

Immunity law challenged

By Sara Lieberth
Oregon Daily Emerald

The passage of Measure 73 would amend the Oregon Constitution to permit the prosecution of witnesses after testifying in criminal investigations. Current Oregon law grants such witnesses absolute immunity from self-incrimination.

Opponents argue that the right to "take the Fifth" would be severely threatened under the proposal. Proponents believe Fifth Amendment protections under the U.S. Constitution should be adopted literally to Oregon's current, more restrictive laws on the issue.

Oregon is now one of only a few states that permits "transactional," or absolute immunity from prosecution after testimony is given. Phil Barnhart, chairman of the Democratic Party of Lane County, opposes the assertion that "use immunity," which is what Measure 73 would grant, does not adequately protect the rights of citizens.

"Oregonians have a better bill of rights than the federal constitution grants," he said. "What this measure really means is you can be forced to testify against yourself."

Citing an example of two bank robbers under investigation, Barnhart said if one opts to turn state's evidence against the other under current law, all charges against the witness are dropped for assisting the police and prosecutor with the case. Measure 73 would permit these agencies to prosecute the witness should they discover additional evidence, thereby removing the immunity protection.

"The remedy for the prosecution is to have you held in contempt of court and put into jail," he said. "We're opposed to weakening the Oregon bill of rights in this way."

73

The issue:

Measure 73 would allow a person ordered to testify about a crime to be prosecuted for the same crime if unrelated evidence is uncovered.

Pro: Current Oregon law makes it harder to try cases with multiple defendants without prosecutorial power to compel them to testify against each other.

Con: It would erode the state's bill of rights and Oregonians' protection from oppressive government.

Clatsop County District Attorney Josh Marquis holds that no testimony whatsoever given by a witness granted immunity could ever be directly used against them, but that they could be prosecuted if other unrelated evidence became available from independent investigations.

"Measure 73 would protect Fifth Amendment rights but prevent criminals from using immunity as a shield from rightful prosecution," he said.

As president of the League of Women Voters of Oregon, Paula Krane said that while her organization does not speak out officially on the merit of particular measures, it has urged voters to vote "no" on measures like 73 because of their constitutional amendment status.

"These issues should remain in the statutes," she said. "The constitution is the framework, statutes are supposed to be the dry wall. They can be changed as needed."

Measure allows denial of bail

By Darren Freeman
Oregon Daily Emerald

Measure 71 would restrict pre-trial release of defendants accused of violent felonies.

The measure proposes locking into the Oregon Constitution an existing statute that allows judges to deny bail to persons accused of violent felonies. Denial of bail would require clear and convincing evidence that the defendant would pose a threat to society if released.

Proponents of Measure 71 say the bill would increase protection of crime victims and society at large from dangerous criminals. Opponents argue that the bill's proposals don't belong in the constitution, would stress the overcrowded jail system and would violate Americans' right to be presumed innocent until proven guilty.

Howard Rodstein, a member of Crime Victims United of Oregon and firm supporter of Measure 71, said The Oregonian has reported 79 cases of people being killed by defendants and convicted criminals on parole, probation or bail.

"There is absolutely no doubt that if this measure is defeated, innocent people will be killed," Rodstein said. "History shows that clearly."

Rep. Floyd Prozanski, D-Eugene, said that although he supports the court's right to refuse bail, he opposes Measure 71.

If the bill passed and were locked into the constitution, any revisions to the content or wording of the bill would require a general election, Prozanski said.

"[The constitution] should not be a catch-all for codified statutes," he said. "It defeats the whole purpose of having an elected body representing the people."

Steve Doell, president of Crime Victims United of Oregon, wrote the senate bill that

71

The issue:

Measure 71 would amend the Oregon Constitution by allowing judges to refuse a defendant's bail if there is probable cause to believe the defendant is guilty and there is clear and convincing evidence that the defendant would pose a threat to society if released.

Pro: It would protect victims and society from criminals before and during trial.

Con: It would impede revision of the law by locking it into the constitution, overcrowd jails and force the release of convicted criminals. Violates the right to be presumed innocent until proven guilty.

created the statute allowing judges to deny bail. He said the bill should be placed into the constitution to prevent future, more liberal legislatures from tampering with it.

Prozanski voiced his concern that the bill could have the ironic effect of forcing the release of convicted criminals from jail to make room for defendants refused bail. He also expressed his reservations about jailing a defendant who's presumed innocent until proven guilty.

Doell argues that the right to be presumed innocent until proven guilty wouldn't be violated by the measure because juries would not be told that defendants are being held without bail.

"We're not talking about people who steal bread from 7-Eleven," Doell said. "We're talking about serious offenders, people charged with rape, kidnaping, aggravated assault, child molestation."

Voters to decide if convicted criminals eligible to serve on juries

75

The issue:

Measure 75 would prohibit felons and those convicted of misdemeanors involving dishonesty and violence from serving on grand juries and on juries in criminal trials.

Pro: A constitutional amendment would make it harder to allow criminals to serve on juries in other cases.

Con: Oregon law already prohibits felons from serving jury duty; this would bar people convicted of relatively minor offenses.

By Darren Freeman
Oregon Daily Emerald

Oregon voters will decide in November whether or not citizens convicted of certain crimes should serve on juries.

Measure 75 would amend the Oregon Constitution to ban people from serving on grand juries and criminal juries if they had been convicted of a felony or had served felony sentences within the 15 years preceding their appointed jury duty date. This provision is already an Oregon law.

The measure proposes going a step beyond current law by banning from juries people who had been convicted of misdemeanors involving violence or dishonesty within the five years preceding

their first day of jury duty.

Proponents of the measure say it would promote responsible and fair juries, while opponents say the measure would violate a citizen's right to serve on juries and would unnecessarily limit the jury pool.

Julie Hedden, a member of Crime Victims United and Parents of Murdered Children, said jurors should be held to a high standard.

"I don't feel felons or dishonest people should serve on juries deciding people's fate," she said. "I wouldn't want a rapist sitting on a jury for a child molestation case."

Rep. Floyd Prozanski, D-Eugene, who opposes the measure,

said banning misdemeanor offenders from juries would be unfair. According to the measure's language, Prozanski said, somebody convicted of stealing a five-cent mint or for using false identification to buy alcohol could be banned from jury duty.

"There definitely is a [federal] constitutional right to serve on jury duty," Lewis and Clark Law School Professor Steve Kanter said. "And once people have completed their sentences, they should be allowed the full rights of citizenship."

Proponents of the measure, however, argue that crime victims should have the right to see accused criminals tried by law-abiding citizens.

"People that have been adversely affected by the court system, i.e. convicted of a crime, are less likely to be fair and impartial," Lane County District Attorney Doug Harcelroad said.

Prozanski said that such has not been the case in his experience as a prosecuting attorney.

"I've had people convicted of crimes serve on my juries, and I didn't lose those cases," Prozanski said.

Measure 75 is one of seven measures in the November Special Election that was passed in 1996 as part of Measure 40 and referred to the ballot by the Legislature.

OKATEE GOLF CLUB
Golf at its Finest
College Students - \$20.00
Exp. 10-9-99
822-3220

SKI SWAP
Lane County Fairgrounds
To Sell on Consignment:
Oct. 28th 9-9; 29th 9-5
SALE
Oct. 29th 6-9; 30th 9-6
New and used skis, snowboards, cross-country, snowshoes, clothing, gear and more!!!

Spook a friend with a howl-o-ween gram!

Howl-o-grams will run in the Emerald on Friday, Oct. 29.

Call 346-4343 to place your gram today, or fill out this form and stop by the Emerald Classified Office: Suite 300, EMU

Deadline:
Wed. Oct. 27, 1pm

Write the most creative spook and win a t-shirt and a pumpkin!

Oregon Daily Emerald

name: _____
phone: _____
address: _____
payment method: cash/check/credit
card # _____
Write text here. _____
