Respectfully submitted,

Robert Arenz
Verne Newcomb
Don Campbell
M. H. Rotenberg
Lyle Watts
George Dysart, Chairman

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REPORT
ON
PARKING COMMISSION AND PARKING FACILITIES

Act amending City Charter to establish Parking Commission; fixing formation and administrative procedures of Commission; authorizing construction of parking facilities, to be financed by revenue bonds, special benefit assessments, or other lawful method; authorizing lease or operation of such parking facilities; and fixing other Commission powers and duties.

No. 52 Yes □ No □

TO THE BOARD OF GOVERNORS,
CITY CLUB OF PORTLAND:

BACKGROUND OF AMENDMENT

Early in 1954 Mayor Fred L. Peterson appointed an Off-Street Parking Committee of five citizens with instructions to make a careful study of the parking problem from a community standpoint. The members of the Committee were: Frank A. Dresslar (Pacific Telephone and Telegraph Co.); Michael J. Frey (The Oregonian); William W. Knight (Oregon Journal), Win P. Yaws (Yaw's Top Notch) and Edgar W. Smith (Former President of the Portland Chamber of Commerce), Chairman. This group of business leaders made an exhaustive study of the problem and May 20, 1955, presented its report to the City Council. The proposed ordinance which is the subject of this report is the direct result of the study and report made by Mayor Peterson’s committee.

EXPLANATION OF AMENDMENT

Composition of Commission:

The measure creates a new department in the City of Portland to be known as the Department of Parking. It would be administered by a Parking Commission composed of seven (7) members, to be appointed by the Mayor subject to approval by the Council. Two such members of the original Commission shall be appointed for one-year terms, two for two-year terms and three for three-year terms. Thereafter, appointments shall be for three-year terms. Provision is made for filling vacancies caused by death, resignation, etc. The members of the Commission shall serve without salary or compensation of any nature.

Powers and Duties of the Commission:

The Commission would have the power and it would be its duty, for and on behalf of the City of Portland, to survey the need for additional facilities and decide on cities therefor, consulting with the City Planning Commission, city engineer and traffic engineer on such matters; to encourage, aid and assist development of privately-owned parking facilities; to plan, design and locate parking facilities with authority to condemn when necessary; to contract with other agencies for sites and/or facilities; to rent or lease the facilities to others and regulate their use; to contract for construction and operation of facilities or to operate such facilities directly; to maintain, repair, improve or reconstruct and equip city-owned or city-operated facilities; to construct means of ingress and egress including use of street areas; and to study, report and make recommendations to the City Council on matters affecting vehicular parking in the City.
Financing:

For the purpose of financing parking facilities, the City Council may at the request of the Commission use any one or any combination of the following methods: Issue revenue bonds up to 4% (approximately $28,000,000) of the city's assessed valuation payable solely from the revenues of the facilities to be financed and pledge the revenues from any other parking facility, e.g. parking meters, then owned by the city; accept funds deposited by persons to guarantee payment of revenue bonds and enter into trust agreements relating thereto; impose local improvement assessments; loan from the general fund; accept and expend any gift, bequest, grant, or state or federal grant or local aid for such facilities.

SOURCES OF INFORMATION

Your Committee discussed the proposed amendment with Mr. Abe Rosenberg, representing the Retail Trade Bureau; Mr. Craig Kelley, executive secretary of the Building Owners and Managers Association; Mr. Ralph Kadderly, private parking lot operator; Mr. Barney Asheim, parking consultant; Mr. James Miller, business analyst; Mr. Edgar W. Smith, chairman of the Mayor's Committee on Off-Street Parking; Mr. A. I. Hallverson, Executive Secretary of the East Side Commercial Club and Mr. Lloyd Keefe, planning director of the City Planning Commission. The Committee examined various source material including extensive reports of the National Municipal Association, the Chamber of Commerce of the United States, and the National Parking Association. The Committee also had the benefit of the 1952 City Club study on the Transit and Parking Commission Charter Amendment before the voters that year.

BACKGROUND OF THE PROBLEM

The fundamental question posed is whether these should be any public concern with need for additional parking space facilities in the downtown area.

The apparent natural trend in larger cities has been toward decentralization, with suburban merchants providing their own parking space. However, a centralized business community has obvious advantages in that it provides a wider selection of goods and services within walking distance of hotels, office buildings, professional offices, mercantile establishments, etc.

In Portland, 45% of the ad valorem tax revenue is raised from real property in the immediate downtown area. The experience of other cities has been that if the downtown core is allowed to deteriorate and be replaced by suburban shopping centers, many of which are located outside the city limits, the increase in suburban property values does not offset the decrease in downtown values. A less tangible but very important consideration is the fact that a concentrated central business area provides a unifying cultural tie which differentiates a city from a collection of suburban communities, such as is found in the Los Angeles area. If these considerations are important, the people of Portland should be concerned with the parking problem.

It must be noted, however, that the parking problem cannot be disassociated from the concomitant problems of traffic flow and mass transportation. However, the proposed charter amendment is concerned only with off-street parking, in contrast with the 1952 proposed charter amendment which contemplated creation of a joint parking and transit commission.

EXTENT OF THE PROBLEM

The report of the Mayor's committee quotes, with apparent approval, the joint findings of the City Planning Commission and the Bureau of Traffic Engineering, completed in February, 1955, that a total of 15,561 new parking spaces is needed in the immediate future to satisfy the existing peak demand within the established desirable walking distances in the downtown area. This peak demand figure bears no practical relation to the year-round profitable operation. The Committee feels that a more realistic
approach to the problem is to consider the normal daily need of 6000 additional spaces—a figure estimated by the private operators and others. In any event, it is obvious that additional parking spaces are needed, and it would seem apparent that to meet the demand for nearby parking, there must be an increase of multilevel parking facilities.

ARGUMENTS ADVANCED IN FAVOR OF THE AMENDMENT

1. It would permit planned development of off-street parking.
2. It would permit acquisition by eminent domain of properties not available to private operators.
3. Lowering of parking rates might be possible.
4. Immediate relief to the parking problem could be effected.
5. Private operators cannot be relied upon to provide immediate relief.
6. Passage of the amendment is necessary to preserve the downtown property values, by maintaining the flow of shoppers into the area, by insuring the immediate creation of additional parking spaces.

ARGUMENTS ADVANCED AGAINST THE PROPOSED AMENDMENT

1. A sum of at least $28,000,000 (which represents 4% of the assessed valuation of property in the City of Portland) would be made available to a Commission with proper safeguards on how or where it is to be spent.
2. There is no assurance that the amount needed will not exceed $28,000,000.
3. There is no assurance that the facilities ultimately constructed under this charter amendment would in fact relieve the traffic or parking problem.
4. In view of the costs of land, building, construction, operation, maintenance, etc., there is no assurance that parking rates could be lowered at all without the support of city subsidy.
5. If operated directly by the City, the properties presumably would be removed from the tax rolls.
6. The threat of municipal ownership and operation is a definite deterrent to the expansion of privately operated parking facilities. Without such threat there is every indication that private operators will provide spaces to meet the current needs.
7. Actual construction of facilities under this charter amendment could be delayed for several years by litigation.
8. If the revenue bonding method is employed, parking meter receipts will have to be pledged. This will probably curtail any restriction of on-street parking despite the demands of traffic flow.
9. There is no assurance that financing will in fact be by revenue bonds, and there is a distinct possibility of direct taxation or assessment.
10. There is no guarantee against the Commission's being influenced by political pressures.
11. The proposed amendment makes no provision for considering the related problems of traffic flow and mass transportation.

DISCUSSION OF THE PROPOSED AMENDMENT

It is obvious that there is no panacea to Portland's parking problem. There can only be attempts to mitigate the severity of the problem. Other cities have attempted various solutions, including municipal ownership, municipal operation, cooperative private ventures, as well as individual private operation. The reports studied indicate that there are some successful municipally operated parking lots, but apparently these are located in the smaller cities on low-valued land and are of the metered, surface park-
ing space type. Your Committee was not satisfied that any municipally operated parking facilities cities of 500,000 population or over were operating at a profit. For example, in Denver, the municipal facilities, which initially were able to pay their own way, were reportedly operating at a loss of some $8,000 to $10,000 per month within less than two years. In Hartford, Connecticut, where citizens were reportedly stampeded into voting nearly $3,000,000 to build extensive municipal facilities, it was discovered that the need had been grossly over-estimated, that less than half the space is in daily use, and much of that is at low-income monthly rates. A Parking Commission report on the Kansas City Municipal Garage states that the garage is operating at an annual loss of $166.67 per parking space, or a total, before depreciation, of approximately $200,000 per year.

Other incidents of like nature were reported but your Committee was unable, because of time, to investigate the cases. In the discussion of the problem, it is often overlooked that nationwide, 94% of the parking facilities are still provided by private operators who obviously are able to operate at a profit.

In Washington, D.C., municipally provided parking facilities were rejected. A study made in 1952 showed a need for 6,500 more off-street spaces within five years, and since that time, the private parking industry has already constructed 7,600 spaces. The success of this program has been due, primarily, to the cooperative efforts of over 200 merchants who participated in a parking validation program which has proven mutually beneficial to the merchants and the private lot operators. In Washington the cost to the merchant has in no case been more than half of one per cent of his gross sales. This would seem to compare favorably with the cost of suburban businesses providing their own off-street parking facilities.

Despite the claims of the proponents that this charter amendment would not result in an increased tax burden, there is no assurance that this will be a fact. The measure permits appropriation of money from the general fund for the support of this facility. It is the opinion of the Committee that parking meter receipts must be pledged to secure the sale of any revenue bonds that might be issued, and furthermore, it could even be used to support the facilities themselves. These funds are presently used for other functions of the city government which, if deprived of this meter income, would have to turn to use of the general fund monies. The amendment also permits creation of a special assessment district. All of the above methods of financing do impose an additional tax burden directly on the taxpayer.

The proposed Department of Parking is not an autonomous body such as the Public Docks Commission or the Port Commission, but is, rather, subject to the immediate supervision of the City Council.

CONCLUSIONS

Your Committee feels that the arguments against the proposed amendment outweigh those advanced in favor of the amendment.

Any approach to the parking problem by the City which does not provide for the problems of mass transportation and traffic has little value.

We feel that it would be proper for the City Council to appoint an advisory parking commission to work with the City Planning Commission in the location and operation of private facilities. There is no assurance that, even if administered in the most advantageous manner, this amendment could satisfactorily solve the problem any better than normal development by the private parking industry.

RECOMMENDATION

Your Committee therefore recommends that the City Club go on record as opposed to this proposed charter amendment, and urges a vote of 52 No.

Respectfully submitted,

Donald W. Morrison
Peter Opton
Ralph Pool
William Thomas
Clarence W. Walls, Chairman

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