

aug. 1968

Material I prepared
for legis. comm. —
briefing, unit. grp mat.,
every-member mat. Carbons
of these, original mss (save
until notations in colors are
copied), 3 mimeog copies of
every-member mat for
Duckworth, Graham, Garsoe
of Irving. Also Texas Observer
art. for Mrs. Garsoe

Lab 12

Phone 723

From

E. R. BROWNSCOMBE

ANNUAL SESSIONS - WHAT TYPE....

The fourth topic to be discussed at the unit meetings of September 11-12 concerns the type of annual sessions of the legislature which we would favor. League members last year came to a consensus which supports annual sessions, but a more detailed consensus is now needed by the state League, so we will consider the following questions.

1. SHOULD THERE BE SOME LIMIT ON THE LENGTH OF THE SESSIONS?
IF SO, WHAT LIMIT?
2. SHOULD BUSINESS BE CARRIED OVER FROM ONE SESSION TO THE NEXT?
(This is known as "continuous session" and is defined as "an annual session in which unfinished legislation of the first session of the biennium is automatically carried over in the same status in the legislative process to the opening of the second regular session.")
3. SHOULD ONE OF THE SESSIONS OF EACH BIENNIUM BE LIMITED TO
BUDGET MATTERS?

Twenty-one states now hold annual sessions, and two more states have been authorized to do so within the last four months. Thirteen of the 21 have some type of limit on the length of the regular sessions; 8 have no limit, and among these 8 are California, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania. Six of the 13 states have an absolute limit to the session; four have what might be called a "coercive limit" in which the per diem pay stops after a certain number of days but the session may continue; and in three states the length of the session may be extended. Without doubt, sessions which are not limited in length are more flexible and offer more opportunity to accomplish legislation in a more rational and less hurried way. Unlimited sessions call for legislators to whom legislating is a profession. Is it desirable to have professional legislators? Varying opinions on this can be furnished by the resource person at your unit meeting.

With regard to continuous sessions, only three states (Georgia, Michigan, and Kansas) have constitutional provisions expressly permitting them, and three other states (Alaska, Rhode Island, and South Carolina) have legislative rules permitting them.

Eight of the 21 states holding annual sessions have a budget session every other year, and budget sessions are generally more limited in length than regular sessions. A budget session every other year would probably mean budgeting on a two-year basis with the demonstrated difficulty of forecasting, with reasonable accuracy, revenue and expenditures for a two-year period. On the other hand, the regular session would not be tied up by adoption of the budget.

Our League had unanimous consensus in favor of annual sessions. In answering the above three questions, we will be saying whether we want these annual sessions, and the legislature, restricted or unrestricted as to time or subject.

result in a more accurate assessment of his legislative record than is now possible. Recognition of service in the public interest could thus be quicker and more certain.

A more comprehensive type of public disclosure by legislators is recommended in the 1967 report of the Committee For Economic Development, Modernizing State Government. "All sources of outside income", says the CED, "should be subject to public disclosure, along with associations that they [legislators] or their immediate families may have that might imply a 'special interest'."

The resource person in your unit group will have more information about the CED report and information, also, about the attitude of the Texas Assembly on conflict of interest and on public disclosure legislation. The Assembly, sponsored by Texas A & M and the American Assembly of Columbia University, was held at A & M in October 1967.

VERBATIM RECORD....

The third topic to be discussed in the September 11-12 unit meetings is:

SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE PROCEEDINGS OF EACH HOUSE OF THE LEGISLATURE? SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE COMMITTEE MEETINGS AND HEARINGS OF EACH HOUSE?

To an extent these questions tie in with disclosure of legislators' private income, for verbatim recording of the proceedings of the legislature would seem to be necessary for accurate assessment of possible conflict of interest situations. But aside from that, "A verbatim record for each house", in the words of Prof. McCleskey, "would be invaluable to legislators who must otherwise trust to memory or personal notes to recall the figures and content of some past debate, and it would probably do much to improve--and restrain--statements made on the floor. It would also be of great value to members of the general public who at present find it impossible to know what their senator or representative is saying and doing on the floor. The debates and rebuttals, the charges and countercharges go unreported at present. The legislature owes it to the voters as well as to itself to remedy the situation by providing the state with an equivalent of the Congressional Record."

It is estimated, by the CED and others, that probably some 90% of the debate and discussion in legislatures is never recorded, and one result is that courts have no "legislative history" of state laws, which leads to difficulties in judicial interpretation. The resource person in your unit will have examples of this.

With regard to committees of the legislature, Prof. McCleskey makes the following statement. "As far as records are concerned, the committees at present have only a clerk, who is supposed to keep notes on official committee action (motions offered, action taken, reports offered, etc.). This function is not always handled well, and in any case it involves only one of several important aspects of committee work. Ideally, there should be verbatim transcripts of all testimony and all examination and cross-examination in the committee's hearings. Such transcripts, along with all committee reports and documents, should be printed for general distribution, for if the hearings are at all justified material will surely be presented that would be of interest to the legislature and to the general public as well."

CONFLICT OF INTEREST....

The second topic to be discussed in the September 11-12 unit meetings is:

IN YOUR OPINION, DOES THE TEXAS LEGISLATURE HAVE ADEQUATE STANDARDS OR GUIDELINES TO DEFINE CONFLICT OF INTEREST? IF NOT, WHAT STANDARDS WOULD ENCOURAGE PUBLIC CONFIDENCE IN LEGISLATORS?

One author has called conflict of interest "the vast gray area". It is an area for which legislatures do not usually attempt to set boundaries until particularly flagrant abuses come to light. In Texas "scandals involving a few insurance companies, naturopaths, legislators, and state officials led to the enactment in 1957 of a Legislative Code of Ethics, a Representation before State Agencies Act, and a Lobby Registration Act", reports a standard book on Texas government. The resource person in each unit group will have a summary of the Code of Ethics and a comment on its practical value. She will also have information on New York's 1965 ethics code, which is regarded as a model by many officials in other states, and on the comprehensive code of ethics adopted by the Florida legislature in 1967.

Overtures which, if accepted by the legislator, will generate conflicts of interest, are by far the most pervasive method of "getting to" a lawmaker. An Oklahoma legislator describes what happens: "You start getting indirect approaches--offers to retain you as a lawyer, hints that a trade association would like to place their insurance through your firm...." Another approach is to indicate that a business wishes to retain the legislator as a public relations consultant. These are just examples--there are other bases of payment, and some basis is adaptable to almost any occupation in the state. All such receipts and their sources should be required to be fully and publicly disclosed by legislators states Prof. Clifton McCleskey, of the University of Texas. He adds, "Needless to say, this is a proposal to which many legislators are extremely cool, even when it comes from fellow members."

A more complete disclosure is advocated by Prof. W. E. Benton, of Texas A & M, who says that all legislators, as well as the lieutenant governor, should be required to make public the amount and source of all monthly and yearly income. "This information," he says, "should be made available to the public in order that the voters may more intelligently evaluate the work of the legislature and individual members in event of conflict between the public and private interest."

Legislation of this sort, even in token form, has a long history of opposition from legislatures. Arguments used against such legislation include that it is an unwarranted interference with personal liberty, that it would discourage qualified candidates, that the public is unable to interpret conflict of interest, and that so few of the public are interested in the information that it is not worthwhile to require the reports. Proponents point out that a public office holder should not expect to have as much privacy regarding income as a non-office holder. They say, too, that the presence of such reports and their availability to the public would tend to improve the quality of legislators and would tend, also, to reduce the number and flagrancy of legislative scandals, since publicizing by news media would afford the opportunity to nip them in their incipient stage. Proponents also say that disclosure of all income from all sources, which would show where a legislator's private financial interests lie, could

League of Women Voters of Dallas
2626 West Mockingbird Lane
Dallas, Texas 75235 FL1-4125

August, 1968

THE LEGISLATURE....CAMPAIGN COSTS....CONFLICT OF INTEREST

VERBATIM RECORD....ANNUAL SESSIONS

At unit meetings on September 11 and 12, Dallas League members will have their last chance of this League year to say what changes they want in the Texas legislature. Last year, after wide ranging and lively discussion based on the four Facts & Issues on the legislature, we agreed that we want annual sessions, higher salaries for legislators, and four-year terms for representatives; also that we want the lieutenant governor's power reduced, conference committee action restricted to resolving differences between Senate and House bills, and adequate staff (both clerical and research) to aid legislators. We want, too, increased power for the governor in the Executive Department, and reports from candidates to show all campaign contributions, whenever made, both monetary and otherwise.

The aim of our whole study is to come to agreement on ways in which the legislature may be upgraded--may be made more competent, more responsive to the conditions and needs of the state, and more representative of the public interest. It should be helpful in coming to consensus on the topics of the September 11-12 meetings if we judge our answer to each question from the viewpoint of: Will it contribute to obtaining an increasing number of high quality legislators for Texas?

CAMPAIGN COSTS....

This being an election year, interest in political campaign costs and who pays them increases. The first topic to be discussed at the September 11-12 unit meetings is:

DO YOU CONSIDER HIGH CAMPAIGN COSTS A PROBLEM IN ELECTING LEGISLATORS
RESPONSIVE TO THE PUBLIC? IF SO, WHAT SOLUTIONS WOULD YOU SUGGEST?

For fruitful discussion of these topics, we need to know what campaigns cost and in what ways the Texas Election Code regulates candidates' spending. If we decide that something should be done in the broad area of campaign costs, there are several proposals we can consider, from the relatively minor change of eliminating candidates' payment of filing fees to the definitely major change of state government financing of legislative campaigns. An excellent source of information on campaign costs, their effects, and what might be done about them is the presentation on page 2, second column, and page 3, first column, of "The Influence Of The Lobby" (the fourth Facts & Issues on the Texas Legislature). Many of us have this in our 1967-68 League material. It is also available from our publications chairman, Mrs. H. S. Miller, FL1-5690. A resource person in each unit group will be prepared with a variety of supplementary information to aid discussion of this very timely topic of campaign costs.

Unit Meetings Sept. 11-12, 1968 31Resource and Unit Leader's Discussion Guide on the Texas Legislature 68PROGRAM TAKES 1 3/4 - 2 HOURS.....

The program part of this meeting, including the taking of consensus, will require at least 1 hour and 45 minutes. A time allowance of 2 hours would be much more satisfactory. We will take consensus on four items, all of them having at least two parts, and each of the four will need at least five minutes for consensus and may need as much as 10.

THE RESOURCE PERSON; THE UNIT LEADER.....

The resource person should be familiar enough with the accompanying resource material, Addenda, so that she can put into the discussion when appropriate items that would contribute to the discussion, clarify a point, open up a new line of thought, or help the discussion to move along.

The unit leader, who also should be familiar with Addenda, should be alert to give the resource person opportunity to present her material when appropriate. The resource person would respond primarily to a cue from the unit leader or questions from unit members, but because of her more extensive knowledge she also should feel free to give her information without a cue or question when she sees an opportunity to aid the discussion. But she should never monopolize or give information just for the sake of giving it.

BASIC MATERIAL; ADDITIONAL MATERIAL.....

The basic material for this unit meeting is the every-member material--the two blue sheets--which went out with the new roster to all Dallas League members during the last week of August. Unit leaders and resource people should be completely familiar with this material and should have it at hand at the meeting. In notifying unit members of the meeting, preparatory reading of the blue sheets and bringing them to the meeting should be stressed, although no one, of course, should receive the impression that she shouldn't attend the meeting if she hasn't done her home work!

Unit leaders and resource people should also know the material headed LOBBY METHODS, pages 2-3 of "Influence Of The Lobby" (the fourth Facts & Issues on the Texas Legislature). This is pertinent to our questions on campaign costs and conflict of interest.

VISUAL AIDS.....

Only the simplest form of visual aid is suggested for this meeting, but it is important to have that--and the resource person would usually prepare it. The four groups of consensus questions should be written LARGE on two pieces of poster cardboard, using one side per group. Or a roll of 18" shelf paper can be used, with enough spacing between the groups of questions so that only one group is visible at a time. On the basis of the saying that "one picture is worth a thousand words" it is

hard to estimate how many words our suggested visual aids are worth, but they do help to focus discussion on the question at hand and they do add some "seeing" to a meeting that is otherwise "saying" and "hearing"!

And now for a different sort of visual aid--one that the resource person does for her own use. Addenda, the resource material which accompanies this discussion guide, contains two types of information: (1) what is ESSENTIAL for a good discussion of the subject, and (2) what is OPTIONAL for presentation, depending upon how the discussion develops and what questions are asked. The essential material is designated "E". Accentuating the "E" with a brilliantly colored check mark, for example, makes the indispensable information easy to find and present.

THE UNIT MEETING.....

Note that two time periods are given for three of the four topics to be discussed in the program part of the meeting. Two hours are allotted for program time if the longer periods are used, 1 hour 45 minutes if the shorter periods are used.

Announcements (unit leader)..... 20 mins.

Program..... 1 hr. 45 mins. to 2 hrs.

Introduction (unit leader)..... 5 mins.

This is the sixth unit meeting we have had on the Texas legislature in less than two years. Our first three unit meetings, a go-see tour of the legislature in session, and two general meetings with several of our Dallas County legislators gave us background information and started us on our way to forming opinions about the problems of the legislature. Very helpful, too, were the research of our Dallas League's legislature resource committee and the four Facts & Issues on the Texas legislature put out by the state League.

In the fourth and fifth unit meetings we came to consensus on various recommendations to improve the legislature. And in today's or to-night's meeting we will discuss questions in four further areas concerning the legislature and see if we can agree on what, if anything, should be done about them.

Much of our discussion will deal with regulations that might be made, and laws and constitutional amendments that might be passed. Let's think of these from the viewpoint of the contribution they might, or might not, make to upgrading the legislature. Let's think of them, also, from the viewpoint of: Will they contribute to obtaining an increasing number of high quality legislators for Texas?

We have four groups of questions to consider. They are: campaign costs; conflict of interest; verbatim records; and what, if any, limitations on annual sessions.

I'm to be the discussion leader and Mrs. _____ is our resource person. Mrs. _____ is our recorder, who, at the end of the discussion of each set of questions, will read what seems to be the

consensus of the

group and with the group's help evolve a final statement of consensus. This statement, of course, would be that we do not have consensus if that is the situation.

Campaign Costs 20 - 25 mins.

The questions for discussion are:

1. DO YOU CONSIDER HIGH CAMPAIGN COSTS A PROBLEM IN ELECTING LEGISLATORS RESPONSIVE TO THE PUBLIC?
2. IF SO, WHAT SOLUTIONS WOULD YOU SUGGEST?

Following the statement of the questions the resource person would present from Addenda the several "E" items which are listed under sub-headings 1 and 2 of the main heading "Campaign Costs". The sub-headings are "Costs" and "Costs Help Limit Type of Candidate".

Discussion of the second question necessarily hinges on the group's answer to the first question. If it is "yes", the resource person would open discussion of the second question by presenting the "E" items which are listed under sub-heading 3 ("Solutions").

Formulation of consensus statement.

Conflict of Interest 30 - 35 mins.

The questions for discussion are:

1. IN YOUR OPINION, DOES THE TEXAS LEGISLATURE HAVE ADEQUATE STANDARDS OR GUIDELINES TO DEFINE CONFLICT OF INTEREST?
2. IF NOT, WHAT STANDARDS WOULD ENCOURAGE PUBLIC CONFIDENCE IN LEGISLATORS?

Following the statement of the questions the resource person should present from Addenda the "E" items which are listed under sub-heading 1 ("Present Standards") of the main heading "Conflict of Interest".

Again, discussion of the second question must hinge on the group's answer to the first question. If the answer is "no", the resource person would open discussion of the second question by presenting the "E" items which are given under sub-heading 2 ("Proposed Standards").

Formulation of consensus statement.

Verbatim Record 20 mins.

The questions for discussion are:

1. SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE PROCEEDINGS OF EACH HOUSE OF THE LEGISLATURE?
2. SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE COMMITTEE MEETINGS AND HEARINGS OF EACH HOUSE?

Probably both of these questions can be discussed at the same time. At the start of the discussion the resource person should give from Addenda the "E" items which are listed under sub-heading 1 ("Present Procedure") of the main heading "Verbatim Record". The other "E" items should be given when appropriate.

Formulation of consensus statement which would cover both questions.

Annual Sessions - What, If Any, Limitations30 - 35 mins.

The questions for discussion are:

1. SHOULD THERE BE SOME LIMIT ON THE LENGTH OF THE SESSIONS?
IF SO, WHAT LIMIT?
2. SHOULD BUSINESS BE CARRIED OVER FROM ONE SESSION TO THE NEXT?
3. SHOULD ONE OF THE SESSIONS OF EACH BIENNIUM BE LIMITED TO
BUDGET MATTERS?

These questions should be discussed separately and a separate consensus taken for each, with the possibility of having to take consensus for each part of Question 1.

Question 1 will probably need the most time for discussion, especially if the group decides to limit the annual sessions. Question 2 should require the least time for discussion, and Question 3 an in-between amount of time.

Before discussion starts, the resource person should present from Addenda the "E" items which are listed under sub-heading 1 ("Limited vs. Unlimited") of the main heading "Annual Sessions". If the consensus is in favor of limiting sessions then before discussion begins on the second part of Question 1 the resource person should present the "E" items under sub-heading 2 ("If Limited, What Limit?"). When consensus on that is completed the "E" items under sub-heading 3 ("Continuous Session") should be presented. And when consensus on Question 2 is completed the resource person should start the discussion on Question 3 by presenting the "E" items under sub-heading 4 ("Budget Matters").

Perhaps your group will definitely want to discuss the three questions all at once. In that case the resource person should see that all the "E" items are presented at one time or another and the unit leader should see that all three questions are covered in the consensus.

ADDENDA 7Resource Material for Unit Meetings Sept. 11 - 12, 1968 55

This material comes from many sources. Among them are the textbooks on Texas government and politics by Professors W. E. Benton, Stuart MacCorkle and Dick Smith, and Clifton McCleskey; the history of Texas by Rupert N. Richardson; Lobbying and the Law, by Prof. Edgar Lane, of the University of California at Santa Barbara; Modernizing State Government, Committee for Economic Development; the workbook and the final report of the Texas Assembly; the report of the 29th American Assembly; recommendations for legislative improvement, compiled from various sources by the Citizens Conference on State Legislatures; the booklet, "Hamstrung Legislatures", by J. N. Miller; and many issues of the monthly bulletin, "State Legislatures Progress Reporter", published by the National Municipal League.

.....

I. Campaign Costs1. Costs

E Writers on Texas government agree that because of loopholes in the election code and non enforcement it is almost impossible to determine the total amounts spent in political campaigns. However, educated guesses can be made, based on what candidates report, the various activities that go into a campaign, and the cost of such items as filing fees, newspaper and TV ads and radio spot announcements. The resulting estimate is \$10,000 - \$20,000 for a candidate for the House of Representatives, with costs increasing all the time.

E Where does the money for a candidate's campaign come from? "From those who have it," one legislator is said to have answered. Voluntary fund-raising drives can be conducted by unions through a "Committee on Political Education" (COPE) and by business associations through a "Public Interest Political Education Fund" (PIPE). Labor can furnish organizational skills and volunteer work. "A corporation can make available without cost the services of a highly paid public relations expert....A company's budget for stamps may expand several fold in campaign season, and it may by prearrangement be billed for printing actually done for a candidate. Top management officials may as individuals contribute to candidates, and then perhaps find that they have earned a bonus from the corporation of about the same amount. A bank can without any attempt to collect write off a campaign loan as a bad debt, and thus in effect make a contribution that is tax deductible....One other source of money in politics....is the criminal element." (McCleskey, The Government and Politics of Texas.)

August, 1968

E

We should not feel that elections are won by money alone. A candidate must certainly have some money to win an election but, as Prof. McCleskey says, "there is always a point in a campaign financing beyond which dollars have a declining impact on the vote. If a candidate can obtain a minimum he may be able to offset the thicker bankroll of his opponent by effective campaigning and by utilizing volunteer assistance." Prof. Benton says that if campaign funds flow too freely the voters are likely to think the election is being bought and vote against the candidate.

2. Costs Help Limit Type of Candidate

E

The high cost of campaigns contributes to restricting candidacies to the portion of the population who have access to considerable sums of money and who hold views acceptable to one or another of the sources of campaign funds. High campaign costs add to the pressure of low legislative salaries to restrict the walks of life from which legislators come. In Texas, as in other states, the legislature is made up mainly of two groups: business men and lawyers, most of them with partners or families back home to keep the business running while they are gone. "This is, of course, a very thin slice of America," notes the workbook of the Texas Assembly. Solution of the problem of campaign costs would seem to be a major means of fostering recruitment of legislators from a broader spectrum of society.

"Too much emphasis cannot be given to the importance of assistance in financing campaigns. Some observers believe that this is the most effective method of influencing legislation. Many officials, both in the executive branch and in the legislature, enter office with political obligations due their financial supporters. Some members of the legislature could, in all propriety, be addressed by the presiding officers as 'the gentlemen from this or that corporation or organization' rather than by the usual form of 'the gentlemen from this or that county'." (MacCorkle and Smith, Texas Government.)

3. Solutions (Note: A good visual aid would be to write the key words of each solution on poster cardboard or shelf paper so the group can keep them in mind during the discussion.)

E

A. Texas election laws regarding campaign financing are based on "the conviction that public disclosure of amounts and sources," as Prof. McCleskey puts it, "will provide its own checks and limitations." But this assumes full and complete disclosure, which is not the actual situation both because of loopholes in the law and abuses of it. Suggested amendments to the Election Code are:

- (1) Require reporting of every political expenditure above a minimum, say \$50. This would be applicable to candidates, to direct spending by individuals, and to any political organization, group, or committee that spends money on behalf of a candidate.

August, 1968

- (2) Make a state agency responsible for examining reports and investigating possible violations.
- (3) Change the timing of financial reports so the public will know before the election what a candidate's total expense will be within a small variation. A legislator has suggested that the report be two days before the election and the estimate of total spending be within 10%. The post-election financial report would show what the expenses actually were.

E

B. Primary elections are public institutions and should be financed as such. Therefore, the state or the counties should pay for the primaries just as they now do for the general elections. This is done in a good many states.

E

C. Provide each candidate with a certain minimum of exposure to the voters and minimize financial inequities among candidates by

- (1) Guaranteeing a certain amount of free broadcast time on radio and TV
- (2) Guaranteeing a limited number of free mailings as is done in Great Britain
- (3) Requiring all candidates to provide their pictures and statements for a pamphlet to be produced and distributed by the state. This is a recommendation of the Citizens Advisory Committee to the Washington legislature and builds upon an existing law in that state.

E

D. Allow limited tax credits or tax deductions for contributions to candidates' campaigns. This was recommended both to Congress and state legislatures in the report of the 29th (1966) American Assembly, in order to encourage widespread popular support of candidates.

Further information on some of the above solutions. Solution A.(2): the state agency would have local offices, would act upon complaints and tips from citizens, and would initiate its own inquiries and actions. "Much information concerning money in Texas politics of vital interest to the electorate could [thus] be developed," says Prof. McCleskey....Solution A.(3): At present candidates frequently declare minimum expenses in the pre-election report (which must be filed 7 to 10 days before the election) and report complete costs only in the final declaration which is made after the election. "Thus publicity about campaign spending is misleading before elections and publicity concerning complete spending comes too late to have any effect on elections," points out Prof. W. E. Benton of Texas A & M. Solution C.(1): The procedure would be for the federal government to make the stipulation of free time when it licenses radio and TV stations. Prof. McCleskey comments that "Since the stations are receiving their very valuable licenses free of charge, such a requirement could hardly be

August, 1968

said to work a hardship on them, and it would do much to ensure a minimum exposure of candidates to the public."

.....

II. Conflict of Interest

1. Present standards

E/ TEXAS. Professors MacCorkle and Smith describe the law in these words (underlinings mine): "In general, the law passed in 1957 enacting the Legislative Code of Ethics provides that no legislator or other state official or employee shall have any interest or engage in any business or profession which is in substantial conflict with the proper discharge of his public duties. Specifically, the act prohibits employment, gifts, favors, or services that might reasonably tend to influence him. No legislator with a personal interest in a bill is supposed to vote on it, and such interest is to be disclosed to the house. Anyone subject to the act who is an officer or agent or owns a controlling interest in a business regulated by a state agency must disclose that fact. Any firm with such legislative or other official connections cannot sell goods or services to the state agency which regulates it. The penalty for noncompliance is expulsion, removal from office, or discharge." BUT THERE IS NO PROVISION FOR ENFORCEMENT. It is interesting to note that the legislature in 1957 did not enact legislation requested by Governor Daniel to establish a new state law-enforcing agency with prestige and broad powers to scrutinize the conduct of public officials. And the legislature has continued to refuse to define "substantial" as used in the prohibition in the Ethics Code of "substantial conflict with public duties." Because there is no provision for enforcement, Professors MacCorkle and Smith conclude that "the practical value of the Code of Ethics is far from certain, but conceivably it could consist of two things:

1. It could serve as a possible basis for disciplinary action. Removal from office....might result from flagrant violation of the code.
2. It could serve as a guide to a conscientious legislator or other officer if he were in doubt as to whether a certain line of action was ethical or not."

NEW YORK. An Associated Press article of about a year ago on the weakness of codes of ethics in state legislatures says: "New York's 1965 ethics code is regarded as a model by many officials in other states. It bars lawyer-legislators from practicing in the state's Court of Claims, keeps former legislators from lobbying for two years after their terms, bans promoting of legislation by legislative employees....and forces financial disclosure by legislators in connection with interests

August, 1968

in businesses regulated by the state. Penalties up to a \$500 fine and one year in jail are provided." The article does not say whether New York's code contains provisions for enforcement, but it says that New York, Ohio, and California have "tough codes".

E FLORIDA. Since 1959 in the wake of State Road Board scandals, codes of ethics bills had been introduced but failed to pass in the legislature. In 1966 there were Purchasing Commission scandals. The 1967 legislature adopted a comprehensive code of ethics for the first time in Florida's history, despite "massive, clandestine and persistent" efforts by lobbyists to defeat the measures. Also, "The very proposal of a code of ethics, some legislators said, was a reflection on their character. If a code were required, they argued, a short and simple exhortation--such as 'be honest'--should suffice." Nevertheless the reform measures carried. The Senate adopted a code of ethics for its members, and a code for lobbyists. The House incorporated in its rules a code for members as well as for lobbyists. An honor system is established for legislators and a committee on standards and conduct is provided in each house to interpret and apply standards. Those are the provisions for enforcement. Penalties, aside from any provided by law, are that "either house of the legislature, by two-thirds vote after notice and hearing, may censure, reprimand, place on probation or expel a member."

FLORIDA. The 1967 legislature "enacted a general law establishing standards of conduct for officers and employees ~~in areas of possible conflict between their private interests and official duties~~ of state agencies, legislators and legislative employees in areas of possible conflict between their private interests and official duties. It focused on six areas: using public office for private gain, giving preferential treatment to any person or organization, impeding governmental efficiency or impartiality of action, making governmental decisions outside official channels or affecting adversely the confidence of the public in the integrity of government."

The information in the above paragraphs about Florida and all quotations are from an article by Prof. Paul Douglass, director of the Center for Practical Politics at Rollins College, and member, secretary and draftsman of the lay committee which recommended canons of ethics and legislation to the 1967 Florida legislature.

2. Proposed standards

E A. Introduction. Apparently there are two major ways of tackling the problem of conflict of interest: (1) set up standards for legislators and specifically prohibit various actions that would violate the standards; (2) require public disclosure of legislators' income. The first approach tells the legislator what he may not do, the second tells the public what he did do. The present Texas law uses the first approach, but without any provision for enforcement. the "setting of standards" approach seems to be the one that is used in all states

having conflict of interest laws or legislative rules; our resource committee has so far discovered no state which uses the "public disclosure of legislators' income" approach. However, there is more and more discussion of the latter approach as conflict of interest problems increase and the former approach proves relatively ineffective. Recommendations of both sorts follow.

- E B. Strengthen the present Texas law by, at the very least, including a definition of "substantial" and "reasonably" and making provision for enforcement.
- E C. Recommendations for public disclosure of legislators' income.
 - (1) Public disclosure by each legislator of sources and amounts of receipts that create conflict of interest.
 - (2) Public disclosure by each legislator and the lieutenant governor of the amount and source of all monthly and yearly income.
 - (3) Public disclosure by each legislator of the amount and source of outside income, along with associations that he or his immediate family may have that might imply "special interest".

An explanation of conflict of interest, and arguments for and against public disclosure laws are in paragraphs 2 - 5 in the section on Conflict of Interest of the every-member material--the blue sheets.

D. Recommendation of the 29th American Assembly (1966).

"Increasing connections between public and private life have led to public concern over conflicts of interest. Efforts to define and control conflicts of interest have satisfied neither the public nor the legislatures. We recommend:

First, codes of ethics should be adopted, applying 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 which should extend to the activities of lobbyists.

Third, all instances of corruption should be vigorously prosecuted.

~~E. Recommendation~~

E. Recommendation of the Texas Assembly (1967).

- (1) Legislators should be prohibited from appearing before state agencies in adversary proceedings for compensation. This should be made to apply in any case where the legislator might in any manner stand to gain financially from the action of the state agency.

- (2) Safeguards should be established to prevent abuses of the law providing for legislative continuances /the practice of postponing for the duration of the legislative session lawsuits where any party is represented by a lawyer-legislator/.

.....

III. Verbatim Record

Enough fuel for a lively discussion is in the every-member material--the blue sheets. Following is supplementary material on the present situation in state legislatures and legislative committees regarding recording of their proceedings, and also material illustrative of the value of verbatim records in the "legislative history" of a law.

1. Present procedures, as of 1965-66. (From The Book of the States, 1965-66, quoted in the workbook of the Texas Assembly)

- E/ A. Maine, Nebraska, New York, and Pennsylvania maintain verbatim records of the proceedings of the legislature, and West Virginia does for the House. Seven additional states maintain such records with one or more limitations. The states are: Connecticut, Michigan, Nevada, New Jersey, Tennessee, Utah, and Washington. Common limitations are that the records are typed only, or that they are maintained only in part, or that they are maintained only upon request, or that debate is not included. Nevada's limitations are unique: both houses record all proceedings with mechanical recorders, but only partial transcriptions are made and those only occasionally.

- E/ B. Only two states--Hawaii and Oregon--give an unqualified "yes" answer to the question: Are records of committee hearings and proceedings taken? Seventeen additional states maintain such records subject to one or more limitations. The most common limitations are that the records are taken only at the request of the committee or committee chairman, or that they are taken for the most important committees only, or that they are typed only or taken only occasionally.

2. Value for legislative history of laws.

- E/ A. ~~"Testimony and legislative debate should be fully recorded for future reference, as in Pennsylvania."~~ --Committee for Economic Development, 1967.

- E/ B. A Missouri legislator says that he gets calls about once a month from attorneys asking for transcripts of committee hearings that would show legislative intent, but there are none. (The Missouri legislature publishes a daily journal

which shows the rulings of the chair and all votes, but there is no verbatim record maintained of the legislature's proceedings, nor are records of committee proceedings and hearings taken.)

- E C. With regard to records, Texas is like Missouri, and the absence of a legislative history of laws must often have been a handicap to interpreting them. An example is the county home rule amendment and its enabling act. Lack of a record of what the legislature intended in these poorly-drawn acts has helped appreciably to stymie attempts to achieve county home rule.

.....

IV. Annual sessions.

1. Limited vs. unlimited

- E A. Limited sessions of legislatures are not necessarily really limited. Some states do have an absolute limit, which often means "stopping the clock" so that the session can continue and still be legal. In other states the length of the session, although specified, can be extended, but legislators' pay may or may not continue. Unlimited sessions, likewise, are not unlimited in actual practice, although they are so far as constitutional and statutory provisions are concerned. They are, actually, flexible in length, according to the amount of business with which the legislature will deal.
- E B. Six of the 8 states which do not limit their legislative sessions are comparable to Texas in the very important areas of industrialization, urbanization, and the problems they bring. California, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania find annual sessions, with no limit by constitution or statute on their length, to be necessary for the business a legislature needs to take care of in these times. Is there a lesson in this for Texas?
- C. "All states with heavy work loads need the kind of legislative freedom that comes from annual general sessions of unrestricted duration....Unrestricted annual sessions allow time for detailed study of major problems and more careful review of bills proposed to solve them. They afford more days and weeks for deliberations and they eliminate the long, 20-month period in which legislative determinations are possible without the governor's initiative his calling of special sessions. They reduce the flood of hasty and ill-considered legislation in the waning hours of a session....They also allow continuity and more effective use of research and secretarial staffs."-- Committee for Economic Development, 1967.
- E D. Unlimited annual sessions necessarily develop legislators to whom legislating is a profession. Is this good or bad? Says Robert Crown, chairman of California's Assembly Ways and Means Committee, "Look. This is the twentieth century.

The California legislature is the board of directors for a \$4 billion corporation. The average assemblyman serves an electorate of 200,000 people. Serving and getting elected is a full-time job. We need professionals. In fact, I like to think I am a professional."....The opposite view is taken by Edward Staples, executive director of the Missouri Public Expenditure Survey, who says, "You don't want to develop a staff of professional governmentalists; you want [in the legislature] the broad viewpoint of the farmers, the lawyers, the teachers, the doctors, the businessmen. A good farmer gives the flavor of the general citizenry to the legislature."

2. If limited, what limit?

- E A. In the 13 states that limit annual sessions the highest limit is 160 calendar days (Colorado), the next to highest is 90 legislative days (Delaware), the lowest limit is 45 calendar days (Georgia), and the next to lowest is 45 legislative days (South Dakota).
- E B. House Speaker Ben Barnes has said that "real progress will ~~be~~ forever elude Texas" so long as the legislature holds only one 140 day session every two years. This would indicate that in his opinion annual sessions should be longer than 70 days.

3. Continuous session

- E A. The term "continuous session" applies to legislatures with annual sessions. It means that the unfinished legislation of the first session of the biennium is automatically carried over to the second session and starts in the second session at the place where it left off in the first. In effect, this gives bills the opportunity to live for two years rather than one. And there is more time for consideration of bills, more time to draft them carefully, and more time for legislators to become familiar with the bills--to know their content, how well they carry out their expressed purpose, and what "jokers" may be in them. There is more time, also, to understand and assess the forces that support and oppose important bills. Legislators have the interim between sessions in which to study problems and meet with constituents....Opponents of the continuous session say that legislators probably spend little time studying carry-over legislation and that practically all important legislation is passed or defeated during the first session. Opponents question letting controversial issues be carried over, on the ground that delaying the decision-making process of the legislature is undesirable.

4. Budget matters.

- E A. Texas has had much unhappy experience with budgeting for a two-year period. The way to budget for a one-year period is for the legislature to do it every year. True, that

August, 1968

may mean that each of the annual sessions may be tied up for some time by adoption of the budget....It may help the unit group in its discussion of whether to limit one session of each biennium to budget matters to know the point of view of the authors of the three books on Texas government which the resource committee has found most helpful. Prof. McCleskey says that the state's budget is particularly difficult to handle on the biennial basis. Prof. Benton says that another advantage of annual sessions is that it would permit the state budget and appropriations to be set up for a year ahead instead of requiring finances to be figured for two years in advance. Professors MacCorkle and Smith do not express an opinion of their own....Perhaps additional help to the discussion may come from the following facts:

1. That of the 8 annual session states holding budget sessions every other year, only one (Pennsylvania) is comparable to Texas in size of budget and in industrialization, urbanization, and the problems they bring.
2. "More careful attention can be given to budget matters if annual budgets replace biennial.... To prevent undue delays, specific deadlines may be set for financial enactments." -- Committee for Economic Development.

Dear Resource People:

has been achieved

After the final consensus/on the many questions regarding annual sessions, here is a suggestion for finishing with a flourish--read to your group the following quotation from the American Assembly and see how closely they and the Assembly agree!

"To develop more responsibility in legislative performance, and more independence, legislatures should be continuing bodies meeting in annual plenary sessions, without limitation of time or subject."

Yours for a grand finale,

Elizabeth F. Brownson
Legislature Committee Chairman

Addenda

Annual Sessions

1. Limited vs. unlimited, "flexible"
 - ✓ Argument for unlimited is the states that have it are comparable to Texas & have it as result of recent changes - modernizing.
 - ✓ Flexible - legislature sets own limit
 - Most unlimited states are on annual salaries, not per diem, so no incentive to extend session to get more pay
 - "Professional legislator"
 - Unlimited - otherwise can't keep in touch with important legis by Congress that affects states 5 APR 2/67 p4

2. If limited, what limit?
Analysis of C&D report & what limits states have

3. Continuous session

4. Budget matters

Baldwin, Trustee,

Plaintiff,

No. 11,212

Whitehead, Sr., et al.,

Defendants.

O R D E R

Now, on this the 13th day of October, 1965, the Special Appearance and Motion to Quash on behalf of the defendants come for hearing, pursuant to regular assignment and the court has been full informed in the premises find, that said Special Appearance and Motion to Quash as to H.C. Whitehead, Sr. and S.S. Whitehead should be overruled and the defendants are given 10 day in which to plead and 20 days allowed within which answer and Special Appearance and Motion to Quash as to Whitehead, Jr. ^{as a matter of course} sustained.

Lavern Fishel
Lavern Fishel
District Judge

Certify that on the 21st day of October, 1965, I mailed a true and correct copy of the above order to James Bounds, Attorney at Law, Hugo, Oklahoma.

R. Kay Matthews
R. Kay Matthews

FILED
District Court

1965 OCT 22 PM 3:42

ATOKA COUNTY, OKLA.
JOY SARRELL, COURT CLERK
BY *Joy Sarrell*

RECORDED IN
CIVIL CRIM.

JOURNAL 34

PAGE 1521

Addenda

Campaign Costs

- McCookle & Smith - digest of Texas law p. 31-32.
- " " Types of expenses p. 32 p. 26 filing fees
- " " p. 91 quote from last # - pertinent to electing legislators responsive to the public
- Benton p. 196 quote this Benton also gives attention to the role of business & labor in campaign costs. He speaks of COPE and of its opposite in objectives, PIPE (Public Interest Political Education Fund). Then PIPE, in 1960, "big-city Texas businessmen at
- The union have COPE but business has PDPE
- McCluskey - p. 76 ✓ Quote footnote ✓ p. 77-78
Quote body
- ✓ Hamstrung p. 5 - effect of costs on other things on who runs Texas assembly - make up of legislature p. 52, p. 93-94 chart
- " " compensation of legislators p. 85 chart - background paper
- ✓ Benton, p. 111

Solutions

- ✓ Benton p. 113
- ✓ Benton p. 111 Quote to use re plugging loopholes in election laws
- ✓ McCluskey p. 78
- ✓ SLP 2/67 p. 1
- ✓ Texas Assembly p. 54 ✓ Workbook Background paper. Final report did not mention campaign costs or solutions
- ✓ Amer. Assembly booklet p. 7
- Reduce costs, tighten laws on campaign financing so amounts spent will become more visible,
- ✓ SLP 1/67 p. 3.
- ✓ Citizens Conf on State Legislatures (gold-bordered book) p. 73. See also p. 32 + 36.

JAN. 1 - JAN. 26 MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
JAN. 1 HAPPY NEW YEAR!	2 Vac: Styling Whorton-Jury Duty	3 Whorton-Jury Duty?	4 Whorton-Jury Duty?	5 TMoore talk Tulane Chem Engr grad semnr Kern-Denver <u>TIME SHEETS DUE</u>
8 Whorton Kieschnick- Lab 8:00 AM Reed Slack-Calgary Pm-Whorton lv for Albuquerque	9 Whorton-Lovelace Clinic-physical Reed Slack-Calgary	10 Whorton lv Albuquge after noon Reed Slack-Calgary	11 Reed Slack-Calgary AM-Whorton, Kern Faulk Ousterhout, Dowell	12 Reed Slack-Calgary Skinner-Prof Cutler 8:00 Faulk Bimonthly 9:30-Dunlap Sun Mobil Conf Rm R103 1/14 TMoore-25 anniv
15 8:00 Bimonthly-Dunlap	16 R&D Visit to Tyler Whorton Ferguson Slack Yancey Kern Braun Stalkup Faulk	17 Davis at lab	18 8:00 Bimonthly-Perkins	19 James Nolen-Kern et al <u>TIME SHEETS DUE</u>
22 Whorton Kern Ferguson-Summit Mtng Phoenix Ward Shultz-physics, Slack et al. Reser engr schl-Braun Moore-1/2 day each	23 Whorton Kern Ferguson-Phoenix Roe Campbell-AEC workshop-Colorado	24 Whorton Kern Ferguson-Phoenix Roe Campbell-Colorado	25 Whorton Kern Ferguson-Phoenix Roe-Campbell-Colorado Univ Texas Ind Assoc, Sheraton Dallas	26 8:00 Bimonthly-Braun

Bimonthly-Styling - 1/30

*present from Addison the novel "3" term list under sub. Reading 1+2 27
the main heading "Campaign Costs" the out-holding are: "Costs" + "Costs Help Limit
Type 7 candidate*

Addenda

Conflict of Interest

1. Present Standards

- ✓ McCoskie & Smith p 98
- ✓ L W V of Texas memo (gray) 10/66
- ✓ NY 1965 code Legislative kit supplement #13
- ✓ SLPR 11/67 last pages, ^{revised} colored
- ✓ Richardson p. 373

2. Proposed Standards

Every member mat contains basic pros + cons on public disclosure.

✓ Amer Assembly p. 8-9 genl. stmt

included in every member mat. CED p. 40

Benton p 241-242

SLPR 11/67 p 3

Conflicts of interest concern many states, gold bordered book, p 31-37 Texas Assembly final report

Report of Texas Assembly p 7

Stringent, carefully & astutely drawn public disclosure statutes with investigative & enforcement will not bring millennium

The objective of the nongraded school is to teach each child at a level which challenges him. At the same time it is recognized that separation of children into ability groups may deprive the child of contact with a broad spectrum of society. To meet both objectives, the most basic and difficult subjects--English and mathematics--are ungraded while history, science, music, etc., are taught in home rooms which are graded in the conventional manner. Care is taken that each home room represent a cross section of the school population.

In Dallas County the J. H. Florence Elementary School of Mesquite has English and mathematics ungraded for all six years. In Richardson an elementary school has the first years ungraded. Across the country about one in three large school systems have some ungraded elementary schools; fewer systems have tried non-grading in high schools. The following description is largely based on information obtained in a visit to the J. H. Florence Elementary School in Mesquite.

Each year beginners are put in four sections of the "reading readiness" class. Within the first day or two it is apparent that some of the students in each section are well prepared for more advanced work. A new section is immediately formed. In another week another section of the better readers will be formed. In a few weeks three or four new sections have been formed, each with subject matter which is a challenge to the students. Those remaining, now in one section, are those who need this basic class. There are some twenty sections covering various levels of materials, or enrichment materials, in English and in mathematics.

At any time during the year a teacher who recognizes that a student is getting ahead of the class will encourage him to cover additional material at home--perhaps a stated number of advance pages in the same reader his class is using. Upon passing a test on the assigned material, the student is transferred to the next higher section. Also, a lagging student may be transferred back to the next section below. Both fast learners and slow learners are present in the same section as they reach that section's level of learning. Rapid learners do not complete the elementary school early. Instead, after they have finished the normal assignments for any year they are given enrichment material, which is not the regular work of the next year but which may represent higher level work. Thus the brightest students may be doing special assignments in 7th or 8th grade work by the time they finish elementary school.

A student's progress through the levels of mathematics is independent of his progress through English. Thus a student who is poor in one of these subjects may be able to take pride in his accomplishments in the other.

Reporting. Since each child is progressing at his own rate, a special effort is made to keep parents informed of the level and quality of performance of the child. Each nine weeks a conference

Verbatim Record

CED p42

Texas Assembly Workable pp 90- what states have such records

Legis

Conn. typed only

Maine Yes ✓

Mich. in part & put in perm journal

Neb. Yes ✓

Nev. Both houses record all proceedings
by mechanical recorders but
partial transcription made are
made only occasionally. Records
appear in journals on request.

N.J. proceedings, but not debate

N.Y. Yes. Senate record in separate
notebook

Penn. Yes ✓

Tenn. Upon request

Utah Yes. in typed form for daily
journal. Perm journal
printed only occasionally

Wash. In part. Published in perm journal
Senate - no

W. Va. House - yes ✓
Senate - in part

Guam - yes

Puerto Rico - yes

Conn.

Conn. Typed only

Fla

Hawaii - yes ✓

Ill. Typed only

Ky some pub hearing & investigation
recorded. Comm vote is
reported to Comm

Mich. Records of its committees
" " interview " on request
of Comm

Minn. Typed only & on request of
Comm or Comm chosen

Neb. typed only

Nev. occasionally

N.H. Typed only. House proceedings
of most important Comm
recorded

N.J. Yes, on request of Comm, & for
hearing only

Okla. on request of Comm or Comm chosen

Oregon Yes ✓

S.C. Typed only. Some pub hearings
& investigation recorded

S.D. " " " " " "

Vt. Typed only

Wash. House - yes upon request of Comm
or Comm chosen

Senate - typed only & upon request of Comm
or Comm chosen

W. Va. Typed only

Wis. " "

Guam yes

Puerto Rico - yes - some pub hearings
& investigation recorded

The objective of the nongraded school is to teach each child at a level which challenges him. At the same time it is recognized that separation of children into ability groups may deprive the child of contact with a broad spectrum of society. To meet both objectives, the most basic and difficult subjects--English and mathematics--are ungraded while history, science, music, etc., are taught in home rooms which are graded in the conventional manner. Care is taken that each home room represent a cross section of the school population.

In Dallas County the J. H. Florence Elementary School of Mesquite has English and mathematics ungraded for all six years. In Richardson an elementary school has the first years ungraded. Across the country about one in three large school systems have some ungraded elementary schools; fewer systems have tried non-grading in high schools. The following description is largely based on information obtained in a visit to the J. H. Florence Elementary School in Mesquite.

Each year beginners are put in four sections of the "reading readiness" class. Within the first day or two it is apparent that some of the students in each section are well prepared for more advanced work. A new section is immediately formed. In another week another section of the better readers will be formed. In a few weeks three or four new sections have been formed, each with subject matter which is a challenge to the students. Those remaining, now in one section, are those who need this basic class. There are some twenty sections covering various levels of materials, or enrichment materials, in English and in mathematics.

At any time during the year a teacher who recognizes that a student is getting ahead of the class will encourage him to cover additional material at home--perhaps a stated number of advance pages in the same reader his class is using. Upon passing a test on the assigned material, the student is transferred to the next higher section. Also, a lagging student may be transferred back to the next section below. Both fast learners and slow learners are present in the same section as they reach that section's level of learning. Rapid learners do not complete the elementary school early. Instead, after they have finished the normal assignments for any year they are given enrichment material, which is not the regular work of the next year but which may represent higher level work. Thus the brightest students may be doing special assignments in 7th or 8th grade work by the time they finish elementary school.

A student's progress through the levels of mathematics is independent of his progress through English. Thus a student who is poor in one of these subjects may be able to take pride in his accomplishments in the other.

Reporting. Since each child is progressing at his own rate, a special effort is made to keep parents informed of the level and quality of performance of the child. Each nine weeks a conference

League of Women Voters of Dallas
2626 West Mockingbird Lane
Dallas, Texas 75235 FL1-4125

BULK RATE
U.S. Postage Paid
Dallas, Texas
Permit No. 3863

Address Correction Requested

The Legislature....Campaign Costs....Conflict of Interest

Verbatim Record....Annual Sessions

At unit meetings on September 11 and 12 Dallas League members will have their last chance of this League year to say what changes they want in the Texas legislature. Last year, after wide ranging and lively discussion based on the four Facts & Issues on the legislature, we agreed that we want annual sessions, higher salaries for legislators, and four-year terms for representatives; also that we want the lieutenant governor's power reduced, conference committee action restricted to resolving differences between Senate and House bills, and adequate staff (both clerical and research) to aid legislators. We want, too, increased power for the governor in the Executive Department, and reports from candidates to show all campaign contributions, whenever made, both monetary and otherwise.

The aim of our whole study is to come to agreement on ways in which the legislature may be upgraded--may be made more competent, more responsive to the conditions and needs of the state, and more representative of the public interest. It should be helpful in coming to consensus on the topics of the September 11-12 meetings if we judge our answer to each question from the viewpoint of: Will it contribute to obtaining an increasing number of high quality legislators for Texas?

CAMPAIGN COSTS....

This being an election year, interest in political campaign costs and who pays them increases. The first topic to be discussed at the September 11-12 unit meetings is:

DO YOU CONSIDER HIGH CAMPAIGN COSTS A PROBLEM IN ELECTING LEGISLATORS RESPONSIVE TO THE PUBLIC? IF SO, WHAT SOLUTIONS WOULD YOU SUGGEST?

For fruitful discussion of these topics we need to know what campaigns cost and in what ways the Texas Election Code regulates candidates' spending. If we decide that something should be done in the broad area of campaign costs there are several proposals we can consider, from the relatively minor change of eliminating candidates' payment of filing fees to the definitely major change of state government financing of legislative campaigns. An excellent source of information on campaign costs, their effects, and what might be done about them is the presentation on page 2, second column, and page 3, first column, of "The Influence Of The Lobby" (the fourth Facts & Issues on the Texas Legislature). Many

of us have this in our 1967-68 League material. It is also available from our publications chairman, Mrs. H. S. Miller, FL1-5690. A resource person in each unit group will be prepared with a variety of supplementary information to aid discussion of this very timely topic of campaign costs.

CONFLICT OF INTEREST....

The second topic to be discussed in the September 11-12 unit meetings is:

IN YOUR OPINION, DOES THE TEXAS LEGISLATURE HAVE ADEQUATE STANDARDS OR GUIDELINES TO DEFINE CONFLICT OF INTEREST? IF NOT, WHAT STANDARDS WOULD ENCOURAGE PUBLIC CONFIDENCE IN LEGISLATORS?

One author has called conflict of interest "the vast gray area". It is an area for which legislatures do not usually attempt to set boundaries until particularly flagrant abuses come to light. In Texas "scandals involving a few insurance companies, naturopaths, legislators, and state officials led to the enactment in 1957 of a Legislative Code of Ethics, a Representation before State Agencies Act, and a Lobby Registration Act", reports a standard book on Texas government. The resource person in each unit group will have a summary of the Code of Ethics and a comment on its practical value. She will also have information on New York's 1965 ethics code, which is regarded as a model by many officials in other states, and on the comprehensive code of ethics adopted by the Florida legislature in 1967.

Overtures which, if accepted by the legislator, will generate conflicts of interest, are by far the most pervasive method of "getting to" a lawmaker. An Oklahoma legislator describes what happens: "You start getting indirect approaches--offers to retain you as a lawyer, hints that a trade association would like to place their insurance through your firm...." Another approach is to indicate that a business wishes to retain the legislator as a public relations consultant. These are just examples--there are other bases of payment, and some basis is adaptable to almost any occupation in the state. All such receipts and their sources should be required to be fully and publicly disclosed by legislators states Prof. Clifton McCleskey, of the University of Texas. He adds, "Needless to say, this is a proposal to which many legislators are extremely cool, even when it comes from fellow members."

A more complete disclosure is advocated by Prof. W. E. Benton, of Texas A & M, who says that all legislators, as well as the lieutenant governor, should be required to make public the amount and source of all monthly and yearly income. "This information," he says, "should be made available to the public in order that the voters may more intelligently evaluate the work of the legislature and individual members in event of conflict between the public and private interest."

Legislation of this sort, even in token form, has a long history of opposition from legislatures. Arguments used against such legislation include that it is an unwarranted interference with personal liberty, that it would discourage qualified candidates, that the public is unable to interpret conflict of interest, and that so few of the public are interested in the information that it is not worthwhile to

require the reports. Proponents point out that a public office holder should not expect to have as much privacy regarding income as a non-office holder. They say, too, that the presence of such reports and their availability to the public would tend to improve the quality of legislators and would tend, also, to reduce the number and flagrancy of legislative scandals, since publicizing by news media would afford the opportunity to nip them in their incipient stage. Proponents also say that disclosure of all income from all sources, which would show where a legislator's private financial interests lie, could result in a more accurate assessment of his legislative record than is now possible. Recognition of service in the public interest could thus be quicker and more certain.

A more comprehensive type of public disclosure by legislators is recommended in the 1967 report of the Committee For Economic Development, Modernizing State Government. "All sources of outside income", says the CED, "should be subject to public disclosure, along with associations that they [legislators] or their immediate families may have that might imply a 'special interest'."

The resource person in your unit group will have more information about the CED report and information, also, about the attitude of the Texas Assembly on conflict of interest and on public disclosure legislation. The Assembly, sponsored by Texas A & M and the American Assembly of Columbia University, was held at A & M in October 1967.

VERBATIM RECORD....

The third topic to be discussed in the September 11-12 unit meetings is:

SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE PROCEEDINGS OF EACH HOUSE OF THE LEGISLATURE? SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE COMMITTEE MEETINGS AND HEARINGS OF EACH HOUSE?

To an extent these questions tie in with disclosure of legislators' private income, for verbatim recording of the proceedings of the legislature would seem to be necessary for accurate assessment of possible conflict of interest situations. But aside from that, "A verbatim record for each house", in the words of Prof. McCleskey, "would be invaluable to legislators who must otherwise trust to memory or personal notes to recall the figures and content of some past debate, and it would probably do much to improve--and restrain--statements made on the floor. It would also be of great value to members of the general public who at present find it impossible to know what their senator or representative is saying and doing on the floor. The debates and rebuttals, the charges and countercharges go unreported at present. The legislature owes it to the voters as well as to itself to remedy the situation by providing the state with an equivalent of the Congressional Record."

It is estimated, by the CED and others, that probably some 90% of the debate and discussion in legislatures is never recorded, and one result is that courts have no "legislative history" of state laws, which leads to difficulties in judicial interpretation. The resource person in your unit will have examples of this.

With regard to committees of the legislature, Prof. McCleskey makes the following statement. "As far as records are concerned, the committees at present have only a clerk, who is supposed to keep notes on official committee action (motions offered, action taken, reports offered, etc.). This function is not always handled well, and in any case it involves only one of several important aspects of committee work. Ideally, there should be verbatim transcripts of all testimony and all examination and cross-examination in the committee's hearings. Such transcripts, along with all committee reports and documents, should be printed for general distribution, for if the hearings are at all justified material will surely be presented that would be of interest to the legislature and to the general public as well."

ANNUAL SESSIONS - WHAT TYPE....

The fourth topic to be discussed at the unit meetings of September 11-12 concerns the type of annual sessions of the legislature which we would favor. League members last year came to a consensus which supports annual sessions, but a more detailed consensus is now needed by the state League, so we will consider the following questions.

1. SHOULD THERE BE SOME LIMIT ON THE LENGTH OF THE SESSIONS?
IF SO, WHAT LIMIT?
2. SHOULD BUSINESS BE CARRIED OVER FROM ONE SESSION TO THE NEXT?
(This is known as "continuous session" and is defined as "an annual session in which unfinished legislation of the first session of the biennium is automatically carried over in the same status in the legislative process to the opening of the second regular session.")
3. SHOULD ONE OF THE SESSIONS OF EACH BIENNIUM BE LIMITED TO
BUDGET MATTERS?

Twenty-one states now hold annual sessions, and two more states have been authorized to do so within the last four months. Thirteen of the 21 have some type of limit on the length of the regular sessions; 8 have no limit, and among these 8 are California, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania. Six of the 13 states have an absolute limit to the session; four have what might be called a "coercive limit" in which the per diem pay stops after a certain number of days but the session may continue; and in three states the length of the session may be extended. Without doubt, sessions which are not limited in length are more flexible and offer more opportunity to accomplish legislation in a more rational and less hurried way. Unlimited sessions call for legislators to whom legislating is a profession. Is it desirable to have professional legislators? Varying opinions on this can be furnished by the resource person at your unit meeting.

With regard to continuous sessions, only three states (Georgia, Michigan, and Kansas) have constitutional provisions expressly permitting them, and three other states (Alaska, Rhode Island, and South Carolina) have legislative rules permitting them.

Eight of the 21 states holding annual sessions have a budget session every other year, and budget sessions are generally more limited in length than regular sessions. A budget session every other year would

probably mean budgeting on a two-year basis with the demonstrated difficulty of forecasting, with reasonable accuracy, revenue and expenditures for a two-year period. On the other hand, the regular session would not be tied up by adoption of the budget.

Our League had unanimous consensus in favor of annual sessions. In answering the above three questions we will be saying whether we want these annual sessions, and the legislature, restricted or unrestricted as to time or subject.

ADDENDAResource Material for Unit Meetings Sept. 11 - 12, 1968

This material comes from many sources. Among them are the textbooks on Texas government and politics by Professors W. E. Benton, Stuart MacCorkle and Dick Smith, and Clifton McCleskey; the history of Texas by Rupert N. Richardson; Lobbying and the Law, by Prof. Edgar Lane, of the University of California at Santa Barbara; Modernizing State Government, Committee for Economic Development; the workbook and the final report of the Texas Assembly; the report of the 29th American Assembly; recommendations for legislative improvement, compiled from various sources by the Citizens Conference on State Legislatures; the booklet, "Hamstrung Legislatures", by J. N. Miller; and many issues of the monthly bulletin, "State Legislatures Progress Reporter", published by the National Municipal League.

.....

I. Campaign Costs1. Costs

- E Writers on Texas government agree that because of loopholes in the election code and non enforcement it is almost impossible to determine the total amounts spent in political campaigns. However, educated guesses can be made, based on what candidates report, the various activities that go into a campaign, and the cost of such items as filing fees, newspaper and TV ads and radio spot announcements. The resulting estimate is \$10,000 - \$20,000 for a candidate for the House of Representatives, with costs increasing all the time.
- E Where does the money for a candidate's campaign come from? "From those who have it," one legislator is said to have answered. Voluntary fund-raising drives can be conducted by unions through a "Committee on Political Education" (COPE) and by business associations through a "Public Interest Political Education Fund" (PIPE). Labor can furnish organizational skills and volunteer work. "A corporation can make available without cost the services of a highly paid public relations expert....A company's budget for stamps may expand several fold in campaign season, and it may by prearrangement be billed for printing actually done for a candidate. Top management officials may as individuals contribute to candidates, and then perhaps find that they have earned a bonus from the corporation of about the same amount. A bank can without any attempt to collect write off a campaign loan as a bad debt, and thus in effect make a contribution that is tax deductible....One other source of money in politics....is the criminal element." (McCleskey, The Government and Politics of Texas.)

August, 1968

E

We should not feel that elections are won by money alone. A candidate must certainly have some money to win an election but, as Prof. McCleskey says, "there is always a point in a campaign financing beyond which dollars have a declining impact on the vote. If a candidate can obtain a minimum he may be able to offset the thicker bankroll of his opponent by effective campaigning and by utilizing volunteer assistance." Prof. Benton says that if campaign funds flow too freely the voters are likely to think the election is being bought and vote against the candidate.

2. Costs Help Limit Type of Candidate

E

The high cost of campaigns contributes to restricting candidacies to the portion of the population who have access to considerable sums of money and who hold views acceptable to one or another of the sources of campaign funds. High campaign costs add to the pressure of low legislative salaries to restrict the walks of life from which legislators come. In Texas, as in other states, the legislature is made up mainly of two groups: business men and lawyers, most of them with partners or families back home to keep the business running while they are gone. "This is, of course, a very thin slice of America," notes the workbook of the Texas Assembly. Solution of the problem of campaign costs would seem to be a major means of fostering recruitment of legislators from a broader spectrum of society.

"Too much emphasis cannot be given to the importance of assistance in financing campaigns. Some observers believe that this is the most effective method of influencing legislation. Many officials, both in the executive branch and in the legislature, enter office with political obligations due their financial supporters. Some members of the legislature could, in all propriety, be addressed by the presiding officers as 'the gentlemen from this or that corporation or organization' rather than by the usual form of 'the gentlemen from this or that county'." (MacCorkle and Smith, Texas Government.)

33. Solutions (Note: A good visual aid would be to write the key words of each solution on poster cardboard or shelf paper so the group can keep them in mind during the discussion.)

E

A. Texas election laws regarding campaign financing are based on "the conviction that public disclosure of amounts and sources," as Prof. McCleskey puts it, "will provide its own checks and limitations." But this assumes full and complete disclosure, which is not the actual situation both because of loopholes in the law and abuses of it. Suggested amendments to the Election Code are:

- (1) Require reporting of every political expenditure above a minimum, say \$50. This would be applicable to candidates, to direct spending by individuals, and to any political organization, group, or committee that spends money on behalf of a candidate.

August, 1968

- (2) Make a state agency responsible for examining reports and investigating possible violations.
- (3) Change the timing of financial reports so the public will know before the election what a candidate's total expense will be within a small variation. A legislator has suggested that the report be two days before the election and the estimate of total spending be within 10%. The post-election financial report would show what the expenses actually were.

E

B. Primary elections are public institutions and should be financed as such. Therefore, the state or the counties should pay for the primaries just as they now do for the general elections. This is done in a good many states.

E

C. Provide each candidate with a certain minimum of exposure to the voters and minimize financial inequities among candidates by

- (1) Guaranteeing a certain amount of free broadcast time on radio and TV
- (2) Guaranteeing a limited number of free mailings as is done in Great Britain
- (3) Requiring all candidates to provide their pictures and statements for a pamphlet to be produced and distributed by the state. This is a recommendation of the Citizens Advisory Committee to the Washington legislature and builds upon an existing law in that state.

E

D. Allow limited tax credits or tax deductions for contributions to candidates' campaigns. This was recommended both to Congress and state legislatures in the report of the 29th (1966) American Assembly, in order to encourage widespread popular support of candidates.

Further information on some of the above solutions. Solution A.(2): the state agency would have local offices, would act upon complaints and tips from citizens, and would initiate its own inquiries and actions. "Much information concerning money in Texas politics of vital interest to the electorate could [thus] be developed," says Prof. McCleskey....Solution A.(3): At present candidates frequently declare minimum expenses in the pre-election report (which must be filed 7 to 10 days before the election) and report complete costs only in the final declaration which is made after the election. "Thus publicity about campaign spending is misleading before elections and publicity concerning complete spending comes too late to have any effect on elections," points out Prof. W. E. Benton of Texas A & M. Solution C.(1): The procedure would be for the federal government to make the stipulation of free time when it licenses radio and TV stations. Prof. McCleskey comments that "Since the stations are receiving their very valuable licenses free of charge, such a requirement could hardly be

said to work a hardship on them, and it would do much to ensure a minimum exposure of candidates to the public."

II. Conflict of Interest

1. Present standards

E TEXAS. Professors MacCorkle and Smith describe the law in these words (underlinings mine): "In general, the law passed in 1957 enacting the Legislative Code of Ethics provides that no legislator or other state official or employee shall have any interest or engage in any business or profession which is in substantial conflict with the proper discharge of his public duties. Specifically, the act prohibits employment, gifts, favors, or services that might reasonably tend to influence him. No legislator with a personal interest in a bill is supposed to vote on it, and such interest is to be disclosed to the house. Anyone subject to the act who is an officer or agent or owns a controlling interest in a business regulated by a state agency must disclose that fact. Any firm with such legislative or other official connections cannot sell goods or services to the state agency which regulates it. The penalty for noncompliance is expulsion, removal from office, or discharge." BUT THERE IS NO PROVISION FOR ENFORCEMENT. It is interesting to note that the legislature in 1957 did not enact legislation requested by Governor Daniel to establish a new state law-enforcing agency with prestige and broad powers to scrutinize the conduct of public officials. And the legislature has continued to refuse to define "substantial" as used in the prohibition in the Ethics Code of "substantial conflict with public duties." Because there is no provision for enforcement, Professors MacCorkle and Smith conclude that "the practical value of the Code of Ethics is far from certain, but conceivably it could consist of two things:

1. It could serve as a possible basis for disciplinary action. Removal from office....might result from flagrant violation of the code.
2. It could serve as a guide to a conscientious legislator or other officer if he were in doubt as to whether a certain line of action was ethical or not."

NEW YORK. An Associated Press article of about a year ago on the weakness of codes of ethics in state legislatures says: "New York's 1965 ethics code is regarded as a model by many officials in other states. It bars lawyer-legislators from practicing in the state's Court of Claims, keeps former legislators from lobbying for two years after their terms, bans promoting of legislation by legislative employees....and forces financial disclosure by legislators in connection with interests

August, 1968

in businesses regulated by the state. Penalties up to a \$500 fine and one year in jail are provided." The article does not say whether New York's code contains provisions for enforcement, but it says that New York, Ohio, and California have "tough codes".

E

FLORIDA. Since 1959 in the wake of State Road Board scandals, codes of ethics bills had been introduced but failed to pass in the legislature. In 1966 there were Purchasing Commission scandals. The 1967 legislature adopted a comprehensive code of ethics for the first time in Florida's history, despite "massive, clandestine and persistent" efforts by lobbyists to defeat the measures. Also, "The very proposal of a code of ethics, some legislators said, was a reflection on their character. If a code were required, they argued, a short and simple exhortation--such as 'be honest'--should suffice." Nevertheless the reform measures carried. The Senate adopted a code of ethics for its members, and a code for lobbyists. The House incorporated in its rules a code for members as well as for lobbyists. An honor system is established for legislators and a committee on standards and conduct is provided in each house to interpret and apply standards. Those are the provisions for enforcement. Penalties, aside from any provided by law, are that "either house of the legislature, by two-thirds vote after notice and hearing, may censure, reprimand, place on probation or expel a member."

FLORIDA. The 1967 legislature "enacted a general law establishing standards of conduct for officers and employees ~~in various~~ ~~of various~~ of state agencies, legislators and legislative employees in areas of possible conflict between their private interests and official duties. It focused on six areas: using public office for private gain, giving preferential treatment to any person or organization, impeding governmental efficiency or impartiality of action, making governmental decisions outside official channels or affecting adversely the confidence of the public in the integrity of government."

The information in the above paragraphs about Florida and all quotations are from an article by Prof. Paul Douglass, director of the Center for Practical Politics at Rollins College, and member, secretary and draftsman of the lay committee which recommended canons of ethics and legislation to the 1967 Florida legislature.

2. Proposed standards

E

A. **Introduction.** Apparently there are two major ways of tackling the problem of conflict of interest: (1) set up standards for legislators and specifically prohibit various actions that would violate the standards; (2) require public disclosure of legislators' income. The first approach tells the legislator what he may not do, the second tells the public what he did do. The present Texas law uses the first approach, but without any provision for enforcement. the "setting of standards" approach seems to be the one that is used in all states

having conflict of interest laws or legislative rules; our resource committee has so far discovered no state which uses the "public disclosure of legislators' income" approach. However, there is more and more discussion of the latter approach as conflict of interest problems increase and the former approach proves relatively ineffective. Recommendations of both sorts follow.

- /E/ B. Strengthen the present Texas law by, at the very least, including a definition of "substantial" and "reasonably" and making provision for enforcement.
- /E/ C. Recommendations for public disclosure of legislators' income.
 - (1) Public disclosure by each legislator of sources and amounts of receipts that create conflict of interest.
 - (2) Public disclosure by each legislator and the lieutenant governor of the amount and source of all monthly and yearly income.
 - (3) Public disclosure by each legislator of the amount and source of outside income, along with associations that he or his immediate family may have that might imply "special interest".

An explanation of conflict of interest, and arguments for and against public disclosure laws are in paragraphs 2 - 5 in the section on Conflict of Interest of the every-member material--the blue sheets.

D. Recommendation of the 29th American Assembly (1966).

"Increasing connections between public and private life have led to public concern over conflicts of interest. Efforts to define and control conflicts of interest have satisfied neither the public nor the legislatures. We recommend:

First, codes of ethics should be adopted, applying 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 which should extend to the activities of lobbyists.

Third, all instances of corruption should be vigorously prosecuted.

~~E. Recommendation~~

E. Recommendation of the Texas Assembly (1967).

- (1) Legislators should be prohibited from appearing before state agencies in adversary proceedings for compensation. This should be made to apply in any case where the legislator might in any manner stand to gain financially from the action of the state agency.

August, 1968

- (2) Safeguards should be established to prevent abuses of the law providing for legislative continuances /the practice of postponing for the duration of the legislative session lawsuits where any party is represented by a lawyer-legislator/.

.....

III. Verbatim Record

Enough fuel for a lively discussion is in the every-member material--the blue sheets. Following is supplementary material on the present situation in state legislatures and legislative committees regarding recording of their proceedings, and also material illustrative of the value of verbatim records in the "legislative history" of a law.

1. Present procedures, as of 1965-66. (From The Book of the States, 1965-66, quoted in the workbook of the Texas Assembly)

- E A. Maine, Nebraska, New York, and Pennsylvania maintain verbatim records of the proceedings of the legislature, and West Virginia does for the House. Seven additional states maintain such records with one or more limitations. The states are: Connecticut, Michigan, Nevada, New Jersey, Tennessee, Utah, and Washington. Common limitations are that the records are typed only, or that they are maintained only in part, or that they are maintained only upon request, or that debate is not included. Nevada's limitations are unique: both houses record all proceedings with mechanical recorders, but only partial transcriptions are made and those only occasionally.
- E B. Only two states--Hawaii and Oregon--give an unqualified "yes" answer to the question: Are records of committee hearings and proceedings taken? Seventeen additional states maintain such records subject to one or more limitations. The most common limitations are that the records are taken only at the request of the committee or committee chairman, or that they are taken for the most important committees only, or that they are typed only or taken only occasionally.

2. Value for legislative history of laws.

- E A. "Testimony and legislative debate should be fully recorded for future reference, as in Pennsylvania." --Committee for Economic Development, 1967.
- E B. A Missouri legislator says that he gets calls about once a month from attorneys asking for transcripts of committee hearings that would show legislative intent, but there are none. (The Missouri legislature publishes a daily journal

which shows the rulings of the chair and all votes, but there is no verbatim record maintained of the legislature's proceedings, nor are records of committee proceedings and hearings taken.)

E

- C. With regard to records, Texas is like Missouri, and the absence of a legislative history of laws must often have been a handicap to interpreting them. An example is the county home rule amendment and its enabling act. Lack of a record of what the legislature intended in these poorly-drawn acts has helped appreciably to stymie attempts to achieve county home rule.

.....

IV. Annual sessions.

1. Limited vs. unlimited

E

- A. Limited sessions of legislatures are not necessarily really limited. Some states do have an absolute limit, which often means "stopping the clock" so that the session can continue and still be legal. In other states the length of the session, although specified, can be extended, but legislators' pay may or may not continue. Unlimited sessions, likewise, are not unlimited in actual practice, although they are so far as constitutional and statutory provisions are concerned. They are, actually, flexible in length, according to the amount of business with which the legislature will deal.

E

- B. Six of the 8 states which do not limit their legislative sessions are comparable to Texas in the very important areas of industrialization, urbanization, and the problems they bring. California, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania find annual sessions, with no limit by constitution or statute on their length, to be necessary for the business a legislature needs to take care of in these times. Is there a lesson in this for Texas?

no

- C. "All states with heavy work loads need the kind of legislative freedom that comes from annual general sessions of unrestricted duration....Unrestricted annual sessions allow time for detailed study of major problems and more careful review of bills proposed to solve them. They afford more days and weeks for deliberations and they eliminate the long, 20-month period in which legislative determinations are possible without the governor's initiative his calling of special sessions. They reduce the flood of hasty and ill-considered legislation in the waning hours of a session....They also allow continuity and more effective use of research and secretarial staffs."-- Committee for Economic Development, 1967.

E

- D. Unlimited annual sessions necessarily develop legislators to whom legislating is a profession. Is this good or bad? Says Robert Crown, chairman of California's Assembly Ways and Means Committee, "Look. This is the twentieth century.

The California legislature is the board of directors for a \$4 billion corporation. The average assemblyman serves an electorate of 200,000 people. Serving and getting elected is a full-time job. We need professionals. In fact, I like to think I am a professional."....The opposite view is taken by Edward Staples, executive director of the Missouri Public Expenditure Survey, who says, "You don't want to develop a staff of professional governmentalists; you want in the legislature the broad viewpoint of the farmers, the lawyers, the teachers, the doctors, the businessmen. A good farmer gives the flavor of the general citizenry to the legislature."

2. If limited, what limit?

- E A. In the 13 states that limit annual sessions the highest limit is 160 calendar days (Colorado), the next to highest is 90 legislative days (Delaware), the lowest limit is 45 calendar days (Georgia), and the next to lowest is 45 legislative days (South Dakota).
- E B. House Speaker Ben Barnes has said that "real progress will ~~be~~ forever elude Texas" so long as the legislature holds only one 140 day session every two years. This would indicate that in his opinion annual sessions should be longer than 70 days.

3. Continuous session

- E A. The term "continuous session" applies to legislatures with annual sessions. It means that the unfinished legislation of the first session of the biennium is automatically carried over to the second session and starts in the second session at the place where it left off in the first. In effect, this gives bills the opportunity to live for two years rather than one. And there is more time for consideration of bills, more time to draft them carefully, and more time for legislators to become familiar with the bills--to know their content, how well they carry out their expressed purpose, and what "jokers" may be in them. There is more time, also, to understand and assess the forces that support and oppose important bills. Legislators have the interim between sessions in which to study problems and meet with constituents....Opponents of the continuous session say that legislators probably spend little time studying carry-over legislation and that practically all important legislation is passed or defeated during the first session. Opponents question letting controversial issues be carried over, on the ground that delaying the decision-making process of the legislature is undesirable.

4. Budget matters.

- E A. Texas has had much unhappy experience with budgeting for a two-year period. The way to budget for a one-year period is for the legislature to do it every year. True, that

August, 1968

may mean that each of the annual sessions may be tied up for some time by adoption of the budget....It may help the unit group in its discussion of whether to limit one session of each biennium to budget matters to know the point of view of the authors of the three books on Texas government which the resource committee has found most helpful. Prof. McCleskey says that the state's budget is particularly difficult to handle on the biennial basis. Prof. Benton says that another advantage of annual sessions is that it would permit the state budget and appropriations to be set up for a year ahead instead of requiring finances to be figured for two years in advance. Professors MacCorkle and Smith do not express an opinion of their own....Perhaps additional help to the discussion may come from the following facts:

1. That of the 8 annual session states holding budget sessions every other year, only one (Pennsylvania) is comparable to Texas in size of budget and in industrialization, urbanization, and the problems they bring.
2. "More careful attention can be given to budget matters if annual budgets replace biennial.... To prevent undue delays, specific deadlines may be set for financial enactments." -- Committee for Economic Development.

Dear Resource People:

has been achieved

After the final consensus/on the many questions regarding annual sessions, here is a suggestion for finishing with a flourish--read to your group the following quotation from the American Assembly and see how closely they and the Assembly agree!

"To develop more responsibility in legislative performance, and more independence, legislatures should be continuing bodies meeting in annual plenary sessions, without limitation of time or subject."

Yours for a grand finale,

Elizabeth F. Brownson

Legislature Committee Chairman

Return to Bobby

The Texas Observer

MAY 24, 1968

A Journal of Free Voices

A Window to The South

25c

May the Lobby Hold You In the Palm of Its Hand

Dallas

A prominent Texas state senator, speaking to the League of Women Voters in Irving, a town suburban to Dallas, assured the ladies that the lobby is hardly noticeable at all in Austin. The legislature, he claimed, goes about its business with barely any sense of the lobby's presence.

Naturally a powerful senator has a position all his own, immune, perhaps, from the pressures of the Third House. For the freshman legislator, however, and his wife, the lobby seems as ubiquitous as urban smog. It does much to contaminate the atmosphere of Austin.

Lobbyists start to soften and fatten up a candidate as soon as he looks like a winner. Campaign contributions pour in. Invitations arrive from names never heard of. The new legislator receives a brochure at Christmastime, urging him to choose a gift for himself from a wide selection of Revere Bowls, electric heating pads, cocktail glasses, and other bounties, courtesy of one lobbyist or another.

These attentions continue throughout his term of office. This, of course, is no different from business, where companies frequently express their thanks to top customers. It's good public relations. The client is generally free to accept the gesture with no obligation incurred.

Some legislators, sadly, are not so free. They run for office with decent motives, fight hard to win, arrive in Austin rife with enthusiasm, eager to justify their voters' confidence and fulfill themselves, only to find that they're quickly caught in a strange, stultifying, Pavlovian trap. The name of the game is defer-and-demand. There are lobbyists who are masters at it.

Some lawmakers seem commendably able to take a poverty vow and live on the \$400 a month before taxes plus \$12

The writer is the wife of State Rep. James H. Clark, Jr., Dallas, a conservative one-term member of the Texas house of representatives who was renominated in the recent Democratic primary. Mrs. Clark is an Observer contributing editor.

per diem during the session that the state provides. Others have outside income. There are still some, unhappily, who fall prey to patronizing, paternalistic lobbyists, who are all too willing to pick up breakfast, lunch, and dinner checks, not to mention an occasional apartment bill. It all seems terribly gracious at the time, but the price is high. The legislator pays with his own integrity. Small wonder that he needs the cigar-and-bar camaraderie of the lobby to bolster his sagging self-esteem after a day of voting right, the team way, the establishment way, the

Lee Clark

lobby way. In moments like these, lobbyists are usually quite practiced at puffing up the legislative ego and giving it an aura of imagined independence.

This is by no means true of all the house of representatives. There are among its members many morally and mentally able men, but too often they fail, I'm afraid, to assert themselves with sufficient force. As a result, the house suffers from decadence of the spirit, acquiescence in the status quo, miserliness of the mind that hoards petty prerogatives and yields up its real power to the lobby. There's a general refusal to risk anything, even things that are valueless. There are countless legislators who would never condone this decadence, much less contribute to it. Nonetheless, they're engulfed by the environment, and no doubt discouraged by it.

There are others who savor the system and are remarkably candid about their position. My husband was punching his voting button against an especially odious piece of legislation when he noted on the electronic board that a colleague seated close by was recorded for it. He turned to the man and asked how on God's earth he could vote for such a thing and still keep his dinner down. The legislator, stumpy and smoke-infested, walked over, hoisted his arm around my husband's shoulders and affirmed with a certain

pride: "I'm just a political whore, boy; that's what I am, a political whore."

THE LEGISLATURE may seem at times an ethical brothel, but strangely enough, the church is held dearer than ever. The first week we were in Austin, I attended a luncheon where I was seated across from a lovely-looking woman who introduced herself as a senior legislator's wife and asked by way of getting to know me: "Well dear, are you a Methodist or a Baptist?" I had to confess that I am neither one, but rather belong to the United Church of Christ. I added in a flash of fortuitous afterthought that they were currently trying to arrange a merger with the Methodists. That seemed to make everything all right, or half all right anyway.

Even the Representatives Wives Club is infiltrated by the lobby and subverted to the purposes of the Third House. Since most lobbyists are former legislators, their wives have access to the women's organization as long as they wish. At the suggestion of their husbands, they use this privilege to treat legislative wives to club luncheons (\$2.50 a head), thus putting them in the lobbyist's debt, and also to keep an ear cocked for what's going on.

A freshman legislative wife, then, goes to the club luncheon, a little bewildered and eager to meet somebody else in the same boat and share her experience. What does she find? A bevy of lobbyists' wives bent on transcribing her every word for the benefit of some barely understood entity like the beer industry or the railroads or the natural gas people. The freshman wife comes to understand these special interests very well before she's finished.

I ran into their pervasive operation, for instance, at the florist, where I was trying to arrange flowers for the Representatives Wives' Club spring tea. I chose centerpieces and corsages along the lines suggested by the chairman and was getting set to settle with the florist for the cost. To my surprise I found that a certain lobbyist's wife had taken care of everything. I felt like a little girl of twelve whose greataunt had arranged a birthday party for her but wanted the child to

have the experience of selecting the menu herself.

Another instance occurred at the end of the session when legislators are wont to get together and gift each other, rather like high school graduation. My husband had worked Monday and Wednesday nights, often till very late, on the state affairs committee. When the chairman announced plans for a farewell banquet, we were pleased at the thought of sharing dinner with these men, who had spent so many gruelling nights together, and their wives.

Somebody passed the hat to buy a gift for the chairman. My husband was distressed when one member, too proud to live off the lobby, simply refused to contribute because he had just enough money left to eat on that week, no more.

We arrived at the banquet a little late, looking forward to a few drinks and a lot of sentimental speeches, but found that we knew hardly anybody there. The place was rampant with engineers. Instantly we understood: the engineering lobby was treating the state affairs committee to its own farewell dinner, a gesture to say thank you for some favorable legislation. They were providing not only the money, but their company as well, not to mention monogrammed umbrellas for each committeeman and the interminable services of their own amateur comedian. I wondered during that long, boring, humiliating evening how many others in the

room thought it strange that the state affairs committee, one of the most prestigious in the house, should accept the tacky largess of the engineers.

ALL SOCIAL life in the Texas government is largely dominated by the lobby, and the legislature suffers from it. Private gatherings among lawmakers and their wives almost never happen. There is seldom an opportunity for a representative to talk informally with some of his colleagues about their mutual business. A lobbyist is always along to monitor the conversation and to pick up the check. A common question when the house adjourns for lunch is, "Hey, have you got a sponsor?"

Right after the 1966 election, a member of the Dallas delegation who had served before told us with great enthusiasm of all the free shrimp, the free catfish, the free beer, the free Scotch, the free Canadian cheese soup that awaited us in Austin. It occurred to me then and it occurs to me now that if, occasionally, a few legislators would summon up their confidence and their sense of importance, refuse the lobby's invitation, and sit down privately over lunch, *sans* sponsor, to talk seriously about the future of this state, their figures and their thinking might improve. It is disheartening to see young men, hardened by the battle for election, soften and succumb to the high-calorie table and low-caliber talk of the lobby.

Chances are the tone of the house could be improved immeasurably if these young men would take a tip from Congress and form a Tuesday Club to meet once a week for lunch, interested legislators only, for serious discussion of a given issue. No political gossip allowed about one bad ol' bill or another, or what "the play" is, or who's greasing whom—but elevated discourse with occasionally a knowledgeable person from business, labor, the press, the university, the war on poverty or municipal, county, or another state government to moderate and contribute ideas.

Naturally, preparation for the Tuesday Club should not be too time-consuming, but the purpose should be clear and adhered to: the growth of each participant, intellectually and effectually. Such a group could give the legislature the informed, independent voices that are absent now.

It might be that if some legislators and their wives would agree to meet from time to time, unsponsored, for enchiladas or hamburgers to get to know each other in a private and personal way without the lobby to interfere, they might find their stay in Austin far more satisfying. If they made a point of getting to know some senators, some agency officials, some members of the press, they might find their perspective broadened, their preception deepened. The lobby is careful to preserve a rigid social system in Austin. Crosspollination might generate too much interest, too much awareness of what other organs of government are thinking, and things could get out of control.

THE TEXAS OBSERVER

© The Texas Observer Publishing Co.

A Journal of Free Voices

A Window to the South

62nd YEAR—ESTABLISHED 1906

Vol. LX, No. 10

May 24, 1968

Incorporating the State Observer and the East Texas Democrat, which in turn incorporated the State Week and Austin Forum-Advocate.

We will serve no group or party but will hew hard to the truth as we find it and the right as we see it. We are dedicated to the whole truth, to human values above all interests, to the rights of man as the foundation of democracy; we will take orders from none but our own conscience, and never will we overlook or misrepresent the truth to serve the interests of the powerful or cater to the ignoble in the human spirit.

Editor, Greg Olds.

Associate Editor, Kaye Northcott.

Editor-at-large, Ronnie Dugger.

Business Manager, Sarah Payne.

Associate Manager, C. R. Olofson.

Contributing Editors, Winston Bode, Bill Brammer, Lee Clark, Sue Horn Estes, Larry Goodwyn, Harris Green, Bill Helmer, Dave Hickey, Franklin Jones, Lyman Jones, Larry L. King, Georgia Earnest Klipple, Al Melinger, Robert L. Montgomery, Willie Morris, James Presley, Charles Ramsdell, John Rogers, Mary Beth Rogers, Roger Shattuck, Robert Sherrill, Dan Strawn, Tom Sutherland, Charles Alan Wright.

The editor has exclusive control over the editorial policies and contents of the Observer. None of the other people who are associated with the enterprise shares this responsibility with him. Writers are responsible for their own work, but not for anything they have not themselves written, and in publishing them the editor does not necessarily imply that he agrees with them, because this is a journal of free voices. Unsigned articles are the editor's.

Subscription Representatives: Arlington, George N. Green, 300 E. South College St., CR 7-0080; Austin, Mrs. Helen C. Spear, 2615 Pecos, HO 5-1805; Corpus Christi, Penny Dudley, 1224 1/2 Second St., TU 4-1460; Dallas, Mrs. Cordye Hall, 5835 Ellsworth, TA 1-1205; El Paso, Philip Himelstein, 331 Rainbow Circle, 584-3238; Ft. Worth, Dolores Jacobsen, 3025 Greene Ave., WA 4-9655; Houston, Mrs. Kitty Peacock, PO Box 13059, 523-0685; Lubbock, Doris Blaisdell, 2515 24th St.; Midland, Eva Dennis, 4306 Douglas, OX 4-2825; Snyder, Enid Turner, 2210 30th St., HI 3-9497 or HI 3-6061; San Antonio, Mrs. Mae B. Tuggle, 531 Elmhurst, TA 6-3583; Wichita Falls, Jerry Lewis, 2910 Speedway, 766-0409. Washington, D.C., Mrs. Martha J. Ross, 6008 Grosvenor Lane, 530-0884.

The Observer is published by Texas Observer Publishing Co., Inc., biweekly from Austin, Texas. Entered as second-class matter April 26, 1937, at the Post Office at Austin, Texas, under the Act of March 3, 1879. Second class postage paid at Austin, Texas. Delivered postage prepaid \$6.00 a year; two years, \$11.00; three years, \$15.00. Foreign rates on request. Single copies 25c; prices for ten or more for students, or bulk orders, on request.

Editorial and Business Offices: The Texas Observer, 504 West 24th St., Austin, Texas 78705. Telephone GR 7-0746. Editor's residence phone, GR 8-2333.

Houston office: 1005 S. Shepherd Drive, Houston, Texas 77019. Telephone 523-0685.

Change of Address: Please give old and new address and allow three weeks.

Form 3579 regarding undelivered copies: Send to Texas Observer, 504 W. 24th, Austin, Texas 78705.

THE TEXAS government is currently a case of imbalance among unequals. It's a natural condition of democracy that some elected officials show up in the Capitol supremely unsophisticated and poorly equipped in education and experience for their jobs. Their purposes and their personalities are ill-defined and open to arbitration. Fear is sometimes the predominate emotion among the unprepared. A smart lobbyist, whose purposes are all too clearly defined (protect and promote the interests of insurance or consumer finance or dairies or trucking, etc.) knows just how to manipulate this legislator's insecurity.

Anyone who doubts the unfair advantage of the lobby should have been in the house chamber the day a key rural representative was trying to amend the Trinity river canal bill to exempt railroads and trucks from taxation. His words grew more and more confused, the railroad lobbyist grew increasingly agitated, and finally he started barking instructions to the hapless legislator from the balcony with no concern for the humiliation he inflicted or the decorum he shattered.

The ability gap is there to be exploited, but the financial gap is even more glaring. Most lobbyists come to Austin with generous expense accounts for entertaining government people. They bring their wives if they wish. A legislator with no

outside income is scarcely able to hold his own. Only half of them can afford to bring their families to Austin. In some instances, to be sure, the wives refuse to come. The others hole up in hotels, rooming with various colleagues, commuting home on weekends to make what money they can before Monday. They rearrange the guys, the beds, and the sheets for the wife to come visit occasionally, live with about as much dignity as fraternity initiation candidates during hell week. (What's more, some of them probably catch hell at home each weekend from lonely and resentful wives. On the other hand, it's true that some have a hell of a good time, but we women don't like to admit that.)

The legislative process, essentially, is a case of conflicting greed. The lawmaker must arbitrate with as much justice as possible among various special interests, and he should think of the public's legitimate interests, too, from time to time. Too frequently, his own needs press in upon the issue, and decisions are based on which lobbyist has won his allegiance. Sometimes his judgment is impaired by the humiliation of always receiving, receiving, receiving. It restores a person's dignity and self-esteem to give occasionally.

This, of course, is the last thing the lobby wants. The paramount purpose of the Third House is to strip a man of his self-respect by keeping him on the take for breakfast, lunch, and dinner. Then with their ubiquitous attentions they isolate him from his colleagues and from any accurate information. They are parasites on the body politic and they've very nearly turned the legislature into a vestigial organ of a business-dominated state.

Because the turnover is large (almost 35%) in the Texas house each election, a lobbyist needn't worry much about building long-term relationships of mutual respect with the representatives. He can arrange the facts any way he wishes for the advantage of the moment. Chances are that the legislator won't be back.

Ideally, a lobbyist has one indispensable item to offer the public official: correct information. A lawmaker doesn't have enough time to study, or even to read, most of the bills presented to him. If he's in state government, he has practically no staff. The knowledge of a lobbyist who's well-schooled in his field is invaluable to the beleaguered legislator. Lobbyists like this exist in Austin. But they are few.

Some of the breed are former legislators who have brushed, but barely, with the industries they represent. Quite often, certain lobbyists, inflexible and unimaginative in their zeal to protect their employers, take positions that their company officials never dreamed of. There are cases where executives fail to tell their Austin representatives of company policy, and lobbyists seldom try to seek it out on their own. They react from the viscera, as they did when they were legislators, and

cloak their ignorance in liquor, lies, and cajolery.

NATURALLY, THERE are notable exceptions. The lobbyist I got to know best and respect most is Jimmy Day, who represents the interests of a large Texas foundation. He brings slick white hair, white plantation suits, impressive corpulence, a Panama hat, and shrewd intelligence to his job. He combines the canny insight of a rural politician with the sophistication of one who's been around in financial circles. He has the voice of many waters and tells a political story with Dirksenian flair. His employers provide him with a bank-full of friendly persuasion. Legislators call him "Boss Day."

Like many lobbyists, Boss Day was once a legislator himself. He claims credit for having introduced the bill that allowed Lyndon Johnson to run simultaneously for the senate and the vice presidency in

Larry McMurtry On Houston

Larry McMurtry, the novelist, teaches at Rice University in Houston. In *Holiday* magazine for April, he has an article about Houston, during the course of which he writes:

"... lately Rice has become less and less inclined to forgive the city its taste and its lack of conscience. The young, liberal, increasingly activist faculty would secretly like to do something about the town, but what they find to do is anybody's guess.

"Even the *Post* and the *Chronicle*, between which there is precious little to choose, occasionally exhibit reformist tendencies and editorialize against one or another of the grosser civic larcenies, but their efforts at improving the city are languid at best. Hard-hitting newspapermen seldom last long in Houston; the two papers are singularly peppy."

1960. (So does Joe Pool. So do several others. The bill evidently had numerous sponsors.)

Unlike some other legislators-turned-lobbyists, Jimmy Day brings a certain grace, a sense of taste, an instinct for what's appropriate to the Austin government. It means good manners, yes, but more than that, it means good business. Boss Day gets better cooperation from the house than some of his colleagues because he knows how to tailor his approach to the individual member. While some lobbyists are frantically wining and dining as many legislators and their wives

as they can fit into one place, Jimmy selects his targets carefully, and then cultivates them with assiduously personal attention.

Jimmy and his wife, Annie Laura, are a formidable pair. Each summer they load their three children plus caretaker Ruth into the back of the Chrysler and drive through Texas, from town to town, visiting various senators and house members to take their political temperature, strengthen ties, and demonstrate their own continuing interest. It's a masterful operation. Instead of patronizing these politicians with free dinner and drinks, they offer something more subtle: their friendship. They issue invitations too, of course, but with patrician restraint that comes across, in this business, as genuine enthusiasm. They can afford without emotional bankruptcy to be sincere. They confine themselves to a few key people.

While passing out praise to certain lobbyists, I understand that Jim Nance of Houston should not go unmentioned. He's a boardroom lawyer who represents his firm in a cleanly ethical and business-like way. He sees to it that his clients get a fair hearing in Austin, and conducts his affairs with due regard for the dignity of all involved.

MARK TWAIN once boasted: "I think I can say and say with pride that we have legislatures that bring higher prices than anywhere in the world."

I don't agree. At least not in Texas. I doubt that many members of the Austin government are paid off in the grand manner. It seems to me more a case of intellectually confused and financially abused lawmakers parcelling out their integrity to intimidating and powerful lobbyists for small and rather putrid potatoes.

There will always be those middle-minded men who go into politics to "make a living" and for no other reason. Curiously in Texas, their hands are seldom in the public till, but rather in the private lobby's pocket. The public pays, of course, with measures like last session's important air pollution bill designed to protect the polluters. There are men in the legislature who do care about government service and would like to participate in public affairs without surrendering to the vulgar environment that too often prevails. Hopefully, in the constitutional amendment to raise legislative salaries to \$8,400 per year, due to be presented at the polls this November, the public will begin to offer their representatives an equal footing with the representatives of business. Then perhaps knowing local political leaders will no longer send forth their legislators with the blessing, "Go with God, baby, and may the lobby hold you in the palm of its hand."

League of Women Voters of Dallas
2626 West Mockingbird Lane
Dallas, Texas 75235 FL1-4125

Address Correction Requested

The Legislature....Campaign Costs....Conflict of Interest

Verbatim Record....Annual Sessions

At unit meetings on September 11 and 12 Dallas League members will have their last chance of this League year to say what changes they want in the Texas legislature. Last year, after wide ranging and lively discussion based on the four Facts & Issues on the legislature, we agreed that we want annual sessions, higher salaries for legislators, and four-year terms for representatives; also that we want the lieutenant governor's power reduced, conference committee action restricted to resolving differences between Senate and House bills, and adequate staff (both clerical and research) to aid legislators. We want, too, increased power for the governor in the Executive Department, and reports from candidates to show all campaign contributions, whenever made, both monetary and otherwise.

The aim of our whole study is to come to agreement on ways in which the legislature may be upgraded--may be made more competent, more responsive to the conditions and needs of the state, and more representative of the public interest. It should be helpful in coming to consensus on the topics of the September 11-12 meetings if we judge our answer to each question from the viewpoint of: Will it contribute to obtaining an increasing number of high quality legislators for Texas?

CAMPAIGN COSTS....

This being an election year, interest in political campaign costs and who pays them increases. The first topic to be discussed at the September 11-12 unit meetings is:

DO YOU CONSIDER HIGH CAMPAIGN COSTS A PROBLEM IN ELECTING LEGISLATORS RESPONSIVE TO THE PUBLIC? IF SO, WHAT SOLUTIONS WOULD YOU SUGGEST?

For fruitful discussion of these topics we need to know what campaigns cost and in what ways the Texas Election Code regulates candidates' spending. If we decide that something should be done in the broad area of campaign costs there are several proposals we can consider, from the relatively minor change of eliminating candidates' payment of filing fees to the definitely major change of state government financing of legislative campaigns. An excellent source of information on campaign costs, their effects, and what might be done about them is the presentation on page 2, second column, and page 3, first column, of "The Influence of The Lobby" (the fourth Facts & Issues on the Texas Legislature). Many

of us have this in our 1967-68 League material. It is also available from our publications chairman, Mrs. H. S. Miller, FLI-5690. A resource person in each unit group will be prepared with a variety of supplementary information to aid discussion of this very timely topic of campaign costs.

CONFLICT OF INTEREST....

The second topic to be discussed in the September 11-12 unit meetings is:

IN YOUR OPINION, DOES THE TEXAS LEGISLATURE HAVE ADEQUATE STANDARDS OR GUIDELINES TO DEFINE CONFLICT OF INTEREST? IF NOT, WHAT STANDARDS WOULD ENCOURAGE PUBLIC CONFIDENCE IN LEGISLATORS?

One author has called conflict of interest "the vast gray area". It is an area for which legislatures do not usually attempt to set boundaries until particularly flagrant abuses come to light. In Texas "scandals involving a few insurance companies, naturopaths, legislators, and state officials led to the enactment in 1957 of a Legislative Code of Ethics, a Representation before State Agencies Act, and a Lobby Registration Act", reports a standard book on Texas government. The resource person in each unit group will have a summary of the Code of Ethics and a comment on its practical value. She will also have information on New York's 1965 ethics code, which is regarded as a model by many officials in other states, and on the comprehensive code of ethics adopted by the Florida legislature in 1967.

Overtures which, if accepted by the legislator, will generate conflicts of interest, are by far the most pervasive method of "getting to" a lawmaker. An Oklahoma legislator describes what happens: "You start getting indirect approaches--offers to retain you as a lawyer, hints that a trade association would like to place their insurance through your firm...." Another approach is to indicate that a business wishes to retain the legislator as a public relations consultant. These are just examples--there are other bases of payment, and some basis is adaptable to almost any occupation in the state. All such receipts and their sources should be required to be fully and publicly disclosed by legislators states Prof. Clifton McCleskey, of the University of Texas. He adds, "Needless to say, this is a proposal to which many legislators are extremely cool, even when it comes from fellow members."

A more complete disclosure is advocated by Prof. W. E. Benton, of Texas A & M, who says that all legislators, as well as the lieutenant governor, should be required to make public the amount and source of all monthly and yearly income. "This information," he says, "should be made available to the public in order that the voters may more intelligently evaluate the work of the legislature and individual members in event of conflict between the public and private interest."

Legislation of this sort, even in token form, has a long history of opposition from legislatures. Arguments used against such legislation include that it is an unwarranted interference with personal liberty, that it would discourage qualified candidates, that the public is unable to interpret conflict of interest, and that so few of the public are interested in the information that it is not worthwhile to

require the reports. Proponents point out that a public office holder should not expect to have as much privacy regarding income as a non-office holder. They say, too, that the presence of such reports and their availability to the public would tend to improve the quality of legislators and would tend, also, to reduce the number and flagrancy of legislative scandals, since publicizing by news media would afford the opportunity to nip them in their incipient stage. Proponents also say that disclosure of all income from all sources, which would show where a legislator's private financial interests lie, could result in a more accurate assessment of his legislative record than is now possible. Recognition of service in the public interest could thus be quicker and more certain.

A more comprehensive type of public disclosure by legislators is recommended in the 1967 report of the Committee For Economic Development, Modernizing State Government. "All sources of outside income", says the CED, "should be subject to public disclosure, along with associations that they [legislators] or their immediate families may have that might imply a 'special interest'."

The resource person in your unit group will have more information about the CED report and information, also, about the attitude of the Texas Assembly on conflict of interest and on public disclosure legislation. The Assembly, sponsored by Texas A & M and the American Assembly of Columbia University, was held at A & M in October 1967.

VERBATIM RECORD....

The third topic to be discussed in the September 11-12 unit meetings is:

SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE PROCEEDINGS OF EACH HOUSE OF THE LEGISLATURE? SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE COMMITTEE MEETINGS AND HEARINGS OF EACH HOUSE?

To an extent these questions tie in with disclosure of legislators' private income, for verbatim recording of the proceedings of the legislature would seem to be necessary for accurate assessment of possible conflict of interest situations. But aside from that, "A verbatim record for each house", in the words of Prof. McCleskey, "would be invaluable to legislators who must otherwise trust to memory or personal notes to recall the figures and content of some past debate, and it would probably do much to improve--and restrain--statements made on the floor. It would also be of great value to members of the general public who at present find it impossible to know what their senator or representative is saying and doing on the floor. The debates and rebuttals, the charges and countercharges go unreported at present. The legislature owes it to the voters as well as to itself to remedy the situation by providing the state with an equivalent of the Congressional Record."

It is estimated, by the CED and others, that probably some 90% of the debate and discussion in legislatures is never recorded, and one result is that courts have no "legislative history" of state laws, which leads to difficulties in judicial interpretation. The resource person in your unit will have examples of this.

With regard to committees of the legislature, Prof. McCleskey makes the following statement. "As far as records are concerned, the committees at present have only a clerk, who is supposed to keep notes on official committee action (motions offered, action taken, reports offered, etc.). This function is not always handled well, and in any case it involves only one of several important aspects of committee work. Ideally, there should be verbatim transcripts of all testimony and all examination and cross-examination in the committee's hearings. Such transcripts, along with all committee reports and documents, should be printed for general distribution, for if the hearings are at all justified material will surely be presented that would be of interest to the legislature and to the general public as well."

ANNUAL SESSIONS - WHAT TYPE....

The fourth topic to be discussed at the unit meetings of September 11-12 concerns the type of annual sessions of the legislature which we would favor. League members last year came to a consensus which supports annual sessions, but a more detailed consensus is now needed by the state League, so we will consider the following questions.

1. SHOULD THERE BE SOME LIMIT ON THE LENGTH OF THE SESSIONS?
IF SO, WHAT LIMIT?
2. SHOULD BUSINESS BE CARRIED OVER FROM ONE SESSION TO THE NEXT?
(This is known as "continuous session" and is defined as "an annual session in which unfinished legislation of the first session of the biennium is automatically carried over in the same status in the legislative process to the opening of the second regular session.")
3. SHOULD ONE OF THE SESSIONS OF EACH BIENNIUM BE LIMITED TO
BUDGET MATTERS?

Twenty-one states now hold annual sessions, and two more states have been authorized to do so within the last four months. Thirteen of the 21 have some type of limit on the length of the regular sessions; 8 have no limit, and among these 8 are California, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania. Six of the 13 states have an absolute limit to the session; four have what might be called a "coercive limit" in which the per diem pay stops after a certain number of days but the session may continue; and in three states the length of the session may be extended. Without doubt, sessions which are not limited in length are more flexible and offer more opportunity to accomplish legislation in a more rational and less hurried way. Unlimited sessions call for legislators to whom legislating is a profession. Is it desirable to have professional legislators? Varying opinions on this can be furnished by the resource person at your unit meeting.

With regard to continuous sessions, only three states (Georgia, Michigan, and Kansas) have constitutional provisions expressly permitting them, and three other states (Alaska, Rhode Island, and South Carolina) have legislative rules permitting them.

Eight of the 21 states holding annual sessions have a budget session every other year, and budget sessions are generally more limited in length than regular sessions. A budget session every other year would

August, 1968

probably mean budgeting on a two-year basis with the demonstrated difficulty of forecasting, with reasonable accuracy, revenue and expenditures for a two-year period. On the other hand, the regular session would not be tied up by adoption of the budget.

Our League had unanimous consensus in favor of annual sessions. In answering the above three questions we will be saying whether we want these annual sessions, and the legislature, restricted or unrestricted as to time or subject.

Unit Meetings Sept. 11-12, 1968Resource and Unit Leader's Discussion Guide on the Texas LegislaturePROGRAM TAKES 1 3/4 - 2 HOURS.....

The program part of this meeting, including the taking of consensus, will require at least 1 hour and 45 minutes. A time allowance of 2 hours would be much more satisfactory. We will take consensus on four items, all of them having at least two parts, and each of the four will need at least five minutes for consensus and may need as much as 10.

THE RESOURCE PERSON; THE UNIT LEADER.....

The resource person should be familiar enough with the accompanying resource material, Addenda, so that she can put into the discussion when appropriate items that would contribute to the discussion, clarify a point, open up a new line of thought, or help the discussion to move along.

The unit leader, who also should be familiar with Addenda, should be alert to give the resource person opportunity to present her material when appropriate. The resource person would respond primarily to a cue from the unit leader or questions from unit members, but because of her more extensive knowledge she also should feel free to give her information without a cue or question when she sees an opportunity to aid the discussion. But she should never monopolize or give information just for the sake of giving it.

BASIC MATERIAL; ADDITIONAL MATERIAL.....

The basic material for this unit meeting is the every-member material--the two blue sheets--which went out with the new roster to all Dallas League members during the last week of August. Unit leaders and resource people should be completely familiar with this material and should have it at hand at the meeting. In notifying unit members of the meeting, preparatory reading of the blue sheets and bringing them to the meeting should be stressed, although no one, of course, should receive the impression that she shouldn't attend the meeting if she hasn't done her home work!

Unit leaders and resource people should also know the material headed LOBBY METHODS, pages 2-3 of "Influence Of The Lobby" (the fourth Facts & Issues on the Texas Legislature). This is pertinent to our questions on campaign costs and conflict of interest.

VISUAL AIDS.....

Only the simplest form of visual aid is suggested for this meeting, but it is important to have that--and the resource person would usually prepare it. The four groups of consensus questions should be written LARGE on two pieces of poster cardboard, using one side per group. Or a roll of 18" shelf paper can be used, with enough spacing between the groups of questions so that only one group is visible at a time. On the basis of the saying that "one picture is worth a thousand words" it is

hard to estimate how many words our suggested visual aids are worth, but they do help to focus discussion on the question at hand and they do add some "seeing" to a meeting that is otherwise "saying" and "hearing"!

And now for a different sort of visual aid--one that the resource person does for her own use. Addenda, the resource material which accompanies this discussion guide, contains two types of information: (1) what is ESSENTIAL for a good discussion of the subject, and (2) what is OPTIONAL for presentation, depending upon how the discussion develops and what questions are asked. The essential material is designated "E". Accentuating the "E" with a brilliantly colored check mark, for example, makes the indispensable information easy to find and present.

THE UNIT MEETING.....

Note that two time periods are given for three of the four topics to be discussed in the program part of the meeting. Two hours are allotted for program time if the longer periods are used, 1 hour 45 minutes if the shorter periods are used.

Announcements (unit leader)..... 20 mins.

Program..... 1 hr. 45 mins. to 2 hrs.

Introduction (unit leader)..... 5 mins.

This is the sixth unit meeting we have had on the Texas legislature in less than two years. Our first three unit meetings, a go-see tour of the legislature in session, and two general meetings with several of our Dallas County legislators gave us background information and started us on our way to forming opinions about the problems of the legislature. Very helpful, too, were the research of our Dallas League's legislature resource committee and the four Facts & Issues on the Texas legislature put out by the state League.

In the fourth and fifth unit meetings we came to consensus on various recommendations to improve the legislature. And in today's for to-night's meeting we will discuss questions in four further areas concerning the legislature and see if we can agree on what, if anything, should be done about them.

Much of our discussion will deal with regulations that might be made, and laws and constitutional amendments that might be passed. Let's think of these from the viewpoint of the contribution they might, or might not, make to upgrading the legislature. Let's think of them, also, from the viewpoint of: Will they contribute to obtaining an increasing number of high quality legislators for Texas?

We have four groups of questions to consider. They are: campaign costs; conflict of interest; verbatim records; and what, if any, limitations on annual sessions.

I'm to be the discussion leader and Mrs. _____ is our resource person. Mrs. _____ is our recorder, who, at the end of the discussion of each set of questions, will read what seems to be the

consensus of the

/group and with the group's help evolve a final statement of consensus. This statement, of course, would be that we do not have consensus if that is the situation.

Campaign Costs 20 - 25 mins.

The questions for discussion are:

1. DO YOU CONSIDER HIGH CAMPAIGN COSTS A PROBLEM IN ELECTING LEGISLATORS RESPONSIVE TO THE PUBLIC?
2. IF SO, WHAT SOLUTIONS WOULD YOU SUGGEST?

Following the statement of the questions the resource person would present from Addenda the several "E" items which are listed under sub-headings 1 and 2 of the main heading "Campaign Costs". The sub-headings are "Costs" and "Costs Help Limit Type of Candidate".

Discussion of the second question necessarily hinges on the group's answer to the first question. If it is "yes", the resource person would open discussion of the second question by presenting the "E" items which are listed under sub-heading 3 ("Solutions").

Formulation of consensus statement.

Conflict of Interest 30 - 35 mins.

The questions for discussion are:

1. IN YOUR OPINION, DOES THE TEXAS LEGISLATURE HAVE ADEQUATE STANDARDS OR GUIDELINES TO DEFINE CONFLICT OF INTEREST?
2. IF NOT, WHAT STANDARDS WOULD ENCOURAGE PUBLIC CONFIDENCE IN LEGISLATORS?

Following the statement of the questions the resource person should present from Addenda the "E" items which are listed under sub-heading 1 ("Present Standards") of the main heading "Conflict of Interest".

Again, discussion of the second question must hinge on the group's answer to the first question. If the answer is "no", the resource person would open discussion of the second question by presenting the "E" items which are given under sub-heading 2 ("Proposed Standards").

Formulation of consensus statement.

Verbatim Record 20 mins.

The questions for discussion are:

1. SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE PROCEEDINGS OF EACH HOUSE OF THE LEGISLATURE?
2. SHOULD THERE BE A PUBLISHED VERBATIM RECORD OF THE COMMITTEE MEETINGS AND HEARINGS OF EACH HOUSE?

Probably both of these questions can be discussed at the same time. At the start of the discussion the resource person should give from Addenda the "E" items which are listed under sub-heading 1 ("Present Procedure") of the main heading "Verbatim Record". The other "E" items should be given when appropriate.

Formulation of consensus statement which would cover both questions.

Annual Sessions - What, If Any, Limitations30 - 35 mins.

The questions for discussion are:

1. SHOULD THERE BE SOME LIMIT ON THE LENGTH OF THE SESSIONS?
IF SO, WHAT LIMIT?
2. SHOULD BUSINESS BE CARRIED OVER FROM ONE SESSION TO THE NEXT?
3. SHOULD ONE OF THE SESSIONS OF EACH BIENNIUM BE LIMITED TO
BUDGET MATTERS?

These questions should be discussed separately and a separate consensus taken for each, with the possibility of having to take consensus for each part of Question 1.

Question 1 will probably need the most time for discussion, especially if the group decides to limit the annual sessions. Question 2 should require the least time for discussion, and Question 3 an in-between amount of time.

Before discussion starts, the resource person should present from Addenda the "E" items which are listed under sub-heading 1 ("Limited vs. Unlimited") of the main heading "Annual Sessions". If the consensus is in favor of limiting sessions then before discussion begins on the second part of Question 1 the resource person should present the "E" items under sub-heading 2 ("If Limited, What Limit?"). When consensus on that is completed the "E" items under sub-heading 3 ("Continuous Session") should be presented. And when consensus on Question 2 is completed the resource person should start the discussion on Question 3 by presenting the "E" items under sub-heading 4 ("Budget Matters").

Perhaps your group will definitely want to discuss the three questions all at once. In that case the resource person should see that all the "E" items are presented at one time or another and the unit leader should see that all three questions are covered in the consensus.