Report on Prohibiting Commercial Fishing for Salmon, Steelhead (State Measure No. 4)

City Club of Portland (Portland, Or.)

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REPORT
ON
PROHIBITING COMMERCIAL FISHING
FOR SALMON, STEELHEAD
(State Measure No. 4)

Purpose: Prohibits commercial fishing for salmon, steelhead in all Oregon inland waters, including boundary rivers. Prohibits all commercial dealings in such fish taken in prohibited areas.

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

I. INTRODUCTION

Your Committee was appointed to study and report on Initiative Petition Measure No. 4, proposed and circulated by Save Our Salmon and Steelhead, Inc., Allan L. Kelly, President.

The substantive sections of the proposed measure are contained in Section 2, which provides:

(1) It shall be unlawful to take, catch or fish for any species of salmo gairdneri, hereinafter called steelhead, or any species of salmon at anytime, except by hook and line, commonly known as angling, in the waters of any stream or river which empties into the Pacific Ocean or from the tributaries of such streams or rivers, whether within the waters over which the State of Oregon has sole or concurrent jurisdiction. Such waters shall include all bays, inlets, sloughs, lakes, or tidal areas within the boundaries of the State of Oregon or over which the State of Oregon has jurisdiction. Angling shall be subject to the rules and regulations of the Oregon State Game Commission.

(2) No commercial fishing licenses shall be issued to allow taking of any species of salmon or steelhead in the waters described in subsection (1) of this section.

(3) It shall be unlawful for any individual, firm, association, co-partnership, corporation or cooperative in this state, acting on his own account, or for the account of another, to buy, sell, ship, store, process or have in possession for purpose of trade or sale, salmon or steelhead taken from the waters described in subsection (1) of this section by means other than hook and line, commonly known as angling, whether landed in this state or any other state.

(4) Salmon and steelhead while in waters described in subsection (1) of this section are hereby declared to be game fish in the State of Oregon.

(5) The use of any equipment necessary for propagation and authorized scientific study by federal and state agencies is permitted.

(6) All Acts or parts of Acts in conflict with this section are hereby repealed.

Section 1 of the measure repeals ORS 511.055, which presently restricts or prohibits commercial fishing for salmon or steelhead in coastal streams and tributaries south of the mouth of the Columbia River in Oregon.
II. SCOPE OF RESEARCH AND SOURCES OF INFORMATION

During its study and investigation the Committee as a group or in sub-committee interviewed the following:

Allan L. Kelly, former President, State Division, Izaak Walton League, and President, “Save Our Salmon and Steelhead, Inc.”

Rollin Bowles, former member, Oregon State Game Commission, representing “Save Our Salmon and Steelhead, Inc.”

Robert Schoning, Director, Oregon State Fish Commission

Theodore Bugas, Treasurer, “Salmon For All, Inc.”; Executive Secretary, Columbia River Salmon-Tuna Packers Association; Public Relations Director, Bumble Bee Division, Castle & Cooke

Anthony Netboy, Professor of English, Portland State College; Student of and writer on salmon fisheries throughout the world.

In addition, the Committee corresponded with and received information from Mark Hatfield, Governor, State of Oregon; and P. W. Schneider, Director of the Oregon State Game Commission, as well as from certain federal agencies, and a biologist employed by but not appearing on behalf of the Game Commission.

The Committee also reviewed the following reports and documentary material:


Miscellaneous statistical tables and charts, Oregon State Fish Commission;

Minutes, Governors’ Columbia River Fisheries Management Committee, February 6, 1961, August 8, 1961, and January 18, 1962;

“Save Our Salmon and Steelhead, Inc.”, reference guide and supplementary material and correspondence;

“Salmon For all, Inc.” pamphlet;

Statement by State of Oregon Committee on Natural Resources, Mar. 5, 1964;

“Measuring Recreational Benefits from Natural Resources, with Particular Reference to the Salmon-Steelhead Sport Fishery of Oregon”, William G. Brown, Oregon State University, 1964;


“Economic Values of Salmon and Steelhead Trout in Oregon Rivers”, Wesley C. Ballaine and Seymour Fiekowsky, University of Oregon, 1953;

Annual Fish Passage Report, U. S. Army Corps of Engineers, North Pacific Division, 1962;

Numerous newspaper clippings and editorials, the League of Women Voters’ “Vote”, and an article in Oregon Voter, Sept. 19, 1964.

The Committee also borrowed freely from the unpublished City Club committee study report on the 1962 initiative measure to restrict commercial fishing for steelhead on the Columbia River. The study was not published because the measure was not certified for the ballot, due to technical defects in the petition procedure.
The Columbia River System is one of the world's largest breeding grounds for anadromous fish (fish that return from the ocean to spawn in fresh water). The main runs of salmon are spring Chinook, summer Chinook, fall Chinook, Silver, Chum and Sockeye (Blueback). With the exception of Chum and Sockeye, these fish are harvested by the commercial off-shore troll fishery from California to Alaska, by the commercial Columbia River fishery, and by sports fishermen both off-shore and in the river. Chum and Sockeye are harvested by the commercial fishery only in the river. There are also two runs of steelhead, winter and summer, which are harvested almost entirely in the river by both sport and commercial fishermen. While steelhead are caught and processed commercially, in dollar value this catch averages less than 10 per cent of the total. Almost all of the commercial Columbia River catch is canned. Fresh and frozen fish generally come from the off-shore catch.

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

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

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

Because a portion of the system is subject to the jurisdiction of Idaho and Washington, corresponding agencies of these states are also involved.

The Indian fishery is relatively uncontrolled, as a clear determination of Indian rights is still involved in litigation. In the meantime, some tribes regulate themselves in cooperation with the Fish Commission.

The regulation of anadromous fish is not an exact science. Despite the quantities of scientific data systematically collected, many factors affect the size of fish runs which are not subject to accurate evaluation. Among these are the cycles that appear in nature, water conditions, damage to spawning grounds, and others. Also involved to an indeterminate extent is the size of the ocean catch of Columbia River fish. Reference to the great numbers of salmon and steelhead which were in the Columbia in the 1800's and 1890's is not pertinent to this measure. It is undisputed that the Columbia River system will never again support the number of fish that it once did, because of the construction of dams, pollution, logging, and the consequent loss of natural spawning grounds and food. Because of these factors, it is not possible to judge how large a run will result from a given escapement. Two conclusions, however, appear beyond dispute: First, that a run cannot be maintained without adequate escapement, but a large escapement does not necessarily result in a large subsequent run; and second, that the remaining spawning grounds on the Columbia River are limited and that beyond a certain point, additional escapement can produce only waste. Implicit in this statement is
the point of view that the Columbia River fish runs are a natural resource that should not be wasted but should be harvested in accord with the best principles of conservation.

While the Fish Commission presently has the authority to limit or eliminate commercial fishing as a protective measure, it does not have authority to make any decision that hinges on economic or other end-use considerations. It has, therefore, no authority to take a position on the relative merits of commercial utilization as opposed to sports utilization.

An initiative was passed in 1956 which eliminated commercial fishing on all coastal streams, rivers and bays (with one minor exception), south of the mouth of the Columbia River which had not been previously closed to fishing. Most of the major rivers and bays south of the Columbia had been closed for many years prior to that time. In 1962 an initiative which would have restricted commercial fishing for steelhead in the Columbia River was thrown off the ballot because of a technical error in the petition.

IV. ARGUMENTS IN FAVOR

1. There has been a marked decline in fish runs in the Columbia River. Steelhead and salmon are approaching permanent depletion. These fish are a valuable natural resource and must be preserved.

2. There is inadequate escapement of fish for spawning above Bonneville Dam.

3. The commercial gillnet fishery is the greatest user of salmon and steelhead. By eliminating this demand, the runs could be restored.

4. The off-shore fishery has been greatly developed, and the river fishery is of decreasing importance.

5. There will not be enough fish for both sport and commercial fishing within Oregon. Sport fishing for salmon and steelhead is becoming more important economically than the declining commercial gillnet fishery in the Columbia River.

6. Oregon sports fishermen have lost their confidence in the agencies responsible for conservation. They oppose the spending of their license money and tax money to enhance a resource only to have it commercially harvested.

7. Passage of this measure will not force industry to Washington, because commercial fishing for steelhead in the Columbia is already prohibited in Washington and sports fishermen in Washington will promote similar legislation prohibiting commercial fishing for salmon.

8. Employment would not be greatly affected. Most gillnetters have other jobs and fish as a sideline.

V. ARGUMENTS IN OPPOSITION

1. The runs are not necessarily declining. It depends upon which years are used as a base for measurement and the species of fish involved.

2. The Oregon Fish Commission already has the authority to limit commercial fishing to preserve the resource and has done so.

3. Larger escapements would not necessarily produce larger runs.

4. The commercial interests are conservation minded. They depend on large runs of fish and have helped institute conservation reforms over the years.

5. Closing the river to commercial users will only increase the ocean troll catch which is not now regulated.

6. The resource rightfully belongs to all the people, not just one user.
7. All commercial fishing and processing dependent upon the Columbia River catch would move to Washington. Even then Oregon consumers would not be allowed to purchase salmon or steelhead, canned or fresh, from the Columbia River.

8. Eighty per cent of the commercial fishermen in the Columbia are full-time, professional fishermen who fish elsewhere off-season.

VI. DISCUSSION

After hearing the arguments pro and con on this measure, the Committee determined that many of the arguments were essentially irrelevant to what the Committee considered to be the primary issues: Conservation and user interest.

In public pronouncements and in discussion with your Committee, the proponents of this initiative insist that it is a conservation measure. Their position is that the fish runs are declining and that there will not be enough fish to sustain both the commercial fishery and sport fishing. The proponents also express a lack of confidence in the regulatory bodies charged with the preservation of the fish resource. The Committee does not agree with either of these assertions.

Useful records of fish population are available only since 1938 when counting was started at Bonneville Dam. The trend line from 1938 to 1962 determined by the Corps of Engineers from the counts at Bonneville Dam of salmon and steelhead combined shows a slight increase in the number of fish passing that dam. (See Figure 1). Some runs are down while others are up, and there are wide fluctuations from year to year; but the total number of fish averages a slow increase. The Columbia River system fishery is fantastically complex and there are many questions to which answers are not yet known. It is clear, however, that the answer is not simply a matter of increasing escapement to create larger runs. In fact, there is professional opinion from biologists, persuasive to the Committee, that too much escapement can overload the spawning grounds and actually reduce future runs. In such event, harvest by the commercial and sports fishery would appear essential to conservation. The Committee was not able to obtain any conclusive evidence indicating that the Columbia River spawning grounds are or are not efficiently utilized.

All those appearing before the Committee agreed that the Oregon Fish and Game Commissions have adequate power and sufficient resources to regulate properly the take of salmon and steelhead in the Columbia. Under existing law, the Oregon and Washington agencies could completely stop commercial fishing in the Columbia if danger to the resource warranted it. Such action has been taken by regulation in Tillamook Bay to preserve the chum salmon. It is the view of the Committee that the state regulatory bodies, with their background of experience and responsibility, including that of expert biologists, are the proper persons to be charged with the preservation of the Columbia River runs and with the attempt to increase them to the maximum that the river system can support. It should be remembered, however, that the two commissions must by law confine their attention to conservation of the resource without regard to the relative economic or social values of commercial or sports use.

Little has been said or is known about the ocean troll fishery, in spite of the fact that most of the Columbia River spawned fish are caught in the ocean. The troll fishery is not only an interstate but also an international problem. Canadian fishermen catch more Columbia River spawned fish than anyone else. The ocean fishery is relatively uncontrolled, and there is evidence that extreme waste results from death of undersize fish thrown back by the ocean fishery. Since Columbia River salmon and steelhead are at their best condition and weight when they begin their run up the river, the ocean troll catches the wrong fish, in the wrong way, and at the wrong time. Ideally there should be more commercial fishing in the river and less in the ocean.
Once the emotionally appealing mantle of conservation has been removed from the initiative measure, what remains is a raw user conflict between the anglers and the commercial fishermen. To propose, however, that the entire Columbia River fish runs are to be preserved only for the benefit of sports fishermen seems extreme to this Committee. Tax money, both federal and state, has built the fish ladders and finances the hatchery program and staffing of the commissions that manage and regulate the Columbia River system. The Committee believes this magnificent fish resource belongs to everyone. There is no more justification for saying the sportsmen should get it all than for saying the commercial fishery should take it all.

In the opinion of the Committee, available information concerning the economic and social considerations in arriving at a reasonable division of use was insufficient to justify the overly simple and drastic solution which this measure represents.

Several years ago, the Joint Senate and House Legislative Interim Committee on Natural Resources suggested that the Fish Commission should be expanded by addition of two members from the Game Commission and this single agency should have exclusive jurisdiction over the regulation of anadromous fish. This suggestion was made because of the potential conflict between the commercial and sports fishermen. Your Committee feels that this type of approach is preferable to "ballot biology" by initiative petition.

In the opinion of your Committee, the measure as drawn may be defective in two respects not involving the substantive merits of the measure:

1. Subsection (3) of Section 2 declares it unlawful for any individual, firm, association, copartnership, corporation, or cooperative in Oregon to buy, sell, ship, store, process or have in possession for the purpose of trade or sale, salmon or steelhead taken from the Columbia River (or other inland waters), other than by angling, \textit{whether landed in Oregon or in any other state}. Although the Committee does not feel competent to furnish a definitive opinion on the meaning or effect of this subsection, it does feel that enforcement will be difficult if not impossible, and perhaps in violation of the United States Constitution. If this section should be declared unconstitutional, however, the balance of the measure could still be effective, since Section 3 of the measure provides that the invalidity of any Section or provision shall not affect the validity of the balance of the measure.

2. The States of Oregon and Washington have concurrent jurisdiction over the waters of the Columbia River and these two states have entered into a Columbia River fish compact, which is embodied in Section 507.010, Oregon Revised Statutes and reads as follows:

"All laws and regulations now existing, or which may be necessary for regulating, protecting or preserving fish in the waters of the Columbia River, over which the States of Oregon and Washington have concurrent jurisdiction, or any other waters within either of said state, which would affect the concurrent jurisdiction, shall be made, changed, altered and amended in whole or in part, only with the mutual consent and approbation of both states."

By virtue of ratification by the United States Congress, the foregoing has the effect of a compact and agreement between the States of Oregon and Washington. Concurrent jurisdiction waters are defined in ORS 507.020 to include the Columbia River and its tributaries within the confines of the States of Oregon and Washington, where such waters are state boundaries. ORS 507.030 provides a procedure for modification of the compact through the Fish Commission of the State of Oregon and the properly constituted authority of the State of Washington. Again, while the Committee does not feel competent to state the effect of ORS 507.010 on the initiative measure, it does feel that the initiative measure may be ineffective unless a similar measure is adopted in Washington, or unless the measure is approved by the State of Washington. However, it can also be argued that the measure is not "necessary for regulating, protecting or preserving" Columbia River fish within the meaning of the compact, and therefore not within its scope.
VII. CONCLUSIONS

1. It appears to your Committee that the Oregon Fish and Game Commissions are the proper organizations to carry out Oregon's obligations to manage the fish resources of the Columbia River in order to protect and perpetuate the resource. Although adoption of the initiative petition might solve the user conflict, it would foreclose an orderly development of fish regulation through the actions of these two Commissions.

2. While knowledge of Columbia River salmon and steelhead biology is less than complete, it appears at the present time that elimination of the commercial fishery is not necessary to conserve the resource. If elimination of either the commercial or sport harvest is necessary for conservation of the resource in the future, it can better be accomplished by the appropriate Commission within its regulatory authority.

3. The measure adopts a harsh and unnecessary solution to the user conflict. In spite of statements by both sides in the controversy, the economic and social consequences of adopting the measure are not clear.

4. The measure as drawn may present technical problems of enforcement and of legal effect.

VIII. RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record as opposing this measure and urges a vote of "No" on State Measure No. 4.

Respectfully submitted, 

Michael M. Brand  
Dr. Gerald L. Cogan  
Lloyd B. Rosenfeld  
Bruce H. Russell  
Don W. Schafroth, Ph.D.  
Verne Wheelwright  
Campbell Richardson, Chairman

Approved October 16, 1964 by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors October 19, 1964 and ordered printed and submitted to the membership for presentation and action.
FIGURE 1

IN THOUSANDS OF FISH

Trend of Counts--1938-62
Bonneville Dam
Columbia River
Total All Salmon Including Steelhead