October 16, 1967

Dear Helen:

Hooray for your October 11th memo--you are so right!

There's another disappointment about F&I #2, also--at least with my copy--for the print is so light colored as to impair readability. My F & I #1 has considerably blacker print, and the September VOTER is really black as I wish F & I #2 were.

If it's not too much work for you to send thermofax copies of the final script you turn over to Mrs. Sieber it would have the advantage of enabling the committee to see what changes get made in the printed F & I.

The Discussion Guide & Bibliography is fine. The discussion suggestions are very workable, and the bibliography is very wide-ranging but practical. You've done an excellent job.

As you see from this and other mailings from me I'm still busily engaged "doing nothing" on the area conferences!

Love,

Hooray for now, Helen

October 11, 1967

To: State Office c.c. Sieber, Brownscombe, May, Ramey, Martin
From: Duckworth
Re: F & I #2

F & I #2 and the Discussion Guide were received yesterday. I am most disappointed that the size of the color band was changed. This was to be a series of publications and I had hoped they would look like a series that belonged together. It was my impression that when the first copy of F & I #1 rolled off the presses it was too late to change this sort of a decision. With the present variation #1 will look like a step-child - or if we go back to the original plan then #2 will always be the step-child. Regardless of the merit of the shrunken color band idea - it makes me think immediately that someone made a mistake and tried to rectify it. I suppose others will feel the same when they see the four together.

If there is any extra space left at the end of F & I #3, please let me know so I can send or phone in some extra material. My committee spent hours and days agonizing over pearls of wisdom that had to be cut out for lack of space. The blank space at the end of #2 riles up my ulcers. I keep thinking of the days this summer I could have spent with my children, or cleaning my house, or writing my friends instead of working on condensing the vast amount of material on the governor down to just the right number of lines for the amount of space. Most of our time has been spent cutting down the amount of material to the necessary size, it seems to me. If we could have polished up the first drafts and put out unlimited amounts of material, we would have had all of it out on time and had two weeks during the summer to forget about League.

can you think of any others?

October 10, 1967

To: State Office c.c. Brownscombe, May, Ramey, Martin, Wackerbarth,
From: Duckworth
Re: Courtesy copies of F & I #2

Send to: Lynne Colon, College Permissions
Thomas Y. Crowell Company
[redacted]

Mr. Alfred Willoughby
National Municipal League
[redacted]

Also Mr. Wm. J. D. Boyd
National Municipal League

Mr. George A. Bell
Director of Research
Council of State Governments
[redacted]

Mrs. Anona Teska, Program Secretary
League of Women Voters of the U. S.
[redacted]

Mrs. John F. Toomey, Director, LWV of U. S.
[redacted]

Mrs. Albert G. Sims, Director
LWV of Connecticut
[redacted]

Mr. Robert N. Brewer
Research Assistant
Citizens Conference on State Legislatures
[redacted]

Send the complete series:

Dr. Stuart A. MacCorkle
Professor of Government
University of Texas
Austin, Texas

Dr. Comer Clay, Government Dept.
Texas Christian University

May I have 10 copies of Facts and Issues #2 to give as courtesy copies?

Thank you.

10/20/67

Elizabeth:

This is just to you. The real reason I"blew my stack" over F & I 2 was not in the memo. I was too "chicken" to tell all since I have to room with Ruth J. at A & M next week at the Texas Assembly. Mary Sieber had called me concerning F & I 3 - she is very reasonable and "in the middle" of the whole situation. She is not too sure just where she stands, I think. Anyway, she would refer to a portion of #3 and infer that Ruth J. said it had to go or be changed. In other words Ruth J. is censoring the manuscript after the committee has circulated it and has no chance to answer back. I am almost positive that I sent to SO every manuscript in all of the various stages of production. Also, to my knowledge she received copies of all the committee suggestions, outside of these we sent back and forth between you and I. It seems to me she should have been reading and making her suggestions way back there when we first started. I can't remember a single suggestion memo she sent on any F & I on content. I may be very wrong about this - I am very tired and almost sick.

Your memo of October 18 just came and it riled up my budding ulcers again. But at least I am not imagining the whole thing. I had begun to wonder why we bothered to have committees on the State Board. Elizabeth, I had intended to mention this to you anyway, but now I know I must. Please have in mind a replacement for me at the Corpus in case I cannot go. My Father lost his housekeeper on October 8 and he now must stay alone from noon every day until my sister gets home from work about 8 P.M. At 91 and in his failing condition, this worries me to pieces. If my sister is not

successful in getting a housekeeper as winter weather comes on, I will try to make a flying trip up to Iowa to see if I can help her find someone or make some sort of arrangements.

And under the new arrangements, I don't know that I will be able to prepare myself to lead an area conference by that date. I am in no physical shape to take on any other chores that are beyond me. I have been to too many poorly led conferences and I don't want to be a party to poorly leading one. I just don't have time to get myself ready. I have been putting off a visit to the Dr. until #4 is out of the way. I have a feeling that when I go he will put me in the hospital for all the uncomfortable G.I. tests. For this reason I will not go until I come back from the Texas Assembly.

Love,
Helen

October 20, 1967

To: State Office c.c. Martin, Brownscombe, May, Ramey, Wackerbarth
From: Duckworth
Re: Rinal pages for F & I # 4

These last three pages went to Mrs. Sieber yesterday. I sent Glen's P:age 11 exactly as it was in her last Final Draft. By phone on Wed. night Mrs. Sieber said she would start on #4 on Sunday.

I know I did not do justice of Glen's work, but it is the best I can do in my present state. Mrs. Sieber is very good about calling when she is in doubt as to facts or placement of material. Looking at the material from an outside point of view she can spot things that are not adequately explained or too much explained. At the present moment I feel like I know nothing about lobbying, the legislature or anything connected with it. I am taking the next few days to try to get myself put back together before the Texas Assembly next Thursday. My family, my house, and all my private affairs are in a state of complete ahaos.

To: Legislaure Committee
Re: Discussion Questions for F & I #4

Please consider these in relation to the draft that went to the Publishing Editor. I'd like your remarks, if any, waiting for me when I return from A & M (Oct. 29).

1. What is a lobby group? What is its function in the democratic process?
2. How do groups lobby?
3. What are some of the benefits of pressure groups? What are some of the dangers? What suggestions do you have to balance the two aspects of lobbying groups?
4. What problems arise in donations of pressure groups to political campaigns? Do you feel the present methods of control of political campaign expenses are effective?
5. How have states attempted to control lobbying? Do you think any particular method has special merit?
6. Does the acceptance of a retainer fee by a legislator constitute conflict of interest? What clarification could be made in this area?
7. What suggestions do you have to solve the problems of excessive pressure upon legislators by lobby groups?

wording changed when I recopied but info is still the same

October 18, 1967

To: Local League Presidents, Program Vice Presidents, and State Item I Chairmen

From: Mrs. F. L. Duckworth, State Item I Chairman (Study of the Legislature)

Re: Change of consensus deadline for Study of the Texas Legislature

Due to further delays in getting Facts and Issues #3 and #4 to you, the deadline for consensus has been changed from February 1, 1968 to Bebruary 15, 1967. We sincerely regret the inconvenience the delay in publication of the material has caused you. We hope you understand that on the State Board we have illness and other unavoidable delays, just as you do on the Local Board.

Facts and Issues #3 (The Framework and the Functioning) should be in your hands by the end of October. Facts and Issues #4 (The Influence of the Lobby) should be ready in early November. If your publications chairman would place your order for both of these publications with the State Office now, they could be sent to you immediately upon publication in the quantity which you desire. This would save several days in getting the Facts and Issues distributed to your resource committee and your membership.

One solution to the problem of not enough units available for the amount of material to be covered arrived at by one Local League may help your particular situation. This is to cover the first two Facts and Issues in the first set of units and using the second set of units for Facts and Issues #3 . Since Facts and Issues #4 probably has few areas which would result in a meaningful consensus, this would be covered by unit discussion later in the year. Lobbying is always an interest-stimulating topic.

We would like to pass along a suggestion that has come from one Local League in trying to cope with the problem. They plan to cover only Facts and Issues 1,2 and 3 before consensus deadline and discuss #4 later in the year. The subject of lobbying will always arouse interest in League discussion groups and although it is a vital part of understanding the legislative process, probably does not lend itself to a firm consensus or meaningful action.

With this memo ~~xx/x/xxx/~~ are your copies of the Discussion Questions and Report Forms for Facts and Issues #3. These would ordinarily be sent with the completed F & I, but we are sending them along at this time to help you in gudding your preliminary reading and research from other sources. Reading for the discussion for #3 could be under the following areas: Membership in the Legislature (qualification and past experience, costs of seeking office, compensation and terms of office); apportionment; powers of the lieutenant governor, powers of the speaker of the house; committees (size, purpose, and functioning); and legislative sessions (length, frequency, and size of the legislature, including review of unicameral vs. bicameral forms).

In additional to readings listed in Discussion Guide for Phase II, may we suggest that your preliminary reading for #3 include the newspaper clippings on these areas and the basic texts listed in Leaders' Gudde for Phase I. In Gantt, Dawson and Hagard, GOVERNING TEXAS, Section IV, Pages 114 to 135; McCleskey, THE GOVERNMENT AND POLITICS OF TEXAS, Chapter 5; Benton, TEXAS - ITS GOVERNMENT AND POLITICS, Chapters 5,6 and 7; Jewell, THE STATE LEGISLATURE, Chapter 4; and in addition, you will find many pertinent readings in the STATE LEGISLATURES PROGRESS REPORTER.

The Supplementary Legislature Kit should reach you within a wekk and the pamphlet on the C.E.D. Report should have reached each League member now on the State League's mailing list. If you have the opportunity to call member's attention to this leaflet, it would assure their review of it before attending discussion units on the legislature.

THE INFLUENCE OF THE LOBBY

THE LOBBY DEFINED Of all the elements making up the American political process, the lobby may be the most misunderstood by the average citizen. There are various definitions which may help us to understand the term "lobbying". It may be simply defined as "the efforts of individuals or groups of people outside of the legislative body to influence legislation". Legally defined, legislative lobbying is generally limited to "direct communication" with members of the legislature or Congress (in Texas the governor and lieutenant governor as well) for the purpose of defeating or passing legislation. However, "direct communication" is not confined to legislative sessions or the legislative halls at the capitol. The importance of grass roots communication by contacts from home both before and during legislative sessions should not be underestimated. This kind of lobbying is not regulated by state or federal lobby controls. In addition there are countless ways to build community support or public opinion for or against legislation. Indeed, lobbying can extend to the executive and judicial branches of government - so much so that some consider lobbying as all attempts by private groups or interests to influencle government decisions.

Is lobbying good or bad? The right to petition government by citizens or groups of citizens is constitutional and is accepted as a legitimate part of the democratic process. Undeniably the lobby has come to be the most effective way to influence the policies and decisions of government. Whether the demands are labelled as being in the "public interest" or for the "special interest", the competition is great and the task is accomplished in a variety of ways, some of which ~~do come in for criticism.~~ are criticized However, from the ethical viewpoint, outright corruption is only occasional and difficult to prove. Extreme examples of bad lobbying have been brought to public attention and public reaction has brought about some curbs through legislative action.

The attention of the citizen is not often focused on the total picture of lobbying. This contributes to a misunderstanding of the role of the lobby in our legislative process. Few people are actively engaged in politics, particularly state politics. Since many do not belong to organized groups or ~~if they do~~ they are not ~~too well~~ well informed about the legislative activities of their groups, lobbying becomes the responsibility of group leaders or hired lobbyists. Even legislators themselves, especially those who arrive on the scene with no past experience, and knowledge limited to local issues, cannot be familiar with all the issues. In evaluating the lobby we need to know who lobbies, whom do lobby groups represent, how many ~~are~~ there are, how much they spend, and what methods they use.

LOBBYISTS REGISTERED It would be impossible to categorize all the groups involved in lobbying - the range is wide. Since Texas is a large state with a diversified economy, it would be difficult to compare figures of registered lobbyists with those of some other stateswith fewer groups. Certainly ~~some~~ some groups, such as public utilities and large industries, would be involved in all states. Lobby registration figures furnished by the Texas House Chief Clerk's office are of interest:

Year	Number	Number of Spending Reports filed	Spending Amounts (Round figures)
1961	3,153	235	$77,000
1965	2,022	185	64,000
1967	1,996	156	65,000

The figures seem to indicate a downward trend in the number registering and reporting expenditures. This may reflect a lessening of seriousness in conforming to the lobby control legislation passed ten years ago, rather than any lessening in lobbying activity. Also these figures may well cover only a small fraction of the total, as they do not take into account the tremendous amount of ~~spending~~ between-session spending, such as campaign contributions and public relations activity.

Year	Highest Single Expenditure	Other Expenditures	Industry Totals
1965	$3,105 Texas Brewers Institute	$3,000 Sears Roebuck and insurance subsidiaries	$17,400 Oil & Gas
		2,700 Texas Instruments	6,250 Alcoholic Beverages
		2,000 S. Bell Telephone	5,000 Motor Vehicles
		1,147 Tex. St. Teachers	3,600 Railroads
		367 Tex. Mfrs. Assn.	
		85 AFL - CIO	
1967	$6,871	$2,089 Tex. St. Teachers	12,342 Oil & Gas
		2,061 Finance	7,725 Alcoholic Beverages
		1,492 Texas Mun. League	4,840 Pub. Utilities
		52 Hotel & Motels	4,525 Insurance
		19 General Contr.	4,287 Motor Vehicles
			3,464 Railroads

could be eliminated?

Some of the other areas involved in the 1967 reporting were - lumber, sulphur, steel, shell, dairy products, road, realtors, electronics, nursing homes, dental and medical, public employees, police and firemen.

Comparative information is difficult to obtain. According to a recent survey by the National College Press Service, the average number of lobbyists per session for states which keep a record is about 275. A projection of this figure to 50 states would bring a total of 13,750, nearly twice the number of legislators. Regarding costs, reports filed under the Federal Lobbying Act have at times indicated annual group expenditures of ten million, although it seems safe to say this is only a partial figure. In California, during recent sessions, reported expenditures have exceeded three million, although this figure is generally confined to hiring and maintenance of registered lobbyists.

LOBBY METHODS The word lobby probably brings first to the mind of the average citizen all the "for free" favors offered to the legislator, such as meals, beverages, passes, receptions, weekend parties and trips. These fit into the practice known as "social lobbying". In Texas this might be termed the "catfish and beer" or the "beef and bourbon" methods (specialties?) and could be used between sessions as well as when the legislators are in the Capitol.

In Texas, at least, the "Speaker's Day" and "Governor for a Day" celebrations have at times in the past been ~~thought to be~~ in the category of lobbying as they involved fancy food and expensive gifts. The advantages gained from this type of lobbying is probably minimal when considered in relation to those realized from much more complicated methods employed by the skilled lobbyist.

"Knowledge is power" for the skilled lobbyist in the area of special interest to him. He must be familiar with the existing laws and with the legislative proposals which are likely to be considered, as well as with ways to support of oppose. He must be armed with the knowledge of the political power structure and the legislative process. The experience of an ex-legislator is extremely valuable here. His accumulated personal information on the legislators (and the candidates) should include political views on specific issues, political commitments, personal habits and even other sources of income. In addition, he needs to know who supports this man or woman at home, and his friends (especially those who may be influential) so that if the occasion arises, pressure can be applied in the right places.

It should be noted here that maintenance of a top-flight lobbyist is expensive. The bill for Texas Legislative Service, which provides the texts and status of bills, will run from $500 to $1,000. This service is an important item in the budget of the League of Women Voters, a lobby group of limited scope.

The political campaign method, the investment of the pressure group in political campaigns, may or may not be the most important way to influence legislation. One writer suggests that the key is in recruiting candidates who lean the right way in the first place. Speaking for a political group recently, a leader emphasized that lobbying is done best on election day, or perhaps it would be more accurate to say that election results reflect what has been done before. As one politician puts it "the game is over before the legislature meets".

Looking at the situation from the practical standpoint, present costs of campaigning have made it impossible to run for office without aid from some source. The costs of communication with the electorate by mail, telephone, travel, and all news media including television, now considered essential, have increased greatly and in addition the other costs of filing fees, rental of campaign headquarters, clerical help, assistant campaigners, and the employment of public relations experts still remain a considerable expense. When reported expenditures run to a figure of over $500,000 for a gubernatorial campaign, who would be so naive as to believe that such financial aid is completely altruistic? Are there any controls of this form of lobbying?

The Texas Election Code regulates political campaigns to some extent. There is no ceiling on campaign expenses, but the code does provide for itemized reporting both by the candidate and his supporters. (Filing time is not less than seven nor more than ten days prior to the election date and not more than ten days after.) Candidates' statements must cover all gifts, loans, payments, debts and obligations incurred, and include names and addresses of all persons. The code also requires that any person making campaign contributions of more than $100 must ascertain if the candidate properly reported it. If not, it is the duty of the contributor to report. Corporation and labor unions may not contribute. The code provides penalties for those who violate its provisions.

There is, however, a crippling loophole in the Texas Election Code. The candidate's report covers only those transactions under his authority and subject to his control. This means that much of the political campaign spending is not accounted for, since volunteer labor, free rental, free printing, free public relations work are only some of the ways in which contributors can avoid the letter of the law. Unions work through funds raised by special political education groups. Corporations can make

available to the candidate public relations experts, secretarial help, and other valuable assistance at no cost to the candidate. Finally, there is the question of whether there is full examination of campaign reports and investigation of possible violations.

What efforts are made to control campaign costs in other states? This varies from state to state: 32 require filing of campaign receipts by political parties; 34 by candidates; 34 require filing of campaign disbursements by political parties while 45 require it of candidates. In 33 states corporations are prohibited from contributing while four prohibit contributions by unions (Indiana, New Hampshire, Tennessee, Texas and Nebraska only if the union is a corporation). No states prohibit contributions from other sources with the exception of a few specific limitations in eleven states. Twenty-nine states place restrictions on the character of expenditures while thirty limit amounts spent on behalf of candidates. One of the most important factors in the promoting of public awareness of campaign contributions is the timing of the filing of statements. This varies greatly with some states requiring the filing of statements both before and after the election while some only after elections.

Another method of influencing legislation by pressure groups is through the involvement of a lawyer-legislator ona retainer fee for professional services which may or may not involve legislation. There is no practical way of ascertaining the exact basis of such employment. Some argue that retainer fees constitute legalized bribery, others that prohibition of such would be a violation of personal rights. Thus arises the question - does the knowledge and expertise of a lobbyist-legislator in a special field justify involvement resulting in private gain? In this same area there is the situation where a legislator lobbies for himself and his associates when he has a personal interest in holdings affected by legislation. The Texas Constitution provides that: "A member who has a personal or private interest in any measure or bill, proposed, or pending before the legis-

lature, shall disclose the fact to the house, of which he is a member, and shall not vote thereon." In 1957 the 55th Legislature passed an act amplifying this provision in great detail and stating that non-compliance shall constitute grounds for expulsion, etc. It is of interest that the act~~g~~ uses the phrase "substantial conflict with the proper discharge of duties in the public interest". Legislation introduced, but not passed, in both the 1965 and 1967 sessions spelled out substantial interest as more than ten percent.

What has been said thus far about lobby methods should not be considered as pinning a label of good or bad on lobbying. The concern is whether these methods are used in such a way as to adversely affect the "public good". (The viewspoint depends on which side the citizen himself is aligned.) delete

Unquestionably there are favorable aspects to lobbying, for example, lobbyists can and do aid the legislator by providing information, writing speeches, drafting or analyzing bills and appearing before committees.

Among the many suggestions for reforms in lobbying practices, perhaps the Report of the Twenty-ninth American Assembly held in 1966 represent the best composite of present thinking of the subjects of lobbying and conflict of interest. The American Assembly, which was established by Dwight D. Eisenhower at Columbia University in 1950, holds non-partisan meetings and publishes authoritative books to illuminate issues of U. S. policy. The sixty men and women, who comprise the Assembly, represent a broad range of experience and competence in American leadership.

The recommendation of the Twenty-ninth Assembly (1966) states "Legislatures should address themselves to the important problem of campaign costs. Both the Congress and the state legislatures should consider adoption of tax incentives, such as limited tax credits and deductions, to encourage widespread popular financial support of candidates and parties. We also encourage the exploration of the possibility of government fin-

ancing of legislative campaigns.[11] The Assembly felt that "efforts to define and control conflicts of interest have satisfied neither the public nor the legislatures". It made the following recommendations: First, codes of ethics should be adopted, which apply to career, appointed, and elected public officials in all branches of state government; second, ethics committees or commissions should be created with advisory, review, and investigative functions extending to the activities of lobbyists; third, all instances of corruption should be vigorously prosecuted.

REGULATION OF LOBBYING Many states moved to regulate lobbying before the national government, including Georgia, California, Massachusetts, and Wisconsin. The first federal law compelling registration with the U. S. House and Senate of lobbyists was the Legislative Reorganization Act of 1946. However, the Act failed to designate any agency responsible for enforcing its provisions or for doing anything with the information except printing it in fine type in theCongressional Record. Such mere filing of information has been assessed as useless without an agency to classify, organize and desseminate the information. Although the Act has received criticism and reforms have been suggested, it has not been rewritten.

Lobby regulation presumably is designed on the basic premise that public disclosure has value as a deterrent to undesirable conduct. However the use of such information by anyone "wishing to know", including the news media, depends its classification and organization for practical use. Thirty-one states, including Texas, specify registration records "open for inspection" while others fail to specify. Washington states does say that all lobbying information be available in the President of the Senate's office for inspection by members. Some states make a real effort to make the information available to legislators, lobbyists, press and others. California requires printing of registration and financial report in the Assembly Journal. Wisconsin and Montana require that reports be delivered to

the House at regular intervals; Michigan charges the Secretary of State with furnishing copies of all registrations to members of the legislature; Illinois requires a bulletin to the Assembly and to the press. In Texas registration and reporting is made to the Chief Clerk of the House of Representatives who provides the forms and maintains the records. Members of the legislature and the public have access to them.

It is generally agreed that the present statutory definitions are vague, ambiguous and inadequate and this makes both interpretation and enforcement difficult. Probably an important factor contributing to the non-compliance with regulation provisions is the fact that they have not often been challenged in the courts and only a few convictions have been upheld.

Five states have no lobby regulation whatever - Arkansas, Delaware, Hawaii, New Mexico and Wyoming. While five states have laws limited to improper lobbying practices and setting out specific penalties. The balance of the states have some form of registration set up either by statutes or by house or senate rules. But the variation in the definitions of lobbying, as well as the regulation and registration are great. One of the most peculiar variations is that in the states that define lobbying as corrupt solicitation, punishable as a felony, and on the other hand have registration laws for lobbyists.

A common prohibition, by twenty-five states, covers contingent fees, ~~which is~~ compensation dependent upon the passage or defeat of legislation. One explanation for outlawing such fees would be that the lobbyist might contract with his employer to oppose legislation in a certain field and then be able to persuade a member of the legislature to introduce a bill on that particular subject. Later when he persuaded the legislator to withdraw his bill, he would be in a position to collect a contingent fee, with the legislator never realizing he had been used to carry out a well laid plan.

For purposes of comparison here are only a few variations which involve the meaning of lobbying:

- Corrupt solicitation - a felony (Alabama and California)
- Claim or representation of improper influence rather than the act itself - a felony (Arizona, California, Utah, Montana)
- Personal solicitation unlawful unless addressed solely to the judgment (Georgia)
- Unlawful except by appeal to reason (Louisiana, Texas)

- Personal, direct or private influence limited to committee appearances and/or newspapaer publications, public addresses and written or printed statements or appearing as counsel
- Illegal unless no means used except argument upon the merits (Washington)
- As hinging upon private pecuniary interest as opposed to interests of the whole people

Registration specifically required by:

	No. of states
Any person	3(inc. Texas)
Any person employedby or for	25(inc. Texas)
Any employer of lobbyist	14
Legislative agent	12
Legislative counsel	10
All persons, including corporations, etc.	5

Registration agent:

	No. of states
Secretary ofState	24
Chief Clerk (inc.Texas)	8
Various other officials	
License or filing fees	13

Registration information required covering:

Both employer and lobbyist	36 (inc. Texas)
Financial arrangements between employer & employee	7
Inc. retainer fees	2(Va. Wash.)
Inc. statement of assets & liabilities, source or sources of income	1 (N. Car.)

Financial reports required:

Monthly (Texas), quarterly, etc.	5
10 da. after adj.	1
30 da. after adj.	12
2 mo. after adj.	3
Expense statements must be kept by legislative agent or his employer for 6 years- produced on court order	1 (Mich.)

Penalties for failure to comply by counsel or agent:

32 states specify fines ranging from not less than $25 to not over $5000

23 states specify terms of imprisonment ranging from not less than 10 days to not over 20 years.

2 states specify failure to comply as "guilty of misdemeanor"

1 state specifies "subject to sanctions"

1 state specifies "cancellation of lobbying privileges"

10 states specify disbarment from lobby practice for 3 years

1 state specifies suspension for balance of session

1 state spedifies suspension until reinstated

Additional penalties apply to persons, corporations or association.

In one state (Ky.) there is a provision that a corporation's charter may be revoked.

Exempt from registration - this list is not complete - only "typical"

Persons representing themselves

Persons engaged in drafting of legislation, such as attorneys who draft bills, advise clients and render opinions on proposed legislation.

Government employees called upon to testify or consult legislators as part of their duties.

Newspapers and other peiodicals and radio and TV stations that carry news items or editorials in connection with pending legislation.

Persons representing a bona fide church solely for the purpose of protecting the public right to practice the doctrines of the church.

(Note: This list is from the Survey by National College Press Service. I decided we would have to limit further detail on this.)

EFFECTIVENESS OF LOBBY LAWS Lobby control, as it is now used, has been called a "temporary disinfectant". Abuses which now occur in state legislatures would not be tolerated in the U. S. Congress. Yet the states moved to regulate lobbying about the time of the Civil War while Congress enacted laws in 1946. Why have state lobby laws failed? What are the alternatives to present methods?

At the root of the problem is the fact that in the strictest sense lobby regulation laws are not solutions at all. They are simply a casual application of a general principle to the more visible aspects of lobbying. This principle is that disclosure will serve the public interest by giving information about matters of public consequence. It assumes that if the facts are accessable, the public will seek them out and use them where indicated.

The language mixed with contradiction in the definition and control of lobbying is one of the failings of the lobbying laws. There is uncertainty as to just to whom they should apply ~~to~~. Penalties fail to specify appropriate administrative enforcement procedures. Although no law is ever technically perfect, lobbying laws seem to labor under formidable operational burdens. Is this the intention of their writers?

Perhaps we can answer that question by going back to the origin. These laws have for the most part been enacted in direct response to charges or evidence that the legislature has yielded to undue influence from small groups. They have been hastily borrowed from others already in existance. They are seldom amended or improved. They have little support from the administration. The public does not seem interested as a general rule unless some particular incident comes to their attention. Only a few newspapers, largely big city papers, have been ~~xxx~~/ attentive to the effectiveness of such laws. When they do investigate they find that they must call upon their own resources to try to bring order out of the profuse clutter of undigested data that the laws dis-

close. Whatever value may come from the disclosure laws, they have not yet drifted into the mainstream of community opinion.

Political interest groups do more than hire lobbyists to represent them. This fact is not reflected in disclosure laws. The complicated procedure of lobbying has evolved from the demands of the interest groups and the increasingly complex legislative process. All of this defeats the intention of disclosure laws. Changes which have brought this about are: proliferation of administrative agencies; growth of the workload; pressures for specialization; decline of locality as the legislator's point of reference; and the increasing role of the legislator as middle man between the constitutency and the executive branch.

There are those who say that no lobby control laws will ever be effective unless all members of the house and senate, as well as the lieutenant governor, are required to make public the sources of all their monthly and yearly income. This, of course, would bring to light the retainer fee, which may or may not bring undue conflict of interest. The theory is that, as part of the public knowledge, this decision could then be made by the forces interested in the public welfare. This has been opposed in the past on the grounds that it is undue interference with personal liberty. On the other hand the disclosure of assets and income is usually required of those public servants in the administrative branch of our government. The appointments of these executive officers have been approved in the legislative halls. Are legislators any less public servants than those in the administration?

Two factors are of paramount importance in discussing lobby control laws and their effectiveness. First of all, that the right of all individuals and groups is preserved to use legitimate means to make themselves heard in the legislative halls of our country. This includes the rights of freedom of speech, press, petition, assembly, and association. Second,

that the men who serve as legislators live and work by ethical standards which grow directly from the ethical standards of society as a whole. Although we may want them to be more ethical than the mainstream of society, the pressures upon them to do totherwise are at times compelling. The legislator may wish to make wise and just policy in harmony with his own conception of public interest; yet even though he is exposed to the various sides of any public question, how can he evaluate this information unless he has an alternative source from his own experts to counterargue. Will any formal procedure to control lobbyists succeed if the legislator himself cannot see all the sides of a questions?

There are those who argue that what is needed most for effective lobby control are high quality legislators, well educated in the legislative process, so that they may be able to distinguish any slanted or incomplete information and appeals other than to reason. If we are to agree with this emphasis, then the key to effective regulation is not the formal control mechanism, but the legislator himself.

The secondneed may be for internal reforms which make the legislator less dependent upon interest group information. More competent professional assistance, more time to consider important legislation, and a lightened workload might contribute to more independence.

The individual legislator is beset by a variety of pressures during his career, this is the stuff of political life; for by definition legislators live in the midst of conflicting interests. He must from his vantage, cull out the ////// interests which would run contrary to the public good and at the same time be aware of the public interest in his decision making.

7+ 9 #2

REFERENCES FOR RELATIONSHIP OF VARIOUS GOVERNORS AND THE LEGISLATURE. From TEXAS POLITICS 1906-1944, S. S. McKay, published by The Texas Tech Press, Lubbock, 1952. Obtained from Lakewood Library.

Oscar Colquitt, first term 1911 - pp.43-45

James Ferguson, first term 1915 - p-.59-61

Wm. P. Hobby, 1917 - page 84

Pat M. Neff, 1921 - pp.104-106
1923 - page 128

Miriam A. Ferguson, 1925 - pp.144-146

Dan Moody, 1927 - pp.158-160
1929 - pp.182-185

Ross Sterling, 1931 - pp.218-223

Miriam A. Ferguson, 1933 - pp.250-255

James V. Allred, 1935 - p. 290-295
1937 - pp.306-308

W. Lee O'Daniel, 1939 - pp.325-328
1941 - pp.355-361

INCREASING INFLUENCE OF THE GOVERNOR

From TEXAS GOVERNMENT, MacCorkle and Smith, 1964. pp. 88-89

"All governors try to have their legislative programs enacted into law, for they realize that they will be judged strong or weak, not because of their administrative ability, but because of success or failure in their legislative undertakings. For many years Texas governors were not very successful in persuading legislatures to adopt their programs, although all had some influence upon the laws passed during their administrations. For some time, however, gubernatorial influence in the legislature has been increasing, although the governor has not, as yet, become 'chief legislator'. More and more, the public looks to the chief executive to put through a legislative program. This fact gives him considerable strength in the legislature, but it is not easy to assess this influence and how it is exerted. There are several factors involved.

"1. Since he is elected from the entire state, he represents the entire voting population.

2. He is the chief executive. This alone gives him influence and prestige.

3. He runs on a platform--his own.

"The relationship of the governor to the legislature is largely a personal one, depending on the personality of the chief executive. If he is well liked by the legislators, they will be inclined to adopt much of his program. As one member of the House of Representatives is supposed to have said regarding Governor Beauford Jester, 'Beauford's an alright guy. Let's give him what he wants.'

"Other governors have exerted their influence through sheer political power. This was especially true of Governor Shivers. He was so strong politically that many legislators were loath to oppose him. Such political strength on the part of the governor has been very rare in Texas.

"Still other chief executives have been forced to make trades with blocs in the legislature in order to accomplish anything legislatively. In return, for support of his measures, the governor assists the blocs concerned with their legislative plans. Occasionally a governor will be quite successful at this.

"In the last analysis, adoption of an administration's program may be due not so much to the governor's influence, per se, as to the fact that the governor and leading members of the legislature (the presiding officers and committee chairmen) are often from the same faction of the party, hold the same political, social, and economic views, and represent basically the same economic interests. Thus, their ideas more or less coincide.

"Despite all this, some of the state's popular governors have failed in getting major portions of their legislative programs adopted. This failure was partly due to the fact that the governor and the majority in the legislature represent different types of constituencies. The legislature is dominated by rural and small-town elements, with the governor, in order to be elected, must represent the ideas of the urban centers where most of the votes are. This inevitably leads to conflict. Also, although the governor runs on a platform, it is usually his own, not that of a party. Since no legislator runs on the governor's platform,

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legislators feel no moral obligation to support the governor's measures. It may be that in the absence of a strong two-party system, the only way a coordinated legislative program can be enacted is through the influence of special-interest groups on the executive and the legislative leaders.

"On the other hand, if the legislative leaders oppose the governor's program, it has very little chance of adoption. The powers of the presiding officers, particularly the lieutenant governor, are so great that they can effectively block any action to which they are really opposed.

"Attempts of the governor to go over the heads of the legislature directly to the people have failed. Such attempts are bitterly resented by the legislature and have been ignored by the voters, who seem to think that getting a program through the legislature is the governor's business, not theirs.

"Even though executive influence in the legislature has grown materially since the early 1940's, it has not become the dominant factor it is in the national government. As long as the Texas legislature is dominated by one party and that one party is fractionalized, the average governor can never become a real legislative leader, as he will lack a strong party organization to support his measures."

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August 10, 1967

Dear Elizabeth,

Your telephone call today cheered me immeasurably. The transition from the Royal Coach sort of existance to reality has not been easy. I came home with great reluctance because I felt the August workload would be heavy. It has turned out to be impossible. So I have spent a greater chunk of time than I could spare temporizing.

I could spend a whole page enumerating the personal crises which should have my attention, besides the moving of the office (I'm seeing that this project keeps moving!), but I will mention only the latest. We have rats! So tonight for the first time in my life I will spend the night in a building, knowing they are there. It serves me right for neglecting my exterminating schedule last spring. I can sympathize with the disadvantaged who live with them with no hope of the exterminator coming tomorrow! On this one, I am with Pres. Johnson 100% - nonpartisanship or no!

Our new secretary seems to have great promise, but is totally inexperienced. She will be alone the week I am at Board Meeting, as the old girl will go up to the U. of Texas for rush week. It will be a long haul to get her self sufficient, but I am so overjoyed to get the office out of the house I'll do whatever it takes. By the way, my home phone number will change next Friday. They cannot give me the new one until the actual transfer. The old one will ring into the house after office hours, if the secretary can remember to push the button.

Did you see the August 4 article in TIME about State Government? Good mass publicity just at the right time for our study.

Enclosed are the first 2 pages, 55 lines of type. From my notes of today's phone conversation, I note we should have only 47. I will not type the 9 copies of P. 2 until I hear your reaction to my cutting proposals.

Pa.1, 2nd sentence: When I get to the library I can get the exact date of the last veto, I hope. This will take less space than "for well over two decades." It must be before 1941 as Gantt P. 191, 2nd para. states O'Daniel was the last governor who had a veto overridden. His term ended August 4, 1941.

Para. 1, Last sentence: Eliminate. We say something similar in the last sentence of Para. 3.

Para. 2 - Eliminate the whole thing. This is cutting where it hurts, but it seems less vital than other parts.

Para. 3, sentence 4; Change to your shorter suggestion. "As budgets are more carefully prepared, the use of the item veto decreases." (or "The need" false)

This would give 9 less lines. Note that I did not included at all the paragraph on amounts vetoes out of various appropriations bills.

I will try to confirm the number of governors who have the item veto power. Adrain's STATE AND LOCAL GOVERNMENTS (which Janice sent me) says ".....governors in thirty-nine states can also veto single sections of appropriation bills, the so-called item veto." His footnot lists an article in WESTERN POLITICAL QUARTERLY, March 1950, <u>for general discussion</u>.

By the last phrase, I would guess he does indicate he did not get the figures from this article.

Malcolm Jewell in THE STATE LEGISLATURE: Politics and Practice (1963) says on P. 111. "In forty-one states the governor has an item veto on appropriations bills,.....".

In College Outline Series, Barnes & Noble, Inc., N. Y. STATE AND LOCAL GOVERNMENT by Joseph F. Zimmerman (Worcester Polytechnic Institute). P. 104 "In forty-one states the governor may use the item veto;....."

As you say, Gantt says on P. 183 "today only eight of the fifty states do not allow this power to their chief executive." Footnote BOOK OF THE STATES, 1960-1961.

The recent Iowa Legislature passed the Item Veto for the required 2nd time and it will be voted on in a referendum in 1968. So whatever figures were put in may soon be dated. Also other states may have taken action on it in legislatures just adjourned which will not be in the Book of the States. Saturday

Your manuscript arrived at 7:30 A.M. It is excellent, as your work always is.

Since you quite thoroughly discuss the two budgets on Page 6 under BUDGETARY POWERS, I think we should cut the sentence Para. 3,(my P. 2) sentence to the shorter sentence I referred to on the first page of this letter. In fact, I prefer all my deletions rather than the two possibilities you suggest. I would like to keep the line 7, P. 5 sentence you suggested as a possibility.

If you can get your thoughts on my deletions to me as soon as possible, by post card if you must, I will get the manuscript circulating as soon as possible. Since there may be suggestions from the committee that will alter our thinking, we won't delve any further into detailed appraisal until we see what happens to it.

The Victoria League finally sees some hope in County Redistricting. With the Supreme Court decision imminent, the Victoria Advocate has had two strong editorials within the last month urging Victoria County Commissioners to "do it themselves". We learned through the editorial's author that they are feeling the pressure and may consider taking some action. Their real motive is to appease the city residents enough so we will vote with them on county bond issues coming up, but anyway--. The Victoria League is rallying its forces to attend the Commissioners Court Monday morning when Adelyn Duke makes a public statement urging redistricting. So this local item with which you helped us may meet with quite unexpected success. We really have met with little encouragement in any changes in the county government or anything connected with the county.

Our Citizens Advisory Committee for a new library finally organized while

I was away! They are planning to push for a library in five years. Both the city and the county budgets are stretched to the breaking point for this year. If the LWV wants to speed up the schedule, we may have to restudy the item and see if the city sales tax (which our Mayor is working toward) as a possible source of operating funds for the new library when it is built. In the meantime, our librarian has resigned in discouragement. She was our greatest ally.

One important thing I forgot when our Dallas Royal Coach agenda was shortened. I have many Unit Discussion Leader's Guides from other Leagues. Do you want to borrow them for reference in preparing Area Conference material? I will list the ones I have so I will not have to send them ones you already have, provided that you feel they will help you.

Discussion Units in LWV - LWV of Idaho - 1965
A Manual For Discussion Leaders - LWV, Los Angeles, Calif. - no date
Leading Film Discussion - LWV, City of N. Y. - Sept. 1963
Discussion Leaders' Handbook - LWV of Indiana - no date
The Discussion Unit - Heart of The League - LWV of Pennsylvanis - APril 1966
Discussion Manual I - How To Get The Most Out Of Group Discussion - (For teachers of discussion participants - LWV New Y. City - Mar. '63
Handbook For Leaders - How to have successful meetings - LWV,N.Y. City - September 1963
A Workbook For Discussion Leader Training - LWV, Los Angeles - no date

We are having a severe drought and beginning next week will be able to water our lawns only once a week. So todayis a day of hauling water hoses about the yard.

One more thing, the Victoria League is expecting to be asked to be hostess for an Area Conference.

The Fi[illegible]d Service Report for Irving just arrived. They are planning a workshop on the Legislature co-sponsored by the Exchange Club for the first meeting in September. This upsets me as we will be late with F & I. Is is permissable for a State Program Chairman to send a bibliography to help them in this case? Yes, I know you are not Program V P, but you will be writing me anyway and will know the answer.

Thanks again,
Helen

Aug. 15, 1967

THE INFLUENCE OF THE GOVERNOR

GROWTH OF EXECUTIVE INFLUENCE. Under the first state constitutions supreme power rested with state legislatures. The powers of the governors, by contrast, were sharply limited. The governor was appointed by the legislature for a short term, was not expected to recommend legislation, and in only two states possessed the veto power.

The twentieth century has seen the governor become increasingly important in the legislative process. In large part this reflects a general desire for stronger executive leadership to cope with the urgent problems of modern life. State legislatures have difficulty in dealing with these problems for many reasons, among them lack of staff and shortness of time in which to consider the large number of bills presented. However, in Texas the legislature remains the dominant branch of the state government, although the influence of the governor upon the legislature has gradually increased.

The effectiveness of governors in influencing legislation depends upon their use of both the legal and the informal means of leadership available to them. What legal powers over legislation has the governor in Texas? And how effective are the informal methods of influence?

THE VETO. The governor's most effective constitutional tool for legislative leadership in Texas, the veto, is used in all states today except North Carolina. Every bill that passes both houses of the legislature must go to the governor for approval or veto. He is almost completely in control of any measure which he vetoes or threatens to veto because to override a veto requires the favoring vote of two-thirds of the members present in each house of the legislature. No veto has been overriden for well over two decades. During the period from 1875 to 1963 a little over 8 per cent of the vetoes while the legislature was in session were overridden.

Of the 1,715 measures enacted by the 59th Legislature (1965), Governor Connally vetoed 40. He vetoed 40, also, of the 825 bills passed during the regular session of the 60th Legislature (1967). Through the years, consideration of public policy has been the reason most frequently given by Texas governors for their vetoes. Other leading causes of vetoes have been unconstitutionality, improper drafting of bills, and reasons of economy.

In Texas, as in forty-~~one~~ other states, the governor has the power to veto individual items in appropriation bills without vetoing the entire bill. Item vetoes may be overridden by the legislature, in the same way as may other vetoes, but in practice overriding does not occur because the major appropriation bills, which are usually itemized, are not passed until shortly before the end of the session.

Court decisions have somewhat restricted the Texas governor's power of item veto. For example, the governor cannot reduce items in an appropriation bill or eliminate qualifications or directions for their expenditure. Also, if the governor files objections to items in an appropriation bill during the session, he cannot later veto other items in that bill after adjournment of the legislature.

Air Mail Special Del. It picked up at 5:15 P.M. CT on Fri. 8/11/67

[redacted]

E-7B

Dear Helen:

I'm enclosing my suggested substitutes for pages 4 through 8 of your manuscript on the governor, using the same page numbers that you do.

In doing the MESSAGES section I made it more specific by defining "mass media" and telling a bit about Governor Connally's 1967 message. In assessing the value of messages I followed the viewpoint of the textbooks, especially Gantt, McCleskey, and Benton. By the way, when I checked the wording of the "message" part of the constitution I found a misprint in McCleskey. On page 176, line 20, he has Article 12, but it should be Article IV!

I intended to re-do only MESSAGES, down to SPECIAL SESSIONS, as we discussed last Thursday evening, but in reading the section on SPECIAL SESSIONS I found so many sentences that were verbatim, or virtually verbatim, quotes of Gantt and McCleskey that I figured considerable re-vamping was necessary to avoid possible charges of copyright violation. I knew you would be terrifically busy with non-League things when you got home, so I went ahead and re-vamped SPECIAL SESSIONS for your consideration.

It seems to me that the paragraph on the legislative success of governors (last paragraph on your page 4, and continuing over on page 5) belongs almost at the end of the F & I, between the two quotations from Governor Shivers, where, revamped, it could be a sort of summary of how some governors have fared with the legislature. And in a revamped form it is included in that position in the enclosed pages. I did not include in it the material at the top of your page 5 as to why legislative proposals succeed or fail because, with my suggested change of the paragraph to legislative success of governors, without reference to their messages, it seems inappropriate. (Gantt's quoting of it, pp. 218-219, is in connection with the message power.) Also, we do have to delete.....

It seemed to me that the section on BUDGETARY POWERS (your pages 6 and 7) might be missing the boat by not including something about the budget situation in the 1967 session, which, according to the newspapers, may well have started a trend toward making the governor's budget more important than it has been. In my version, therefore, I condensed the material about other states and our two-budget system and eliminated discussion of earmarked funds and legislative review, substituting instead the material in my 3rd and 4th paragraphs. The second and third sentences of my 3rd paragraph, by the way, are based on UPI and AP dispatches in the Dallas Times Herald for April 30, 1967, and November 16, 1966, respectively.

In the section on INFORMAL POWERS I mostly tightened up wording or changed a few sentences to be less like their sources in the textbooks. I also deleted the paragraph beginning "In a one-party state like Texas", on your page 8, because I think that for effectiveness it needs more explanation, the space for which we don't have.

I've been thinking about the length of this F & I, and it seems to me that 6½ pages of manuscript is probably a little too long, even though it is one-half of F & I #1's 13 pages, because page 1 of this F & I has to have the heading on it and page 2 has to have the information about price, etc., at the bottom. So I've done some figuring, and the next paragraph is the result.

There were 368 lines in the final draft manuscript of F & I #1; 79 of these are on page 1 of the printed F & I and 91 of these lines are on page 4 of the printed F & I. Four manuscript lines, with one of them having only a few words on it, would make 4 printed lines and could be added to the 91, one in the first column and three in the second, and would still give sufficient margin above the pricing and ordering information. Ninety-five plus 79 is 174 lines of manuscript that can be printed on a 2-page F & I, having margins and spacing between lines, etc. the same as in F & I #1. The 6½ page manuscript length we've been figuring on would be 184 lines (1/2 of 368), which would be 10 lines too long. The five pages I'm enclosing total 127 lines (29 plus 28 plus 28 plus 29 plus 13). I'm afraid this is too much when added to what you've already done on the revised first part of the manuscript. If it is necessary to cut I'd suggest the following candidates for cutting from my pages 4 - 8: on my page 4 delete the second sentence under SPECIAL SESSIONS, beginning "Governors call....", and/or on my page 5 delete the sentence beginning at the end of line 7, "In most of the states it is he who specifies the subjects of legislation to be considered." These two would cut about 5 lines.

Yours,
Elizabeth

We had some of the apple relish with meat loaf the other evening, and it was delicious. Thank you again for it and the jelly -

E.

MESSAGES. The constitution requires the governor to give to the legislature, by message, at the start of each session and at the close of his term of office, information as to the condition of the state. He is required, also, to recommend to the legislature such measures as he deems expedient, and to present his budget within five days after the legislature convenes. His "State of the State" message, delivered in person at the start of the session and given statewide coverage on TV, radio, and in the newspapers, presents his general recommendations for legislation and his estimate of which are most important. Governor Connally's message to the 60th Legislature (1967) dealt with some thirty major subjects, ranging from constitutional revision by convention to traffic safety.

How important are messages in the governor's relationship with the legislature? They are his chief means of setting forth his legislative program and focusing public attention on it, but much more is necessary to get his program enacted--bills must be drafted and managers found for them, and support must be recruited for every step of the way from introduction to enactment. During the session the governor's staff includes administrative assistants who handle legislative matters, testify before committees, and obtain witnesses for particular bills. The effectiveness of messages in influencing the legislature seems to depend upon the governor's skill in using his other powers and devices for legislative persuasion.

SPECIAL SESSIONS. Another important legislative power granted to governors by state constitutions is that of calling special sessions. Governors call special sessions for many reasons: to complete passage of needed legislation, for example, or to deal with emergencies, or to put a program into operation more quickly. The special session may serve as a device for gubernatorial influence on legislation, as it

is a means of drawing public attention to an issue which is part of the governor's program. Since legislators as a rule do not like to leave their jobs to attend special sessions, a threat to call one may be enough to get legislators to support the governor's program during the regular session.

The governor in every state is empowered to call special sessions. In all but fourteen states this power is his exclusively. In most of the states it is he who specifies the subjects of legislation to be considered. In seven states the governor must call a special session if he is petitioned to do so by a specified majority of each house. In six states the legislatures are authorized to call special sessions.

In Texas the governor's power to call special sessions includes the authority to specify what is to be considered in them. The number of special sessions he can call is not limited, but the maximum duration of each session is restricted to thirty days. Nor does the governor have complete control over the agenda, for although he can specify the subject matter for the session he cannot limit the legislature to the details he specifies. Too, his agenda must often include subjects particularly wanted by the legislators if he is to have their support for his projects. Furthermore, the courts have upheld the validity of legislation on topics not included in the governor's call.

From 1876 through 1967 there have been sixty-nine special sessions of the Texas legislature, called by twenty of the twenty-four governors who have held office during that period. Most of these sessions have dealt with financial crises or emergency conditions. Five special sessions, the largest number for any one legislature, were called in 1929-1930 by Governor Dan Moody, primarily to effect prison reform, provide more money for education, and establish civil service regulations for state employees. The most recent special session, in 1966,

was called to replace the registration system based upon the poll tax requirement for voting which had been declared unconstitutional by the U. S. Supreme Court.

BUDGETARY POWERS. In forty-four states the governor is responsible for preparing and submitting the budget to the legislature. In one state --Arkansas--the legislature has this responsibility, and in the remaining states budget preparation is done by boards or commissions.

In Texas two budgets are presented to the legislature: one by the governor and the other by the Legislative Budget Board, whose members are four representatives and four senators plus the speaker of the House and the lieutenant governor. Ordinarily the legislative budget is smaller than the executive budget and the legislature tends to prefer the budget prepared by its own board to that of the governor.

Events before and during the 1967 session of the legislature indicate that a new trend may be in the making, with the governor's budget accorded much more consideration than it has had heretofore. In what was described as a political conflict between the speaker of the House and the lieutenant governor, the long-time executive director of the Legislative Budget Board was fired in August 1966, leaving about half of the budget proposals, including some of the most complicated, still to be reviewed. News accounts ~~Press comment~~ pointed out that this ~~the~~ blow to the legislative budget would strengthen the governor's hand in budgetary matters and that he had said, shortly after taking office, that budget writing should be left to the governor.

The dispute over proposed new taxes was the main cause of the legislature, at the governor's urging, taking the unprecedented step of appropriating money for the state government for only one year instead of the normal two.

INFORMAL POWERS. The governor's role as legislative leader comes only partly from his constitutional and statutory powers. There are many other factors which enhance his influence.

One of these is that, as chief of state, he is the best known state government official, the state's representative in national and state affairs, and responsible to a statewide constituency. The governor's activities, which are widely publicized, help him in exercising legislative leadership, even when they are purely social or ceremonial, because they add to his prestige and hence to his persuasiveness in dealing with members of the legislature. In exercising his power of appointment to some 110 boards and commissions he can also influence legislators.

Another factor is the position of the governor as titular head of his political party. In Texas he can generally count on the state executive committee and many local party leaders to support his legislative program. At state conventions he can exert legislative leadership by proposals given in his speeches and in the party platform, the writing of which he usually controls, and in his many contacts with the party faithful. His party position is also of importance in influencing the selection of legislative leaders. Unless he can have the cooperation of most of these leaders his legislative program has little chance of adoption.

Another important factor is the personal qualities of the governor himself. Former Governor Allan Shivers has this to say: "The personality, persuasiveness, reliability, flexibility, determination and courage of the Governor can, and do, make the difference between success and failure of a legislative program."

LEGISLATIVE SUCCESS OF GOVERNORS. How have the legislative programs of Texas governors fared? Governor W. Lee O'Daniel (1939-1941) with

the failure of the important features of his legislative program, probably had the least success. Governor Allan Shivers (1947-1957), with his previous experience of twelve years in the legislature and two and a half years as lieutenant governor, was especially successful with his legislative program. Governor John Connally (1963--) had notable success with the 59th Legislature (1965). He has estimated that 80 to 85 per cent of his program was enacted by the 60th Legislature (1967) in regular session. Several of his major recommendations to the legislature, however, were not enacted.

CONCLUSION. "I think it may be truthfully said that the Governor's relationships with members of the Legislature are the most delicate, the most fascinating, and the most rewarding of his activities."-- Former Governor Allan Shivers.

Needs 1½ to 1¾ pages cut out

July 30, 1967

p. 177

THE INFLUENCE OF THE GOVERNOR

GROWTH OF EXECUTIVE INFLUENCE. Under the first state constitutions supreme power rested with state legislatures. The powers of the governors, by contrast, were sharply circumscribed. The governor was appointed by the legislature for a short term, was not expected to recommend legislation, and in only two states possessed the veto power.

The Twentieth Centruy has witnessed the emergence of the governor as an increasingly important force in the legislative process. This growth in power corresponded with his increased influence in state government generally and a decline in that of the state legislature. Among the many factors accounting for this development are a general desire for stronger executive leadership to resolve crises and solve urgent problems created by the complexity of modern life. ~~At the same time, state legislatures, faced with these problems, are hampered by lack of staff, a coordinated committee system, and positive leadership in policymaking.~~ Only recently has ~~a~~ movement begun to improve the position of the state legislature. However, in Texas the legislature remains the dominant branch of the state government, ~~but~~ although the position of the governor has gradually improved, including his role as legislative leader where, together with his role as party leader, his real importance lies.

Although governors generally, as administrators, are greatly hampered by lack of constitutional authority, both legal and informal leadership tools are available to them. Their effectiveness in influencing legislation depends upon their ability to make use of these devices in the political situations which prevail in the individual states. What are these legal devices? How effective are the informal methods?

THE VETO. The governor's most effective constitutional tool for legislative leadership in Texas, the veto, is granted in all states today but North Carolina. Every bill that passes both houses of the legislature must come to the governor's desk.

Constitutional language concerning passage over the veto varies from state to state. The requirements are three-fifths of those elected or three-fifths of those present, two-thirds of those elected or two-thirds of those present, in six states a jamority of those elected in each house, and in one state a majority of those elected. In twenty-four states the veto is virtually absolute. The two-thirds rule in Texas places the governor almost completely in control of any measure which he vetoes or any measure which he threatens to veto. If a legislator knows the governor is opposed to legislation, this is often enough to cause them to modify or abandon a measure. The veto power in Texas is strengthened by the way in which bills are rushed through during the closing days of the session, as the veto cannot be considered by the adjourned legislature.

Various studies indicate that the veto is not often overriden by the legislatures. On the average only about one or two percent are overridden in a year. In the year 1947 of the 24,928 legislative bills possed in the united States, 1,253 were vetoed and only 22 were overridden. In Texas, over a period of about ninety years only 25 of 300 vetoes have been overridden; and no veto has been overriden since World War II.

The late Governor Dan Moody holds the veto record for Texas governors with 117 vetoes in four years. Out of 1,715 measures enacted by the Fifty-Ninth Legislature (1965), 40 were vetoed. Governor Connally vetoed 40 of the 825 bills passed during the Sixtieth Legislature (1967).

An analysis of the vetoes by Texas governors shows that consideration of public policy is most frequently given as the reason for rejection, as well as reasons of economy, unconstitutionality, and improper drafting.

The conditional veto, as it is called in New Jersey, by which the executive may return a bill with suggestions for change, is provided for in four states. This device is used informally in other states. This has been suggested as an alternative to decreasing the fractionsl requirements necessary to override, if there is a feeling that the veto power is too strong.

All but nine governors have the item veto power which even the president of the United States lacks. The item veto enables the governor to strike out individual appropriation items without vetoing the entire appropriations bill. Its effectiveness depends upon the degree to which appropriations are itemized and the extent to which appropriations are earmarked. The development of improved budgetary procedures may have lessened the need for this device.

In Texas the override power of the legislature is ineffective since the final appropriation bill is passed at the end of the session. For the 1963-1965 biennium the governor vetoed items totalling in excess of $12 million from a _____ billion appropriations bill. For the 1965-1967 biennium Governor Connally vetoed items toalling over $2\frac{1}{2}$ million from a $_____ billion bill. And in 1967 he line-item vetoed over $3 million of the one year appropriation bill of $2.3 billion.

Some judicial restrictions have been placed upon the item veto in Texas. The Texas Courts have held that the governor does not have the power to reduce items or to eliminate qualifications or directions for their expenditure in an appropriations bill. Also, if the governor files objections to items in an appropriations bill during the session, he may not later veto other items in the same bill after adjournment of the legislature.

MESSAGES. The Texas Constitution requires a message from the governor at the beginning of the session, information on the condition of the state at the close of his term, and recommendations to the legislature of such measures as he considers expedient, including estimates of needed tax revenue. The governor may use this constitutional power to good advantage in asserting his legislative leadership. His "State of the State" message delivered in person at the beginning of the session is disseminated to a wide audience by the mass media, it sets priorities among the masses of bills to be considered and gives needed direction. It has no rival. As a foundation for his recommendations he has the information derived from various executive administrators and party officials, the reports of the various interim and research studies, and the presentations of interest groups. Much subsequent action is necessary, such as drafting bills, finding managers, and marshalling support. During the session the governor's staff includes administrative assistants to handle legislative matters, testify before committees, and arrange witnesses for certain bills. In spite of the white light of publicity given the governor's messages, some legislators feel no obligation to support the governor's proposals if they are contrary to their own ideologies or platforms upon which they were elected.

Texas governors have had varying degrees of success with their legislative programs. Governor W. Lee O'Daniel, who used messages generously in promoting his program, was less than successful in getting it adopted. Governor Allan Shivers, on the other hand, relied almost entirely on his opening messages and the legislature responded by enacting many of his proposals. In recent years Governor John Connally is credited with having an extremely high batting average, especially with the Fifty-ninth Legislature (1965). According to his own estimation, about eighty to eighty-five percent of his program was enacted by the Sixtieth Legislature

(1967) during the regular session. Legislative proposals succeed or fail for a variety of reasons: 1) They are contrary to the interest of some powerful group or groups; 2) Public opinion is strongly expressed and sharply divided; 3) The public is not yet ready for the proposal; (Constitutional revision is an example.) 4) The governor proposes what he knows cannot be accepted because he is looking to the future, is floating trial balloons, or is otherwise exerting leadership.

SPECIAL SESSION. Another important legislative power granted to governors by state constitutions is that of calling special sessions. Governors call special sessions for many reasons; 1) to complete passage of necessary legislation, 2) to cope with emergencies, 3) to begin the operation of a program more expeditiously. The special session may serve as a device for influence by the governor on legislation, as it is a way to draw public attention to an issue which is part of the governor's program. Since legislators as a rule do not like to leave their jobs to attend special sessions, a threat to call one may be enough to get legislators to toe the line on the governor's program during the regular session.

The governor in every state is empowered to call special sessions. In all but fourteen states this power lies exclusively with the executive. In a majority of the states he is authorized to specify the subjects of legislation to be considered. In seven states the governor must call such a session if he receives a petition to that effect from a specified majority of each house. In six states the legislatures are authorized to call sessions at such times as they judge necessary. A recent report by a legislative study committee of the Utah Legislative Council recommends equalizing the special sessions power of the legislature and the governor by permitting the presiding officers to convene the legislature at the request of two-thirds of the members of each house.

Under the Texas Constitution the governor has the power to call and to specify what is to be considered in special sessions. There is no limit to the number of called sessions but the maximum period for each is thirty days. The governor's control of the agenda is diminished by several restrictions. He can specify the subject matter but cannot confine the legislature to his details, and he must bargain with the legislators by introducing subjects they want in exchange for their support of his projects. However the custom has developed in Texas that legislation on other topics may be passed unless some member of the house in which the bill is being considered raises a point of order which is sustained by the presiding officer. If such bills are passed and signed by the governor or filed by him with the secretary of state without his signature, they are considered valid.

From 1876 through 1967 there have been sixty-nine called sessions in Texas. Of the twenty-four governors who served during that period only four have failed to call at least one. Such sessions have been necessitated mostly by urgent financial problems or by emergency conditions. The last called session was in 1966 to replace the system based upon the poll tax requirement for voting which was declared unconstitutional by the United States Supreme Court.

BUDGETARY POWERS. The opportunity to lay a budgetary blueprint for the state's progress, as he wants it, is given to the governor in forty-four states. In four other states it is vested in a board in the executive branch or a combination of both legislative and executive branches. Arkansas is the only state which assigns budget preparation to a legislative agency.

If the governor has the power to prepare a budget, he will generally have research help and insight into the problems of state govern-

ment. He ~~will have~~ thus has a means of exerting administrative, as well as legislative, leadership. On the other hand he is often limited by earmarking ~~and mandatory commitment~~ of funds, ~~as well as lack of~~ and inability to review ~~of~~ budget requests of departments administered by officials independently elected. (? ?) Although the legislature has the final say, legislative review is an uncertain element since the time provided for such review is during the busy closing days of the session. (? ?)

In Texas the governor is required by statute to prepare a budget making recommendations for appropriations for the various agencies and functions. By the constitution he is required to make recommendations regarding tax revenue. But Texas has two budgets, the second prepared by the Legislative Budget Board, created in 1949 and composed of the presiding officer and four members from each house. Often there is wide disagreement between the two budgets. For example, the legislative budget for the biennium1962-1963 was $32million less than the executive budget. However, no ~~amount~~ degree of agreement between the two ~~budget~~ budgetary agencies can overcome the fact that 85% of every Texas tax dollar is already committed for specific purposes by constitutional provisions or by statutes. As a result of the dual budgetary system and the committed funds, the budget powers of the Texas governor are far less than if he had full responsibility for fiscal planning.

INFORMAL POWERS. The governor's role as legislative leader can only be partly imperfectly explained by an examination of constitutional and statutory provisions giving him legislative power. There are many other factors which enhance his influence.

One of these is the fact that the governor as chief of state is the most visible and best known state government official, the state's representative in national and state affairs, and responsible to a statewide constituency, which has meant in many states an urban constituency.

The governor's activities, which command wide attention by the mass media are of value in exercising legislative leadership even when they are purely social or ceremonial, because they add to the governor's prestige and status and hence to his persuasiveness in dealing with the individual legislator. His appointive powers to some one hundred ten boards and commissions are of interest to the legislators who have supported his legislative programs.

Another factor is the position of the governor as titular head of his political party. In Texas he can generally count on the cooperation of the state executive committee and many local party leaders to support his legislative program. At state conventions he can exert legislative leadership by proposals given in his speeches and in the party platform, the writing of which he generally controls, and in his many contacts with the party faithful. His party position is also of importance in influencing the selection of key legislative leaders. Unless he can get the cooperation of most of these leaders during the sessions, his position is almost hopeless.

In a one-party state like Texas, the lack of an opporition is both a blessing and curse insofar as legislative leadership is concerned. He does not have to worry about an organized opposition ready to cut down his program, but also, he cannot count on the cohesive support of his party.

Another important factor is the personal character of the governor himself. Former Governor Allan Shivers has this to say:

"The personality, persuasiveness, reliability, flexibility, determination and courage of the governor can and do, make the difference between success and failure of a legislative program."

"I think it may be truthfully said that the governor's relationships with members of the legislature are the most delicate, the most fascinating, and the most rewarding of his activities."

Perhaps the governor can be the chief legislator only if he is the chief persuader.

Mrs. F. L. Duckworth
[redacted]

July 27, 1967

Dear Elizabeth,

We will leave here Monday, August 1. The summer recreation program is having a parade Saturday morning that the children would like to stay for. I should be in Dallas by Wednesday evening. I can't drive long the first day as I am so tired from loading the car. Could you confer with me on Thursday?

Do you know a teenager who would like to earn some money babysitting with my children? They are 6 and 8. I will be glad to pay the going rate for Dallas. They can entertain the children around the pool, watching t. v. in the room, etc. Or perhaps if we are close enough and they are reliable, they could take the children to 6 Flags.

I have the rough manuscript of the governor. I will try to type it later and get it to you before I leave. We must go to Des Moines today, therefore I have hope that this letter will get to you Friday. If you cannot get an answer back by mail, I will call you Sunday to see if this will all fit into your plans. I will not be here to get mail Monday.

Love,
Helen

P.S. Did you see Clara Straley in this week's Life.

July 10, 1967

To: Boller, Duckworth, SO, Martin, May, Ramey, Jordan, Kyre, Wackerbarth
From: Brownscombe
Re: Facts & Issues #2 (Governor and Lobby)

Congratulations, Glen, on the tremendous job you have done on F & I #2. Your presentation is a real aid to the "generalist" reader's knowledge of the legislative role of the governor and to understanding the many ramifications of lobbying and the dilemmas of regulating it.

Of major concern is, I think, the problem Glen mentions--the length of the manuscript. Now that F & I #1 has been printed we can tell quite accurately what the length of the manuscript should be. Because of difference in type and margin a page of Glen's manuscript is equivalent to 1 and 1/3 pages of the manuscript from which F & I #1 was printed. The 13 pages of ~~the manuscript from which~~ that manuscript correspond, therefore, to 9 pages of Glen's manuscript--see my memo of May 20th for details. (My former state Board job as publications editor is showing in my trend of thought.) But how can a 14½ page manuscript (10 pages on lobbying and 4½ pages on the governor) full of valuable information, be reduced by over 1/3? It can be done, of course, and would be satisfactory, I'm sure, but what a job it would be and, also, do we want to discard so much material of interest?

I wonder, however, if Glen's present manuscript could be published as <u>two</u> F & I's--one of which, reduced from 10 to 9 pages of her manuscript, would be a full-size (4-page) F & I on lobbying, and the other a half-size (2-page) F & I on the governor's influence on the legislature. Glen's present 4½ pages on the governor is the right length for a two-page F & I, and we do have the precedent of the two-page F & I on the county published three years ago which sold as well as did the full-size F & I's of the series.

As to the <u>content</u> of F & I #2 I am in favor of relying on our particularly knowledgeable members, Glen and Janice. A publication based essentially on Glen's manuscript, with changes indicated by Janice from her professional and practical knowledge is just what we want, I think. My comments on the manuscript are from the viewpoint of a fairly knowledgeable amateur in the subject who is especially concerned that the writing convey its meaning clearly and be interesting to the average League member. Some comments of that sort follow.

<u>THE GOVERNOR</u>.

<u>Page 1, first paragraph of "The veto"</u>. The meaning of the fifth sentence of this paragraph, on the requirements for overruling, is not clear--perhaps some words have been left out in the typing. In the last sentence of this paragraph substitute "between passage and adjournment" for "after passage and before adjournment"....For the second paragraph on the veto I prefer Janice's wording and the use of her Texas figures on overriding.

Page 1, paragraph on "Conditional veto". Insert "other" as next-to-last word of first sentence, to make "some other states". In the second sentence shouldn't "alternative for increasing" be "alternative to decreasing"? In the third sentence shouldn't it be "The Texas governor can not veto" instead of "may not veto"? After the fourth sentence insert as the fifth sentence Janice's data on bills vetoed from the 60th Legislature.

Page 2, second paragraph of "the item veto". Some words have been omitted at the end of the first line of this paragraph. In the second and third sentences the total of appropriations should be given, as "12 million out of total appropriations of ___ billion", and Janice's 1967 information, with the total appropriations also given, should be included, I think. The fifth sentence should be re-written to avoid awkwardness in sentence structure.

Page 2, first paragraph of "Gubernatorial messages". The third sentence needs re-working, I think, to eliminate the reference to "advantages" (they are not a part of the foundation for his recommendations) and to clarify "resources of the party machinery". I'd suggest some such sentence as: "As a foundation for his recommendations he has the information derived from various executive administrators and party officials, the reports of the various interim and research studies, and the presentations of interest groups."

Page 2, second paragraph of "Gubernatorial messages". For uniformity of wording the last half of the third line of this paragraph should be "and recommendations to the legislature of such measures as he considers expedient"....I like Janice's material on messages, in addition to Glen's. I also favor pointing out that Texas governors have had varying success with their legislative programs, as Janice says, and I like the use of actual examples of both success and non-success. (Governor Shivers is an example of success from the 1950's. Seth McKay's TEXAS POLITICS FROM 1906 TO 1944 sums up the legislative success of each governor of that period, and, as I remember the book, "Pappy" O'Daniel was notably unsuccessful in both terms and several other governors were only moderately successful.) In using Governor Connally's estimate of his success shouldn't we also give an idea of the importance of the legislation in the 80-85% or, alternatively, the importance of the 15-20% of his program which was not enacted?

Page 3, "Special sessions". The last sentence of the first paragraph needs amplifying, and I suggest something like this: "The threat of calling a special session may also gain enactment of the governor's program in the regular session"....The last sentence of the second paragraph is not quite clear, I think. I recommend inserting "special-sessions power of the" before "legislature" in the middle of the third line from the end of the paragraph....In the third paragraph I suggest changing the beginning of the third sentence to read: "The governor's control of the agenda is diminished by several restrictions: he can specify only legislative matters" etc.

Page 4, "Budget Making". In the fifth line of the second paragraph "prepared" or a similar word should be added after "second", "Texas" can be omitted, and "Budget" should be inserted to make "Legislative

Budget Board". In the sixth line of the paragraph "officers" should be "officer". In the last sentence of the paragraph the relationship between the two ideas expressed is not clear to me.

Page 4, "Appointive powers". If the manuscript must be cut I would favor eliminating this section. Otherwise I would retain the information in the second and third paragraphs and emphasize the role appointments play in getting the legislature to go along with the governor.

Page 5, "Political opportunities". I like Janice's suggestions for this section and suggest they be blended with Glen's paragraph. I think the work of the governor's staff with the legislature should be mentioned. And the second full paragraph of page 2 of my memo of May 20th contains some information supplementary to Janice's very last paragraph at the end of her page 4.

Conclusion. I think the remark of Governor Shivers that Janice quoted would be an appropriate, and unusual, conclusion.

LOBBYING.

On this section of F & I #2 I'll make a few general comments only, for detailed comments would xxxxxx seem to be "love's labor lost" until we know how much the manuscript will have to be cut.

I share Janice's doubt about the organization of the manuscript and think that her 7-point outline is good.

I like the general xxxx tone of Glen's manuscript and think she strikes a satisfactory balance between the good and bad aspects of lobbying.

The quotation from Karl Schriftgeisser on page 1 is very effective, I think. The Buchanan Committee statement doesn't necessarily disagree with Schriftgeisser because the committee is talking of legal classification.

I am puzzled as to the meaning of the third sentence (re "public interest") in the last paragraph on page 1. Does it mean that "the proper use of established legal and institutional procedures and all available information" by a lobbyist makes the measure he is lobbying about in the public interest, no matter what are the provisions of the measure? If that is the meaning of the political scientists then I think a layman's definition, which would take account of the objectives of the legislation, should also be given.

July 13, 1967

Dear Helen:

I'm truly glad that Janice now has the time to study the manuscripts of F & I Nos. 2 and 3 and to make her very constructive comments on them. I think of her as our real authority on these topics, and she is also very good at putting things clearly and succinctly. With her professional knowledge and practical experience added to the knowledge of the authors the F & I's should be very good indeed.

With Janice helping with the content of the F & I's I don't think it's necessary for me to do such intensive work on them as I did with F & I #1, and that's a relief because I'm up to my ears in area conference stuff and finishing the April Board meeting minutes. I don't mean I'll stop offering suggestions --I'm too interested in the F & I's and the whole legislature item to do that--but I won't--indeed I can't--spend so much time over them.

The Dallas LWV had a special summer meeting on the 14th with three of our legislators. It was excellent and I wish the whole state Board could have been there. I'm writing a report of the meeting for you and the others on the legislature committee--both on and off-Board--and expect to mail it out over the weekend.

I sure hope your well is drilled by now and yielding water as it should.

Yours,

TO: Duckworth, Martin, Ramey, Brownscombe, May, Kyre, Jordan and Wackerbarth - SO 6/16/67
FROM: Boller

Attached a re-writing of the first part of F&I #2 - and I have managed to cut it in half. I have found an extra copy of the first writing, and I will send it along to Eloise, so she can see what I have done. I remember that Eloise was concerned about comprehensive inclusion of the governor's influence. Although only a few of you received Brownscombe's May 20th memo in which she thought I had portrayed the governor's influence as too great, and also suggested that F&I should contain liberal use of "local color", case histories, and actual experiences, I went to the committee meeting in Houston concerned about what the committee felt should be in F&I's. This latter suggestion of Brownscombe's was discussed and there seemed to be agreement that, considering how brief these have to be, and how some LWV members will get around to reading that material only, we had better limit ourselves to simple facts and issues. Also, you will remember that we stressed that we would this year try to compare what we have with other states, so that is the way I have tried to handle this. Anyway, I just believe this is the best I can do on this part of #2 - now I will get on with finishing up and/or re-writing (if I have to) the draft on the rest of #2. I would suggest that Janice May check this thoroughly - or will someone else do this? Some of you have copies of the partly done draft on LOBBYING, I seem to have only one copy - and I don't know if Helen did send one to Eloise. Anyway I'll get on with it, and I would appreciate comments from any of you on the part you have. Also, I have not had time to prepare questions for discussion as yet - won't you all please send some guggestions related to the gov. part.

Eloise, I imagine Helen sent you her address in Iowa - c/o R. H. Wortman, Route2, Ames, Ia.

Oh yes, I left plenty of space on the right hand side for comments, and I suggest you send them to Helen, so she can be considering what changes should be made in this part of #2.

OUTSIDE INFLUENCES ON LEGISLATION

Executive Influence - The early 20th century witnessed the emergence of a new kind of legislative-executive relationship which, although somewhat in conflict with the original separation of powers concept, is now widely accepted as an important historical development. Many factors were involved in this development. State legislatures, faced with problems of increasing size and complexity, and hampered by much needed improvements in that branch, were in need of additional leadership; constitutional changes strengthened the governors' powers to some extent; and governors have been able to assume more political power and party leadership. Although governors generally, as administrators, are greatly hampered by lack of constitutional authority, some legal devices are available to them. The effectiveness of these as tools for influence on legislation depends upon their ability to make use of them in the political situations which prevail in the individual states.

The veto device was not included in most early state constitutions. However, by 1812 nearly 1/2 of the states had adopted the veto. Now in all states except North Carolina the governor has the veto power which makes available also the threat to veto. Constitutional language concerning the veto varies from state to state. The requirement for overruling by the legislature varies from 3/5ths of those elected and 3/5ths of those is usually present; 2/3ds of those elected and 2/3ds of those present; in 6 states a majority of those elected in each house; in 1 state a majority of those elected. In Texas the requirement is 2/3ds of members present in both houses. The time allowed for veto between passage and adjournment varies from 3 to 15 days, after adjournment from 5 to 45 days - in Texas, 10 days, excluding Sundays, and 20 days, respectively.

Various studies indicate the use of the veto. In [the year] 1947 of the 24,928 bills passed in the U.S., 1253 were vetoed, and only 22 were overridden. In 24 states the veto is virtually absolute. The 2/3ds rule places the governor almost completely in control of any measure which he vetoes, or any measure which he threatens to veto.

The conditional veto, as it is called in N. J., by which the executive may return a bill with suggestions for change, is provided for in 4 states, and this device is also used informally in some other states. This has been suggested as an alternative to increasing the fractional requirements necessary to override, if there is a feeling that the veto power is too strong.

The Texas Governor may not veto proposed constitutional amendments. Out of 1715 measures enacted by the 59th Legislature (1965) 40 were vetoed. Among reasons given were - conflicting laws, unconstitutionality, duplication, improper drafting, etc. The veto power in Texas is strengthened by the

way in which bills are rushed through during the closing days of the session, (after the 10 days before adjournment requirement), as the veto cannot be considered by the adjourned legislature.

The item veto applies to appropriation bills. Its effectiveness depends upon the degree to which appropriations are itemized and the extent to which appropriations are earmarked. All but 9 state governors have this veto power. The development of improved budgetary procedures may have lessened the need for this device.

In Texas, the override requirement is 2/3ds of members present, but ineffective since the final appropriation bill is passed at the end of the session. For the 1963-1965 biennium the Governor vetoed items totalling in excess of 12 million. For the 1965-67 biennium he vetoed items totalling over 2½ million. Some judicial restrictions have been placed upon the item veto in Texas. The Texas Courts have held that the governor does not have the power to reduce items or to eliminate qualifications or directions for their expenditure placed on appropriations. Also if the governor files objections to items in an appropriation bill during the session he may not later veto other items in the same bill after adjournment of the legislature.

Gubernatorial messages to the legislature are usually required or enjoined by state constitutions. By submitting his legislative program the governor can exercise legislative leadership. As a foundation for his recommendations he has the advantages derived from information from the various executive administrators, the resources of the party machinery, the reports of the various interim and research studies, and the presentations of interest groups. The governor's message is important because it is delivered in person, and is widely covered by the news media. In addition to the initial message, some states require a message at the end of the session and in almost every state the governor has the prerogative of special messages during the session in order to focus public attention on principal items. Although a large part of the governor's program recommended in his message is often enacted into law, much subsequent action is necessary, such as drafting bills, finding managers, and marshalling support.

The Texas Constitution requires a message from the governor at the commencement of the session, information on the condition of the state at the close of his term, and that he shall recommend to the legislature such measures as he considers expedient, including estimates of money to be required by taxation. Examination of results during sessions of the Texas Legislature reveal many interesting examples of proposals by the

governor which both succeeded and failed. Some of the failures might fall into such categories as - proposals contrary to the interest of some powerful group or groups; proposals on which public opinion was strongly expressed and sharply divided; proposals made by the governor in expectation or perhaps knowledge that they would not be accepted.

Special sessions of state legislatures have been called by governors to complete passage of necessary legislation; to cope with emergencies; to begin the operation of a program more expeditiously; The special session may serve as a device for influence by the governor on legislation as it is a way to pinpoint one or a few issues. It also has power as a threat. The threat of calling a special session may also gain enactment of the governor's program in the regular session

The governor in every state is empowered to call special sessions. In all but 14 states this power lies exclusively with the executive and in a majority of the states he is authorized to specify the subjects of legislation to be considered. In 7 states the governor must call such session if he receives a petition to that effect from a specified majority of each house. In 6 states the legislature is authorized to call special sessions at such times as they judge necessary. A recent report by a legislative study committee of the Utal Legislative Council recommends equalizing the special-sessions power legislature and the governor by permitting the presiding officers to convene the legislatuve at the request of 2/3ds of the members of each house.

Under the Texas Constitution the governor has the power to call and to specify what is to be considered. There is no limit to the number of special sessions but the maximum period for each is 30 days. The governor's right to control the agenda is diminished by the fact that reversal restrictions: he can specify only legislative matters (no constitutional amendments can be initiated), he can specify the subject matter but cannot confine the legislature to his details, he must bargain with the legislators by introducing subjects they want in exchange for their support of his projects. also However, notwithstanding the governor's theoretical control of subject matter, the custom has developed in Texas that legislation on other topics may be passed unless some member of the house in which the bill is being considered raises a point of order which is sustained by the presiding officer. If such bills are passed and signed by the governor or filed by him with the secretary of state without his signature, they are considered valid.

From 1876 through 1965 there have been 68 special sessions in Texas. Of the 24 governors from 1876 through 1965, only 4 have failed to call at least one. Such sessions have been necessitated mostly by urgent financial problems or by emergency conditions. The last special session

was called in 1965 for the single purpose of enacting a new system of voter registration to replace the outlawed poll tax.

Budget-making is another source of the governor's opportunity to lead the legislature. This responsibility is given to the governor in 44 states; in 4 other states it is vested in a board composed either of members of the executive bfanch or of both the legislative and executive branches. In only one state is budget preparation assigned to a legislative agency. As stated previously, the item veto is one constitutional power which relates to budget-making. Some states empower the governor to reduce appropriation for individual items. The governor is often limited by earmarking and mandatory commitment of funds and lack of central review of budget requests of departments administered by officials independently elected. Although the legislature has the final say, legislative review is an uncertain element since the time provided for such review is usually very brief.

In Texas, the Governor is, by statute, the state's chief budget officer and is required to make recommendations for appropriations for the various agencies and functions; by the constitution he is required to make recommendations regarding tax revenues. But Texas has two budgets, the second by the Texas Legislative Board, created in 1949 and composed of the presiding officers and 4 members from each house. Often there is wide disagreement between the two budgets. However, no degree of agreement can overcome the fact that 85% of every Texas tax dollar is already committed for specific purposes.

Appointive powers of the governor are weakened by such factors as the election of major administrative heads, longer terms than the governor for major department heads, direct appointment by the legislature of some boards or commissions, an effective merit system in some states, lack of power of removal, confirmation of appointments by the legislature. However, the absence of full appointing authority does not necessarily render the governor powerless - for example, department heads may need funds available only through the governor's budget recommendations to the legislature.

In Texas, although only one constitutional head, the secretary of state, and two statutory department heads are appointed by the governor, there are appointive positions on some 110 boards and commissions. Also the governor, constitutionally, may fill elective vacancies until the first general election thereafter. To fill a vacancy in the Texas House or Senate or U.S. Senate it is necessary to call a special election. Appointments must be confirmed by vote of 2/3ds of Senate members present.

Appointments by the governor involve many practical considerations, such as finding persons equipped with both personal and legal qualifications, adequate geographical representation, past political support by the appointee, the recommendations of local people and of special interest groups. Also of importance - and related to the governor's influence on legislation - approval of the Senator from the district involved.

Political opportunities for influence on legislation by the governor are extremely important. Since he is elected by a broad constituency his campaign promises and platform receive statewide attention. If he is an incumbent, the voters also evaluate his past performance. As a candidate he commits himself by his position on important issues, and he tries to dominate his party convention and platform. He can exert early influence in the selection of legislative leadership, and behind-the-scenes conferences with legislative leadership during the session can be very effective.

All of these possibilities pertain to and are used effectively by governors in Texas, who have the added advantage of serving in a practically one-party state.

In summation, the opportunities for executive influence on legislation are legion, but much depends on the skill of the exeutive to take advantage of both legal and extra-legal possibilities. Perhaps he can be the chief legislator only if he is the chief persuader.

This ms. is 10 pages

TO: Duckworth, Martin, Ramey, Brownscombe, May, Kyre, Wackerbarth, Jordan, SO

FROM: Doller June 27, 1967

RE: Complete draft on Lobbying section of F & I #2, attached

Gosh, I am excited over #1 which came in my mail just a few minutes ago - which makes it more important than ever that we get on with #2. I think #1 is most attractive and eye-catching.

Anyway, although I am really beat with effort, the draft of #2 is attached - but I must say that I've been most frustrated with the job. There is so much that could be said - somehow - or so it seems to me - that this was more difficult to "lay out" than the AIDS. There was so MUCH to read, so MANY places to pick up thoughts and ideas - and even now I'm not at all sure that I have done this in the most meaningful way, from the standpoint of the local League member.

However, I have tried to give to them:
Some ways to compare Texas with other states.
Evidence that lobbying fills a real need but has been abused.
That there have been reasons for regulation.
That there is nationwide concern about political campaigns and the costs and influence, etc.
That writing and interpreting lobby laws is no easy task.

If there is objection to the references to Schriftgeisser and Lane, Ok, I'll have to find a way to remove them. In addition to their writings, plus countless other sources, I had the advantage of a wonderful pamphlet by John W. Smith which was sent to me by Prof. Belle Zeller, and in which he referred often to both Schriftgeisser and Lane. Smith is Instructor, Dept. of Pol. Sc. Wo. Mich. Univ. This had a marvelous listing of court cases with explanation, also, but I used only the one to emphasize the const. aspect.

I see that I've repeated the reference to "generalist" used in #1, but I'm not sure this is bad. I remember so well that a hearing on special districts how Babe Schwartz emphasized the fact that legislators are expected to know everything about everything - and how much they needed to have full inf. on special districts before they sponsored such legislation.

I assume that these 10 pages plus the 4½ or so pages devoted to the Governor. is too much Also I'm aware that my type is small - so I anticipate that this draft will have to be cut somewhere - no matter how much I dislike to do it.

About questions - I simply will have to have a breather of a day or so. I've worked so hard on this until I'm up to the chin with it, but I will try to look over the questions submitted on the Gov. and come up with some on Lobbying as soon as I can relax just a bit from all this. I hate to have to remind you that the kind of concentration I've been giving this isn't the best thing for me. And I'm sorry that I didnit get the whole draft to you sooner.

I would like to suggest that in the sheet which goes out with #2, especial urging is included for members of the reference committees to read the volumes which are already listed in the 1966 Guide - Benton, MacCorkle and Smith, McCleskey, Gantt, Lane, Schriftgiesser, and that all members of the resource committee be armed with the LWV summary of Texas Lobby Control Legislation - and I hope that State Office, if this in short supply, will do some extras, and provide a price on this separate piece out of the Legislative kit.

I suggest that all members of the com. make your suggestions on the right side of your copy and send to Helen - then she can combine your suggestions and send them to me - and I'll be glad to re-copy - except that I guess I need to know how much space is possible in this small type of my machine.

Thank you, Ruth, Dear, for your always so prompt communications - long experience with working with you makes me expect that from you!

Oh, yes, Janice - if you can manage to obtain the inf. mentioned on Page 2 it will help.

The lobby defined - The term has received various definitions - from a simple "the efforts of individuals or groups of people outside of a legislative body to influence legislation" to a more complicated one "to address or solicit members of a legislative body in the lobby or elsewhere, as before a committee, with intent to influence legislation" As lobbying has changed and developed over the years, it has come to be accomplished in a multitude of ways and involves almost all individuals, groups of individuals, and even the various units of government on all three levels, as well as combinations of such groups. It is not confined to the legislative branch. It involves politics in all stages - so much so that it is sometimes termed the "politics of legislation".

The American citizen has a variety of opportunities for influencing legislation, but because the whole spectrum of such pressures has become so wide, the citizen as an individual finds it difficult to be effective unless he acts through a group. Even the influence he exerts by voting, or writing his representatives, is usually affected by group decision, be it the political party, the union, the lodge, the church, or some other group to which he belongs. The average citizen, even though sincerely interested in improving goverment, cannot go to the Capitol himself, therefore he must depend on his membership dues or contributions to defray the costs of lobbying by group leaders or hired lobbyists to do the work for him.

Lobbying can be both good and bad - and all shades between. Very apropos is the statement of Karl Schriftgeisser in his "The Lobbyists - The Art and Business of Influencing Lawmakers": "At its highest level, which it attains more often than is perhaps generally realized, lobbying is a positive good. At its common level, if it is not closely watched, it is more often than not detrimental to the welfare of representative government. When it falls to its lowest level, as it has often done in our time, it is morally indefensible and a criminal offense against the people".

On the other hand, the Buchanan Committee, reporting on the Federal Legislative Reorganization Act of 1946, held that it would be impossible to legally classify lobbies as good or bad - that this would only complicate the problem of legislation on lobbying.

Quite often pressure groups base their importance on the claim to be working in the "public interest" as opposed to "special interests". However, it is difficult to make such a division clearcut or meaningful. Political scientists say that the real test of whether a decision to apply pressure is in the "public interest" is correctly based on the proper use of established legal and institutional procedures and the use of all available information - in other words - the <u>methods</u> by which such decision is reached.

The difficulty in defining lobbying is pointed up by the fact that states have found it extremely difficult to satisfactorily define the word in regulatory legislation.

Lobbying, as a term, is anathema to many people. This is understandable because even a cursory look at the history of lobbying both in legislatures and Congress reveals many flagrant examples of sabotage of the legislative process, the majority principle, and representative government by special interests and selfish minorities. Yet, lobbying, in principle, is the most effective way to enhance the influence of the individual in government, if he wishes to act within the rights and responsibilities of the democratic system. Providing the individual the opportunity to act through a group, as a joining of geographical, economic or other intersts, is only one of the favorable aspects of lobbying. Lobbists can and do aid the legislator by providing information, writing speeches, drafting or analyzing bills, appearing before committees, keeping the group members informed about the progress of legislation. It perhaps needs to be stressed here that legislators are generalists - not specialists - and therefore need help from specialists ~~groups~~. Governmental provision of technical services to legislators, as being widely advocated, should lessen the dependance of legislators upon the lobbies.

The number and extent of expenditures of groups affecting government decisions is not known, although in states requiring registration some estimates can be made. According to a recent survey by the National College Press Service, the average number of lobbyists per session for states which keep track is about 275, and a projection of this figure to 50 states would bring a total of 13,750, nearly twice the number of legislators. In Texas, for the one regular and two special sessions of 1961 some 3153 persons registered as lobbyists. However, only 235 actually filed spending reports, with a total spending of more than $77,000. This figure is probably only a small fraction of the total, as it does not take into account the between session spending. In the recent 60th Texas session, 1996 registered as lobbyists. (Janice, is it possible to obtain complete figures for 1963 and 1965?)

Regarding costs, reports filed under the Federal Lobbying Act have at times indicated annual group expenditures of ten million, although it seems safe to say this is only a partial figure. In California, during recent sessions, reported expenditures have exceeded 3 million, although this figure is generally confined to hiring and maintenance of registered lobbyists. In the recent 60th Texas session, the total amount expended for lobbying as filed with the Chief Clerk's office was _____(Janice, can you get this for me, also, and, as you say, it would be good to categorize the lobbyists and find out who spent the most, if someone can do this for us)

It would be quite impossible to list allthe groups involved in lobbying - althouth some may be surprised at the wide range. Quite naturally the word attaches itself to such typical areas as oil, gas, transportation, banking, insurance, public utilities, etc. Also, some states with limited economy, have only a few strong pressure groups, others with highly diversified economy have many. There are numerous other routes of access to government in addition to direct influence on the legislators by special interest groups, i.e., influence on proceedings of regulatory bodies, executive agencies; lobbying of government by government, including state agencies on the Federal government; lobbying between branches of the same level of government; "inside lobbying" by interested legislators to further a group interest.

That misuse of lobbying does exist is a fact of life. Although only occasionally extreme examples attract the attention of the general public, public reaction - and albeit somewhat reluctantly - legislative reaction, has resulted in some attempts to curb various phases of the overall problem of ethics in government, including political campaigns, bribery and conflict of interest, etc.

Political campaign influence - Action by pressure groups - and expenditures - begin early, long before legislative sessions, even prior to political party primaries. The role and influence of money in political campaigns, including prospective legislative leadership, involves many of the larger and more affluent pressure groups and is a part of the problem of ethics in government. For many years the cost of campaigning has troubled Americans. In recent years the cost has been the subject of many articles which often ask the same sobering question - "Can only the righ run for office?" The costs of communication with the electorate by mail, telephone, travel, and all news media including television appearances - now considered essential - has skyrocketed. Other costs include filing fees, campaign headquarters, clerical help, assistant campaigners, and the employment of public relations firms. This situation prevails to some extent at all levels. Some hold that candidates' expenses should be considered part of the costs of democracy and paid for through taxation. There is much talk in Washington regarding steps to reduce presidential election campaign costs through Federal subsidization, with possible extension of such subsidization to congressional, state and local campaigns - also argument for shorter campaigns and for reforms in laws now governing political campaign expenditures. Some states have taken steps to assist campaigns, i.e., Oregon mails to voters at state expense information on issues and candidates, Wisconsin gives time on its statewide radio network to statewide candidates, Minnesota allows an income tax deduction for modest political contributions. The recommendation by the 29th American Assembly states "Legislatures should address themselves to the important problem of campaign costs. Both the Congress and state legislatures should consider adoption of tax incentives such as limited tax credits and deductions,

to encourage widespread popular financial support of candidates and parties. We also encourage the exploration of the possibility of government financing of legislative campaigns."

Control of campaign costs varies from state to state - 32 states require filing of campaign receipts by parties, 34 states by candidates; 34 states require filing of campaign disbursements by parties, 45 by candidates. 33 states prohibit contributions by corporations, 4 states prohibit contributions by unions (Ind. N.M. Tenn. Texas - Neb. only if the union is a corporation). No states prohibit or limit contributions from other sources, except 11 states have set this up to cover some specific instances. 29 states place restrictions on the character of expenditures, 30 states limit amounts spent on behalf of candidates. The timing for filing statements, which can be a most important factor for voter knowledge, varies greatly. Some states require filing both before and after, some only after elections. Of interest here is that out of the testimony heard by the recently established U.S. Senate Committee on Ethics, one of the questions which seems to deserve serious consideration has to do with what kind of enforcement laws could apply to the diversion of campaign funds to personal use?

The Texas Election Code regulates political campaigns to some extent. There is no ceiling on campaign expenses, but the code does provide for itemized reporting both by the candidate and his supporters. Filing time is not less than 7 nor more than 10 days prior to the election date and not more than 10 days after. Candidates statements must cover all gifts, loans, payments, debts and obligations incurred, and include names and addresses of all persons. The code also requires that any person making campaign contributions of more than $100 must ascertain if the candidate properly reported same and if not it is the duty of the contributor to report. Corporations and labor unions may not contribute. The code provides penalties.

In considering campaign contributions as an influence on legislation certain assumptions are clear: Election for any important state office cannot be won without money - how much can only be estimated, as even such figures as have been gathered are conceded to be unrealistic. Much of political spending is not accounted for since regulation of reporting by candidates is often construed to cover only transactions strictly within the candidate's control. There are loopholes in regulation - ways to keep campaign contributions within the letter of the law. Unions work through funds raised by special political education groups. Corporations can make available at no cost the services of public relations experts, top management may as individuals contribute funds later returned to them in some legal manner. Finally there is the question of full examination of reports and investigations of possible violations. Various suggestions have been made for reforms: Absolute limitations on campaign expenditures, requiring candidates to declare before elections both campaign

expenses to that point and anticipated expenses (within a small percent) during the last 7 days of the campaign - for example, planned TV time could be estimated. Vest responsibility for examination of reports and investigation of possible violations in a state agency. Public financing of campaigns or laws designed to assist candidates and parties to raise funds or reduce necessary expenses - which might prove to be a more positive approach than the various attempts to limit and control. A wider base for political support might be achieved which would lessen the need for extremely large contributions.

Influence - Bribery - Conflict of Interest - Lack of ethics in government continues to be a matter of great concern and rightly so, as instances of corruption keep cropping up in both state and national government.

Bribery, per se, may seldom be resorted to, for one reason at least, if such charges are proven, the penalties as set out by almost universal antibribery laws, are serious.

Most instances of corruption are now spoken of as "conflicts of interest" and attempts are made to control by codes of ethics. Many of those who reach Congress or the legislatures have previous// or newly established connections between public and private life. Conflict of interest arises when the legislator uses his public office to secure private gain, either for himself or his associates. Although many think of this primarily as the involvement of lawyer-legislator on a retainer fee, it also involves the legislators own personal interest in holdings affected by legislation. As examples of the latter, the legislator might be a stockholder in a race track, an owner or operatior of a business in any field - be it liquor, finance, real estate, insurance, oil, etc. etc. Regarding retainer fees, some argue that such constitutes legalized bribery, but efforts to prohibit this practice have been defeated on the grounds that such prohibition would be a violation of personal rights. Another point of view is that XXXXXXX XXXXXXXXXXXXXXXX the universal acceptance that members of the executive and judicial branches should disqualify themselves, should hot apply in the case of the legislator, that the disqualification criteria appropriate to the other branches are not appropriate to the legislature. One writer suggests that since legislatures are so politically oriented the application of such criteria would alter the entire structure of the legislature. Thus /arises the question - does the knowledge and expertise of a "lobbyist-legislator" in a special field justify involvement resulting in private gain?

A recent survey of state lobby laws by the National College Press Service reports a general lack of codes of ethics for lobbyists. Most states have laws or legislative rules which apply but it is commonly felt that few have teeth in them.

The 29th American Assembly felt that "efforts to define and control conflicts of interest have satisfied neither the public nor the legislatures" and makes t the following recommendations: first, codes of ethics should be adopted, applying to career, appointed and elected public officials, in all branches of state government; second, ethics committes or commissions should be created with advisory, review, and investigative functions extending to the activities of lobbyists; third, all instances of corruption should be vigorously prosecuted. From the various Regional Assemblies came similar suggestions, including pointing out that conflict of interest is an area for self-regulation calling for reliance upon the integrity of the legislature.

The Texas Constitution, Art. III, Sec. 22 provides: "A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon." In 1957 the 55th Legislature passed an Act amplifying this provision in great detail and stating that non-compliance shall constitute grounds for expulsion, etc. It is of interest that the Act uses the phrase "substantial conflict with the proper discharge of duties in t the public interest" and that legislation introduced in both the 1965 and 1967 sessions spelled out substantial interest as more than 10%. Both attempts to change the present code of ethics failed. There is no record of the number of House and Senate members retained by interest groups, however, information released during the investigation of insurance a few years ago revealed quite a number on insurance company payrolls.

Regulation of lobbying - Because lobbying did reach low levels many times in U. S. history the need for some kind of regulation became evident. Actually many states moved to regulate long before the National Government. Georgia in its 1877 Constitution declared it to be a crime, California in 1879 a felony, Massachusetts in 1890 passed an antilobby act, and similar legislation was passed by Maryland in 1900 and Wisconsin in 1905.

There is not room here to chronicle the many examples of how lobbies gained mastery of government, including the use of contributions to parties and presidential campaigns. The Legislative Reorganization Act which became law in 1946 was the first Federal law compelling the registration with the U.S. House & Senate of all lobbyists. Many of the terms of this Act are reflected in the regulations passed by states. It is interesting to note, however, that the Act failed to designate any agency as responsible for enforcing its provisions or for doing anything with the information except printing it in fine type in the Congressional Record. Such mere filing of information has been assessed as useless without an agency to classify, organize and disseminate the information. Concern about the ineffectiveness of the Act was evidenced by the establishment of a special lobby unit in the Attorney General's office in 1947.

One of the criticisms of the Act evolved around the interpretation of the so-called "principal purpose" clause in the "Persons to whom applicable" Section 307. This phrase was used as a loophole by groups who claimed that only a ~~xix~~ minor part of their finances was used for influence purposes. In 1948 the Senate Committee on Expenditures in the Executive Dept. held a hearing for the purpose of evaluating the Act of 1946, at which criticisms of the defects of the Act and recommendations to strengthen it were received. One recommendation - related again to the "principal purpose" phrase - pointed out that although many an organization does perform major services not directly related to influence legislation, such legislative activity as engaged in, even for limited periods, is often of vital importance to the existence of the organization. Debate over the wording of regulatory legislation can be endless. This reference to just one instance is given to emphasize the difficulties related to the writing and interpretation of lobby laws. To these difficulties might well be laid at least some of the reluctness of men serving in legislatures and Congress to pass such laws. In spite of the many recommendations made and the investigations which have taken place, the Legislative Reorganization Act of 1946 has yet to be re-written.

Again - when we ~~turn~~ begin to look at lobby regulation in the states, we are confronted with the lack of meaningful definition of terms. Writers in the field generally agree that the present statutory definitions are vague, ambiguous, inadequate. In spite of general agreement that attempts to regulate lobbying should begin with a careful delineation of the persons and practices to be regulated acted upon, no common agreement on how to accomplish this has emerged from the turmoil over this extremely controversial problem. Certainly all such controls should have as the basic premise the principle of disclosure - but this takes defining, collecting and disclosing.

Edgar Lane, in his "Lobbying and the Law- Statutory basis of state regulation" gives the phraseology used by various states to illustrate the variation in approach. He categorizes as follows: In some states lobbying is considered as corrupt solicitation but is allowed to coexist with a registration law - on the one hand, a felony - on the other its practitioners licensed. (Calif. Ala.) A second group defines lobbying as the claim or representation of improper influence rather than the act itself. (Utah, Calif. Ariz., Mont., Wash., Nev.,) A third group defines it as personal solicitation by means other than appeals to reason. (Ga. Tenn.) Also in this group 6 states forbid attempts personally, directly or ~~xxxxxxxxx~~ privately, to influence except through committee appearances, newspaper publications, public addresses and written or printed statements, arguments or briefs. (Idaho, Ky. La. N.Dak. Okla. S. Dak.) Such limitations do not exhaust

nonpersonal, nonprivate or nonsecret solicitation. Other requirements are that lobbying is illegal unless, in good faith, no influence shall be employed except explanation and argument upon the merits. (Wash. Nev.) Mr. Lane Lain points out that these definitions use corrupt or private solicitaion as the criterion of lobbying, and private solicitation - corrupt or otherwise, is no longer the dominent means in use. In the fourth category lobbying is defined as hinging on private pecuniary interest as ppposed to the interests of the whole people. (Ky. calls it private pecuniary interest, laws of 9 other states use similar delineation/, Mass. abandoned such a distinction.)
Fifth, and finally, lobbying is treated in most states as virtually any influence situation involving legislators and other parties, thus giving broader scope and definition. There still remain great variations, such as "the practice of promoting or opposing" (Misc.) defining "legislative counsel and agent" rather than lobbying (Va.). Other variations include "in any manner", "in any wise", "directly or indirectly". An interesting so-called weakness in the relatively new Michigan law (1947) is that it extends only to activities "performed directly" with legislators, ignoring all the indirect means used in modern lobbying. California's provision is unusual in that it applies to "every person receiving any contributions or expending any money" for the purpose of influencing legislation. Of this fifth group, in spite of great variations of definition, it might be said that generally lobbying means the receipt and/or expenditure of money to promote or oppose the passage of legislation directly or indirectly. The inclusion of the word money may offend some but who would care to argue that any lobbying is done without money?
There are many other vital aspects attached to lobby regulation. Exemptions - typical of these are persons representing themselves; engaged in drafting legislation, such as attorneys who advise clients and render opinions; government employees called to testify or contact legislators as part of their governmental duties; newspapers, periodicals, radio & TV stations reporting news, etc. The required information and who provides it - the lobbyist or the employer - (10 states require joint registration) varies in amount of detail, but generally full name, address, nature of business, etc. If a corporation or voluntary association, domestic or foreign - reporting of fees, expenses and disbursements. Actually many avoid registration by claiming that their employment or professional service is not specifically for lobbying or that their employment is multipurpose - this often includes public relations personnel, executives or professional employees.
The availability of registration information for publicity purposes and how

all well it is classified and organized for practical use by anyone "wishing to know" is probably one of the greatest weaknesses of registration laws written with the supposed purpose of disclosure. Some states make a real effort in thi direction but in most cases there is either a lack of strong sense of responsibility by officials, or of real interest on the part of news media and the public. The California law, as an example of real effort towards availability of information, requires printing of registration and financial reports in the Assembly Journal and has made the information available to legislators, lobbyists, press and interested citizens. Other examples - Wisconsin and Montana require that reports be delivered to the House at regular intervals. Michigan charges the Secretary of State with furnishing copies of all registrations to all members of the legislature. Illinois requires a bulletin to be distributed not only to the Assembly but to members of the press.

ApxxX Apart from the nearly universal antibribery provisions, the purpose of state regulation of lobbying is, as pointed out previously, to assure disclosure, which, hopefully, has considerable value as a deterrent to undesirable conduct. Although some lobby laws contain some prohibitory provisions, such as those which relate to contingent fees, denial of access to the floor, restricting the range of lobbyist activities, etc., it is well to point out that, in drafting restrictive laws, constitutional rights must not be overlooked.

This xxxxxxxx then comes down to what can or has been done in the area of investigation and enforcement and the answer is very little either on the state or national level. Only a small number of lobby cases have gone as far as the courts. Most of these have involved contract law (based on contracts between sponsor and lobbyist), some the theory of public policy and a few the constitutionality of the statutes. Since lobbying is a most significant expression of the right to petition, any challenge to xxxx the validity of a statute takes this into account. Of especial interest is a recent court case (U.S. vs Johnson, 86 S.Ct. 749 - 1966) based upon an allegation that a member of Congress abused his position by conspiring to give a particular speech in return for remuneration from private interests. The Court interpreted on the basis of the U. S. Const. Art. I, paragraph 6, which specifies that "for any speech or debate in either House, they shall not be questioned in any other place". Court influence has been responsible for the general adoption into statutes of the prohibition against contingent fee contracts. In summary, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx some xxxxxfaults of lobby regulation can be found in the areas of definition, coverage, information required, filing and other administrative procedures, publicity, investigative and enforcement procedures. Mr. Lane questions the value of lobby laws in providing protection to the public and the legislator from the representatives of organized interests. He also notes that - unfortunately - most such laws were hastily written and adopted xxx

with little enthusiasm.

Many recommendations for improvement have come from many quarters. Among those relating to registration: sworn statements, expense accounts filed and published, requirements for all lawmakers to show all sources of outside income, outlawing of the retainer fee system, establishment of an enforcing body. Other suggestions for ways to improve ethics in government - the right kind of legislators who are willing to apply the laws to themselves; streamlining the legislative and administrative process by internal legislative reforms which would lead to less dependence upon the lobbyist and make possible more positive standards of legislative performance; more knowledge among the members of associations and groups and better policing of methods by the members themselves; strong party platforms and adherence to them, strong party leadership and responsibility.

A look at the Texas situation reveals that Texas lobby regulation falls into Mr. Lain's fifth category - covering "any influence situation". Also, the legislation passed in 1957, (VTPS Title 5 - Chap. 2, Art. 183-1 & 183-2) is regarded as being relatively free from ambiguity. Three groups of persons are required to register as lobbyists - any person who undertakes to promote or oppose the passage of any legislation by the Legislature (a) for compensation, by direct communication (b) without compensation, but acting for the benefit of another person (c) acting on his own behalf and without compensation, makes an expenditure, or expenditures totalling in excess of $50 for direct communication as defined. Prohibitions include contingent fees, admission to the House or Senate floor, no effort to seek to influence other than by appeal to reason. There are penalties, and certain exemptions. Among the criticisms are the regulations apply only to natural persons, the lack of year around reporting, failure to require itemized reports, failure to provide for a special agency to handle data and investigate. One of the more important recommendations for improvement is full and public disclosure on retainer fees. And of course all of the general suggestions for ways to improve ethics should be considered in evaluating the situation in Texas. To this might be added - the disadvantages which accrue from government in a one-party state.

In the final analysis of outside influences on legislation, these facts should be kept in mind: The constitutional right to petition must be protected. Government and lawmaking has become so large, technical and complicated that the average citizen finds it difficult to comprehend. Although formal methods of control of lobbying are at best only a partial solution, there are some possibilities for strengthening them. Perhaps the greatest possibilities for improvement lie within the lawmaking body itself - as covered by Facts & Issues Nos. 1 and 3.

5/20/67

Glen Bollero draft

Average letters per line = 76
Average lines per page = 39
Letters per page = 2964

My "Kids" draft

Average letters per line = 70
Average lines per page = 29
Letters per page = 2030

Glen's page = 1 1/3 of my pages
She has 7½ pages
I had 13 pages
Glen's 7½ pages is equal to 11 pages of my draft (Gene did this by slide rule)
Glen's total pages for her whole 7 + 2 should be 8.9 (call it 9) which will be the same as 13 pages of my draft (Gene did this by slide rule).

I found that ~~to~~ securing ~~o~~ bids on several ~~quantities~~ amounts was ~~neces-sary~~ essential + the 3000, 5000 + 7000 ~~figures~~ quantities quantities I ~~proposed~~ proposed ~~in our last phone conversation~~ we discussed in our last phone conversation pretty well blanketed the possibilities, it seemed to me.

~~If~~ I do hope the printer can give us a 7 + I comparable to National's latest (april 1967) on D C Home Rule. The type on that is of a heavy size + blackness easy to read, I find + the margins are meticulously straight + a good width. + ~~If we could have~~ the ¶ headings ~~could~~ can be bold or more face in the color of the band + if we can have the somewhat more open look (but not too much) which I think we can have because our text is shorter, then, it seems to me, we'll have ~~an 7 + I~~ a very attractive 7 + I. I like the Texas seal as the emblem in the title + trust there are no difficulties about using it. As

[the [illegible] which will be [illegible]]

May 20, 1967

To: Boller, Duckworth, Martin, state office
From: Brownscombe
Re: Facts & Issues #2, "Outside Influences on Legislation"

I expect Helen won't know for awhile yet whether the 13 page length of F & I #1 (13 pages on my pica type Royal) is the right amount for the printed F & I. I've been trying to figure, Glen, what your first draft on the governor would be in terms of my 13 pages for F & I #1, and according to my calculations one of your pages is equivalent to 1 and 1/3 pages of my F & I #1 manuscript. My husband, using his slide rule, says that 9 pages (actually 8.9 pages) typed as you did your draft on the governor, would be practically the same as the 13 pages of my F & I #1 manuscript.

My impression from reading your manuscript, Glen, is that the governor is very important in legislative matters, that he can greatly influence the legislature. But is this the case in Texas? Can he be considered to be the "chief legislator" in this state? Is not his influence mostly because of his own personality, so that some governors have exerted considerable legislative leadership, others very little?

Former governor Shivers wrote that "....Texas governors have learned to substitute personal persuasion and political leverage for the constitutional and statutory powers most of their fellow governors enjoy in greater measure than they." (GOVERNING TEXAS: DOCUMENTS AND READINGS, edited by Gantt, Dawson, Hagard, p. 147). Another statement in the same book (p. 185) is: "The fact that the governor is as hobbled as he is--that he is largely a figurehead, dependent upon popularity and personal persuasiveness for effectiveness, that he is allowed space enough in one or two terms to do little more than tell the legislature and people what is needed--this is all discouraging to potential candidates of high caliber." (Article by J. Alton Burdine, professor of government and dean of the College of Arts and Sciences at University of Texas, and Tom Reavley, former secretary of state, appointed by Governor Shivers, and now district judge in Travis County.)

Patterson, McAlister and Heater (STATE AND LOCAL GOVERNMENT IN TEXAS) after mentioning the ways in which the governor can exercise influence in legislation, say: "On the other hand, executive leadership in legislation in Texas has rarely been a sustained or potent influence. Frequently the program has been weak or negative, and occasionally some features outright bad. That legislators feel no obligation to follow such policies, especially when elected on different individual platforms of their own, is not surprising. The governor's power to arouse and array public opinion is probably his greatest asset in determining legislative policy."

And Benton in the first two pages of his Chapter 5 is very forthright. "Of the several organs through which the will of the state is expressed and carried out in Texas, the legislature unquestionably occupies the paramount place." In his brief explanation of how the legislature achieved this importance he says: "Starting with a somewhat limited but expansible position /under the 1876 constitution/ the legis-

lature, through the mechanism of constitutional amendments, has assumed more and more power". He continues: "The increase of legislative power may be justified in the light of the inadequacy of the Texas constitution and the absence of executive leadership; nevertheless, it represents a radical departure from the original conception of the fundamental law as drafted. The dominant role assumed by the legislature --as opposed to the executive branch--has tended to destroy the equilibrium which is an essential condition in the operation of a separation-of-powers system....This is not to say Texas has reached a position of the 'omnipotence of the legislature'; however, legislative power continues to expand and probably confirms the worst fears of the 1876 constitutional fathers. Nevertheless, this development is a reality of political life in the state." (My edition of Benton is 1961; perhaps he has modified this judgment in the new edition.)

In his chapter 6, after discussing the role of the governor in legislation, Benton says: "As a matter of practical politics, the speaker of the House and lieutenant governor are much more influential in legislation than the governor." House Speaker Ben Barnes went even farther than that in his statements to the Dallas LWV's Go-See tour of the legislature 4/19/67. He said that the lieutenant governor and the speaker hold the two most powerful positions in the state.

By the way, on that same tour Terrell Blodgett, one of the governor's four administrative assistants, talked to the group about the tools the governor can use to get his legislative program enacted. He said the governor chooses 30 to 40 major issues to make up his program and then begins by seeking to include them in his party's platform. He presents his plans to the legislature in his special messages. This year he has delivered three, the State of The State to open the session, the Tax Message, and the 100 Days Message. Other formal tools Mr. Blodgett mentioned were the veto, or threat of it, and special sessions. The governor daily has from 10 to 15 meetings with legislators and members of the public. The governor's position as a focal point for interest on the issues in his program is one of his most important informal tools. The governor can use appointments to the many special boards to influence legislators because people from their districts may want the appointments. In six years the governor can appoint almost all board members. Calling a special session is risky for the governor, Mr. Blodgett said, because it is hard to keep it limited to the issues the governor has included. The courts have validated bills passed at special sessions but not included in the governor's call. The governor's office works with sponsors of legislation it favors, helping draft bills acceptable to both parties; and sometimes the governor seeks sponsors for his legislation, Mr. Blodgett said.

At the Dallas League's briefing session on the legislature in early May and at the meeting yesterday of the resource committee on the legislature item, with 23 attending, I gathered various suggestions re the Facts & Issues. What people hope will be in them boils down to four main suggestions:

1. Comparisons with other states, particularly with those in our population range and/or states considered to be in the forefront in updating legislatures.

2. Liberal use of "local color", case histories, and actual experiences, particularly for Texas.

3. Treatment of F & I subject matter in ways that will interest readers in further conjecture about a topic or, ideally, further exploration of it.

4. Use of only as much technical detail--the mechanics of a legislative process or maneuver, for example--as is necessary to make the matter understandable.

In thinking over No. 2 above I wonder if it might be translated for the section on the governor in your F & I, Glen, into a case history or two illustrative of gubernatorial success in legislation and also of gubernatorial failure. Maybe Gantt's book, THE CHIEF EXECUTIVE IN TEXAS: A STUDY IN GUBERNATORIAL LEADERSHIP, would have examples. I've not seen this book, but the title sounds promising. Benton speaks of Governor Shivers having had one of the most effective lobbies in the history of the Texas legislature. Governor Hogg probably exerted considerable legislative leadership re enactment of the law establishing the Railroad Commission. Perhaps success with the legislature is related to whether or not a governor has had experience in the Texas legislature! According to the table on page 311 of Gantt, Dawson, Hagard, 8 governors since 1874 have had such experience (Hubbard, Ross, Sayers, Colquitt, Neff, Stevenson, Shivers, and Daniel.)

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file

May 20, 1967

To: Boller, Duckworth, Martin, state office
From: Brownscombe
Re: Facts & Issues #2, "Outside Influences on Legislation"

I expect Helen won't know for awhile yet whether the 13 page length of F & I #1 (13 pages on my pica type Royal) is the right amount for the printed F & I. I've been trying to figure, Glen, what your first draft on the governor would be in terms of my 13 pages for F & I #1, and according to my calculations one of your pages is equivalent to 1 and 1/3 pages of my F & I #1 manuscript. My husband, using his slide rule, says that 9 pages (actually 8.9 pages) typed as you did your draft on the governor, would be practically the same as the 13 pages of my F & I #1 manuscript.

My impression from reading your manuscript, Glen, is that the governor is very important in legislative matters, that he can greatly influence the legislature. But is this the case in Texas? Can he be considered to be the "chief legislator" in this state? Is not his influence mostly because of his own personality, so that some governors have exerted considerable legislative leadership, others very little?

Former governor Shivers wrote that "....Texas governors have learned to substitute personal persuasion and political leverage for the constitutional and statutory powers most of their fellow governors enjoy in greater measure than they." (GOVERNING TEXAS: DOCUMENTS AND READINGS, edited by Gantt, Dawson, Hagard, p. 147). Another statement in the same book (p. 185) is: "The fact that the governor is as hobbled as he is--that he is largely a figurehead, dependent upon popularity and personal persuasiveness for effectiveness, that he is allowed space enough in one or two terms to do little more than tell the legislature and people what is needed--this is all discouraging to potential candidates of high caliber." (Article by J. Alton Burdine, professor of government and dean of the College of Arts and Sciences at University of Texas, and Tom Reavley, former secretary of state, appointed by Governor Shivers, and now district judge in Travis County.)

Patterson, McAlister and Hester (STATE AND LOCAL GOVERNMENT IN TEXAS) after mentioning the ways in which the governor can exercise influence in legislation, say: "On the other hand, executive leadership in legislation in Texas has rarely been a sustained or potent influence. Frequently the program has been weak or negative, and occasionally some features outright bad. That legislators feel no obligation to follow such policies, especially when elected on different individual platforms of their own, is not surprising. The governor's power to arouse and array public opinion is probably his greatest asset in determining legislative policy." (p. 63)

And Benton in the first two pages of his Chapter 5 is very forthright. "Of the several organs through which the will of the state is expressed and carried out in Texas, the legislature unquestionably occupies the paramount place." In his brief explanation of how the legislature achieved this important, he says: "Starting with a somewhat limited but expansible position [under the 1876 constitution] the legis-

lature, through the mechanism of constitutional amendments, has assumed more and more power". He continues: "The increase of legislative power may be justified in the light of the inadequacy of the Texas constitution and the absence of executive leadership; nevertheless, it represents a radical departure from the original conception of the fundamental law as drafted. The dominant role assumed by the legislature --as opposed to the executive branch--has tended to destroy the equilibrium which is an essential condition in the operation of a separation-of-powers system....This is not to say Texas has reached a position of the 'omnipotence of the legislature'; however, legislative power continues to expand and probably confirms the worst fears of the 1876 constitutional fathers. Nevertheless, this development is a reality of political life in the state." (My edition of Benton is 1961; perhaps he has modified this judgment in the new edition.)

In his chapter 6, after discussing the role of the governor in legislation, Benton says: "As a matter of practical politics, the speaker of the House and lieutenant governor are much more influential in legislation than the governor." House Speaker Ben Barnes went even farther than that in his statements to the Dallas LWV's Go-See tour of the legislature 4/19/67. He said that the lieutenant governor and the speaker hold the two most powerful positions in the state.

By the way, on that same tour Terrell Blodgett, one of the governor's four administrative assistants, talked to the group about the tools the governor can use to get his legislative program enacted. He said the governor chooses 30 to 40 major issues to make up his program and then begins by seeking to include them in his party's platform. He presents his plans to the legislature in his special messages. This year he has delivered three, the State of the State to open the session, the Tax Message, and the 100 Days Message. Other formal tools Mr. Blodgett mentioned were the veto, or threat of it, and special sessions. The governor daily has from 10 to 15 meetings with legislators and members of the public. The governor's position as a focal point for interest on the issues in his program is one of his most important informal tools. The governor can use appointments to the many special boards to influence legislators because people from their districts may want the appointments. In six years the governor can appoint almost all board members. Calling a special session is risky for the governor, Mr. Blodgett said, because it is hard to keep it limited to the issues the governor has included. The courts have validated bills passed at special sessions but not included in the governor's call. The governor's office works with sponsors of legislation it favors, helping draft bills acceptable to both parties; and sometimes the governor seeks sponsors for his legislation, Mr. Blodgett said.

At the Dallas League's briefing session on the legislature in early May and at the meeting yesterday of the resource committee on the legislature item, with 23 attending, I gathered various suggestions re the Facts & Issues. What people hope will be in them boils down to four main suggestions:

1. Comparisons with other states, particularly with those in our population range and/or states considered to be in the forefront in updating legislatures.

2. Liberal use of "local color", case histories, and actual experiences, particularly for Texas.

3. Treatment of F & I subject matter in ways that will interest readers in further conjecture about a topic or, ideally, further exploration of it.

4. Use of only as much technical detail--the mechanics of a legislative process or maneuver, for example--as is necessary to make the matter understandable.

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TO: Duckworth, Martin, May, Haney, Brownscombe, Carter, Kyre, SO May 14, 1967
FROM: Heller

RE: First draft of first part of P&I No. 2 - OUTSIDE INFLUENCES ON LEGISLATION

I decided that I should send on the material written on THE GOVERNOR - so that you could be looking this over and letting me have your comments while I am working on the balance. Please bear in mind that I was not originally scheduled to do this part on the governor but it has been absolutely fascinating. However, there are many questions which need to be answered by the committee. I'm sure that the material will have to be cut, but I always go on the premise that it is easier to cut than to add. But I do need to have suggestions as to the approach I've given this, the sequence in examining the various legislative powers of the governor, what I may have left out which is of importance, and bearing in mind what may overlap on other P&I issues, particularly No. 3. I have not even tried to evolve any questions, that it better to wait until this material has been cut or whatever - and perhaps find the best points to be emphasized by questions.

There is something else which bothers me - I have often, and I have a feeling that others have, used the exact words of the various writers - although sometimes paraphrased - but have tried not to take something out of context so that the original meaning is lost. On my yellow original sheets of work I have notes about xxxxx the origin of material. I note that in No. 1 there are no references to authors, etc. Is the listing of authors used sufficient?

Oh, yes, this is the first part, as you all realize. The balance will cover lobbying, ethics, campaign funds, etc. and some evaluation of how lobby controls work. So - I have a long way to go yet - but perhaps this won't take quite as long as the part on the Governor.

In my fough draft I included some references to the Model State Const. but decided to leave these out - but I think perhaps we should remember to remind the Leagues to always have the Model on hand for reference.

In most cases where I have referred to what pertains in other states without listing the names of the states - I felt that there simply isn't room for this kind of exactness.

For references I used Benton, McCleskey, McCorkle, Gantt, Hurst, and Heard's background for Am. Assembl/all of course already listed in the bibliography in the Leaders Guide. In addition two additional National Municipal League publications:

SALIENT ISSUES OF CONSTITUTIONAL REVISION edited by John P. Wheeler, Director of the NML's State Constitutional Studies Project. This is No. 2 of Series I, 1961.

STATE CONSTITUTIONS: THE GOVERNOR, Bennett M. Rich, NML's State Constitutional Studies Project. This is No. 3 of Series II, 1960.

Also:
THE FORTY-EIGHT STATES - Their Tasks as Policy Makers and Administrators - Background papers for use of the Eighth Am. Assembly, Columbia Univ. 1955.

THE FIFTY-NINTH TEXAS LEGISLATURE - A REVIEW OF ITS WORK - Institute of Public Affairs, The University of Texas, 1966.

Graves, W. Brooke, AMERICAN INTERGOVERNMENTAL RELATIONS, Charles Scribner's Sons, N.Y.
(I used very little from this, so perhaps it could be left off of the list)

Anderson, Penniman, Weidner - GOVERNMENT IN THE FIFTY STATES - Revised 1960 - Holt, Rinehart & Winston, Inc.

Your attention is called to what I believe is an error - the listing of the American Assembly publications under National Municipal League publications, both by Heard.

I will be glad to have your comments, suggestions, criticisms (by all means) which I will try to incorporate in a new draft - and, Helen, with your experience with P& I No. 1 - how much must I cut?

OUTSIDE INFLUENCES ON LEGISLATION

THE GOVERNOR

GROWTH OF EXECUTIVE INFLUENCE (Perhaps a better title for this introduction)

Under the first state constitutions supreme power rested with state legislatures. The powers of state governors, by contrast, were sharply circumscribed. The governor was appointed by the legislature for a short term, he was not expected to recommend legislation, and in only 2 states did he possess the veto power.

The early 20th century witnessed the emergence of a new kind of legislative-executive relationship which has now become ingrained in the American system of government. State legislatures, faced with problems of increasing size and complexity and handicapped by lack of staff, a coordinated committee system, and positive leadership, were ripe for the assumption of new leadership in policy-making. Constitutional changes improved the role of the governor, such as election rather than appointment; the power to veto, call special sessions, deliver legislative messages, make appointments and control budgetmaking to some degree. These factors, plus the governor's greater role as a political leader, has brought about a loss of legislature parity with the governor which may be cited as the outstanding fact of 20th century politics.

Although this new concept of the legislative-executive relationship is somewhat in conflict with the original separation of powers concept, it is now widely accepted as a very important historical development. In the words of the Committee on American Legislatures of the American Political Science Association:

> "The preparation and initiation of legislation is no longer the exclusive prerogative of the Legislature itself, though final decision rests with that body. The last two generations have witnessed a remarkable increase in the role of the chief executive and the administrative agencies in the legislative process. Early in the 20th century, the governor emerged as state-wide representative and spokesman of the people, the majority political or party leader, and the chief legislator. The state administration, as it has been subsequently expanded, has become a principal source of legislative proposals."

THE VETO POWER

Although recent emphasis has been placed upon positive legislative accomplishments of a governor, the other side of the coin relates to what he is able to do to prevent action by the legislature through his power of veto. The veto device was not included in most early state constitutions. South Carolina, Massachusetts and New York alone among the original states allowed the veto and South Carolina dropped it in a revised constitution. However, by 1812 nearly 1/2 of the states had adopted the veto. Now in all states except North Carolina the governor has the veto power -

and the threat to veto - considered by many to be the most powerful of the constitutional devices for executive control of a legislature. There are four "vital parts" of a constitutional veto. The key factor is the requirement of an extraordinary majority of elected members to override. Other factors relate to the time allowed to consider bills, the pocket veto (killing a bill by inaction at the end of the session) and the item veto. Constitutional language concerning the veto varies from state to state.

The time allowed for veto after passage and before adjournment varies from 3 to 15 days, after adjournment from 5 to 45 days - in Texas, 10 days, excluding Sundays, and 20 days, respectively. Regarding constitutional provisions for overruling of the veto, among the states, 6 require a majority of those elected in each house, in one the requirement is a majority of those present. In other states the pattern varies from 3/5ths of those elected and 3/5ths of those present: 2/3 2/3ds of those elected and 2/3ds of those present: in one state the 2/3ds of those present must include a majority of those elected. In Texas the requirement is 2/3ds of members present in both houses, which it is said is quite difficult to secure.

Although the veto is only one tool for influence by the Governor, various studies indicate its extraordinary potency. In the year 1947 of all bills passed, 24,928, 1,253 were vetoed, and only 22 votes were overridden. These 22 bills were distributed among 9 states and Alaska - 7 of the bills were overridden in 3 dtates requiring 2/3ds for override. In 24 states the veto is virtually absolute. The 2/3ds rule places the governor almost completely in control of any measure which he vetoes or, perhaps of greater importance, of any measure which the threatens to veto.

There is some feeling that the trend is towards a strong veto may be overreaching the bounds of reasonableness. The veto provision is one which merits careful examination in each state to determine whether the constitutional language and the interpretations of the language as evidenced by current practice falls within reasonable limits. Four states provide for the executive amendment, or conditional veto, as it is called in New Jersey, by which the executive may return a bill with suggestions for change. This device is also used informally in some states. It is suggested that the extension of such procedures as this may be more productive than a further increase in the fraction of the legislative membership necessary to override the chief executive.

A nationwide survey in 1950 revealed that the reasons most often given by governors for use of the veto were 1) the proposal was against the best interests of public policy, 2) the law unnecessary, 3) economy. A not so recent survey in Texas listed reasons in this order - against public policy, bad business, unconstitutional, unnecessary, defective wording. A record of the use of the veto

in Texas from 1845-1963 gave total vetoes 1044, after adjournment 557, during session 487, vetoes overridden 51 - an average percentage of 5.24.

The veto has been a most valuable means of control in Texas. The success of Texas governors has been greatly aided by their ability to reject bills after adjournment in which case the governor simply files a veto message with the secretary of ~~the~~ state and unless the bill is re-introduced at a subsequent session, it cannot be considered again by the legislature. Of the above mentioned figure of 557 vetoes over 60% were handles in this way. The usual dilatory procedure of handling a rush of bills during the closing days of the session strengthens the veto power, as the governor has the final say - at least until the next session. The Texas governor may not veto proposed constitutional amendments. Out of 1715 measures enacted by the 59th Legislature (1965) Governor Connally vetoed 40 measures. Among reasons given were - conflicting laws, unconstitutionality, duplication, improper drafting, etc. etc.

The item veto in appropriation bills gives the governor more power than possessed by the President of the U. S. Its effectiveness depends upon the degree to which appropriations are itemized and the extent to which appropriations are earmarked. Although all but 9 state governors have this veto power, and the device has been used systematically and effectively for many years in some states, it has been almost completely ignored in others. Some feel that this power has been useful because state legislatures have evaded their responsibilities. The development of improved budgetary procedures may have lessened the need for this device. Again, as in the matter of the executive veto, the override requirement is important. In Alaska, for example, the item veto power is stronger than in any other state. The requirement is being 3/4ths of the membership to override the veto of revenue and appropriation bills.

In Texas, since the adoption of the item veto in 1866, it has no doubt saved the taxpayers millions, but it also may have served to reduce services proportionately. Some judicial restrictions have been placed upon it. The Texas Courts have held that the governor does not have the power to reduce items or to eliminate qualifications or directions for their expenditure placed on appropriations. Also if the governor files objections to items in an appropriation bill during the session he may not later veto other items in the same bill after adjournment of the legislature. The override requirement is 2/3ds of members present. For the 1963-1965 biennium Gov. Connally struck out items totalling in excess of 12 million. For the 1965-67 biennium he vetoed items totalling over ~~$2,629,000~~ $42,629,000 - all entirely within the executive branch of government.

THE MESSAGE POWER

State constitutions usually require or enjoin the chief executive to send messages to the legislature and this is a device through which the governor can submit his legislative program and thus exercise legislative leadership. The governor's message is the chief vehicle for transmission of his ideas which he desires to become law and contains recommendations drawn from the platform on which he ran for office. From it emerge the administration bills many of which have been drafted in administration agencies. His recommendations have been preceded by a long process of inquiry and development. He operates at the center of a vast communications network. His sources of information include the various administrators of the executive branch, the resources of the party machinery, the reports of the various interim and research studies, and the presentations of interest groups as well.

There are many other reasons why the governor's message is an important influence on legislation. Since the message is usually delivered in person, and is widely covered by the news media, it receives popular consideration. Legislators or even legislative leaders rarely present a comprehensive program such as that presented by the governor. In addition to the initial message, some states require a message at the end of the session and in almost every state the governor has the prerogative of special messages during the session, in order to focus public attention on principal items. Often a large part of the governor's program is enacted into law. However, the message and recommendations need subsequent action, such as drafting bills, finding managers, and marshalling support.

The Texas Constitution requires a message from the governor at the commencement of the session, information on the condition of the state at the close of his term, and that he shall recommend to the legislature such measures as he considers expedient, including estimates of money to be required by taxation.

A comprehensive study of the uses of the message by specific Texas governors concludes with generalizations that the executives achieving greatest acceptance of their recommendations relied on outlining their programs during the early days of the session, reserving special messages for emergencies; those less successful repeatedly aired a barrage of verbiage at the slightest provocation. One comment classified four general categories into which unaccepted recommendations fall: 1) proposals contrary to the interest of some powerful group or groups, 2) proposals on which public opinion is strongly expressed and sharply divided, 3) proposals for which the public is not yet ready, and 4) proposals (tongue-in-cheek) made by the governor in expectation (or perhaps knowledge) that they will not be accepted. This classification may be valid for Texas.

THE SPECIAL SESSION POWER

Through the years, state legislatuves have been convened into special sessions called by the governor for a number of reasons, such as 1) to complete passage of necessary legislation, 2) to cope with emergencies, 3) to begin the operation of a program more espeditiously, 4) to break the gap between regular sessions. Here again is a powerful device for influence by the governor on legislation. A governor is likely to be realitively sure of substantial support for his position, it is a way to pinpoint one or a few issues, and the governor is able to gain public attention upon his recommendations. It also has great power as a "threat".

The governor in evwyy state is empowered to call special or "extraordinary" sessions. In all but 14 states this power lies exclusively with the exeutive, and in a majority of states he is authorised to specify the subjects of legislation to be considered. In 7 states the governor must call such session if he receives a petition to that effect from a specified majority of each house. In 6 states the legislature is authorized to call special sessions at such times as they judge necessary.

Under the Texas Constitution the governor has the power to convene the legislature and to specify what it is to consider. There is no limit to the number of special sessions that may be called, but the maximum period for each is 30 days. The right to control the agenda gives the governor the means of enforcing consideration of his legislative program but the importance of this is diminished by the fact that 1) he can put before a special session only legislative matters (no constitutional amendments can be initiated), 2) he can specify the subject matter but cannot confine the legislature to his details, 3) he must bargain with legislators by introducing subjects they want in exchange for their support of his projects. However, notwithstanding the governor's theoretical control of subject matter, the custom has developed in Texas that legislation on other topics may be passed unless some member of the house in which the bill is being considered raises a point of order that is sustained by the presiding officer. If such bills are passed and signed by the governor or filed by him with the secretary of state without his signature, they are considered valid.

The special session has served as an effective instrument in molding public policy in Texas. From 1876 through 1965 the Texas legislature has been called into special session 68 times. The duration of sessions varied from a few minutes to 30 days. Of the 24 persons to occupy the office since 1876 through 1965, only 4 have failed to use this device at least ones. For the most part the sessions have been necessitated by urgent financial problems or by emergency conditions. Among the reasons, in order of importance have been 1) appropriation

of money, 2) taxation, 3) education. Gov. Moody called the largest number (5) for prison reform, money for education, civil service for state employees. The most spectacular session was that of 1917 in which Gov. Ferguson was impeached. The last special session was called in 1965 by Gov. Connally for the single purpose of enacting a new system of voter registration to replace the outlawed poll tax.

Special sessions in Texas have served to secure passage of measures that had floundered around in the regular sessions. They have frequently served as the forum for discussion of new revenue measures and have appropriated millions of dollars. In times of economic crises the special session has been useful and no session yet has failed to work out some solution to provide essential services.

BUDGETARY POWERS

A distinctive source of the governor's ability to lead the legislature is his authority over budget-making - one of the most valuable tools for modern management in government. This responsibility is given to the governor in 44 states; in firve other states it is vested in a board composed either of members of the executive branch or members of both the executive and legislative branches. In only one state is budget preparation assigned to a legislative agency (legislative council).

The governor's ability to protect his budget is frequently related to constitutional allocations of power, among them the item veto as previously mentioned. Some states empower the governor to reduce appropriation for individual items. Limitationon the legislature served to aid the executive, such as constitutional providion which prohibits the legislature from increasing the governor's budget bill. Also, the governor is often limited by earmarking and mandatory commitment of funds and lack of central review of budget requests of departments administered by officials independently elected. Although the legislature has the final say, legislative review is an uncertain element in the budget process. The typical legislator is an amateur and typically the time is brief for examination of a proposed budget covering a multitude of items. This is unfortunate as the budget adopted ultimately determines what state government is all about.

In Texas, the governor is, by statute, the state's chief budget officer and is required to make recommendations for appropriations for the various agencies and functions; by the constitution he is required to make recommendations regarding tax revenues. But Texas has two budgets, the second by the Texas Legislative Board, created in 1949 and composed of the presiding officers and 4 members from each house. Some claim is made that extensive cooperation exists between the Legislative Board and the executive heads of departments and agencies, nevertheless there is not complete agreement -

for example, the legislative budget for the biennium 1962-1963 was 32 ½million less than the executive budget. However, no degrees of agreement between the two budget making agencies can overcome a situation where more than 85% of every Texas tax dollar is already committed for specific purposes either through constitutional provisions or by statutes, tying the hands of those charged with handling the state's finances.

THE APPOINTIVE POWER

In the first state constitutions the appointing power was distinctly limited by requirement of the advice and consent of some executive council. Although such requirements were later dropped, many other factors tend to reduce the extent of the appointing powers such as 1) the election of major administrative heads, 2) longer terms than the governor for major department heads, 3) direct appointment by the legislature of some boards or commissions, 4) an effective merit system in some states, 5) lack of power of removal, 6) confirmation of appointments by the legislature. Therefore, there is a wide sharing of executive authority which tends to weaken the governor's ability to affect legislation relating to administrative affairs. However, the absence of full appointing authority does not necessarily meake the governor powerless as department heads may need funds which may be available only through the governor's budget recommendations to the legislature.

The appointive power of the Texas governor is extensive, the number of positions generally conceded to be in the neighborhood of 1000. Although only one constitutional head, the secretary of state, and two statutory department heads are appointed by the governor, thereare appointive positions on some 110 boards and commissions. Also, the governor, constitutionally, may fill elective vacancies until the first general election thereafter. To fill a vacancy in the Texas House or Senate or U. S. Senate it is necessary to calla special election. Appointments must be confirmed by vote of 2/3ds of Senate members present.

The politics of appointments by the governor involve many practical considerations. Aside from finding persons equipped with both personal and legal qualifications, there are such factors as geographical representation, political support of the governor by the appointee, acceptance by one or more special interest groups which may be involved, consideration of recommendations by local people, and perhaps the most important of all - and certainly related to the governor's influence on legislation - consultation with and approval of the Senator from the district involved.

POLITICAL POWER (perhaps this should have a different title)

No governor has a seat in the legislature but most state campaigns are built largely around legislative policy, proposals, and program, concrete evidence of the growth of the Governor's role as chief legislator. In measuring the relative legislative importance of the governor against that of the legislature, it is well to remember that a minority of all the voters of the state elect legislators, a majority pass upon the candidates for Governor. This broader constituency estimates his campaign promises and platform, or, in the case of an incumbent, estimates his success in terms of how well his program was carried out. Although some legislators - through long time service - may attract a statewide following - normally a legislator cannot compete with the chief executive as the official voice of all the people. By his authority to recommend legislative measures and his freedom to support his recommendations, plus other available powers, the governor commands a position of influence which is not embarassed by district limitations.

The governor's opportunity to influence legislation begins with his campaign for office, for as a candidate he commits himself to the voters by his position on many important public issues. His influence at this early stage extends even farther, since the voters who like his platform will vote for legislative candidates committed to similar positions. If he can dominate the party convention and platform, then his control is further strengthened.

Advance executive influence in the selection of legislative leadership is promoted in various types of prelegislative sessions such as the caucus in a two-party state or informal meetings of various legislative factions in a one-party state. The behind-the-scenes approach through private conferences with legislative leaders throughout the session is a continuous means of marshalling support for the governor's legislation. The governor's skill in political leadership, plus the other advantages available to him as previously set out in this Facts and Issues, measures the heights he is able to reach as chief legislator in state government.