

THE INFLUENCE OF THE GOVERNOR

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

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

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

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

Of the 1,715 measures enacted by the 59th Legislature (1965), Governor Connally vetoed 40. He vetoed 40, also, of the 825 bills passed during the regular session of the 60th Legislature (1967).

Through the years, protection of public interest~~s~~ has been the reason most frequently given by Texas governors for their vetoes. Other lead-  
*seasons given* ing causes of vetoes<sup>x</sup> have been unconstitutionality, improper drafting of bills, and imprudent economically. *economic imprudence*  
*financial*

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

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

MESSAGES The constitution requires the governor to give to the legislature, by message, at the start of each session and at the close of his term of office, information as to the condition of the state. He is required, also, to recommend to the legislature such measures as he deems expedient, and to present his budget within five days after the legislature convenes. His "State of the State" message, delivered in person at the start of the session and given statewide coverage on TV, radio, and in the newspapers, presents his general recommendations for legislation and his estimate of which are most important. Governor

Connally's message to the 60th Legislature (1967) dealt with some thirty major subjects, ranging from constitutional revision by convention to traffic safety.

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

**SPECIAL SESSIONS** Another important legislative power granted to governors by state constitutions is that of calling special sessions. Governors call special sessions for many reasons: to complete passage of needed legislation, for example, or to deal with emergencies, or to put a program into operation more quickly. The special session may serve as a device for gubernatorial influence on legislation, as it is a means of drawing public attention to an issue which is part of the governor's program. Since legislators as a rule do not like to leave their jobs to attend special sessions, a threat to call one may be enough to get legislators to support the governor's program during the regular session.

The governor in every state is empowered to call special sessions. In all but fourteen states this power is his exclusively. In most of the states it is he who specifies the subjects of legislation to be

considered. In seven states the governor must call a special session if he is petitioned to do so by a specified majority of each house. In six states the legislatures are authorized to call special sessions.

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

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

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

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

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

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

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

One of these is that, as chief of state, he is the best known state government official, the state's representative in national and state affairs, and responsible to a statewide constituency. The governor's activities, which are widely publicized, help him in exercising

legislative leadership, even when they are purely social or ceremonial, because they add to his prestige and hence to his persuasiveness in dealing with members of the legislature. In exercising his power of appointment to some 110 boards and commissions he can also influence legislators.

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

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

LEGISLATIVE SUCCESS OF GOVERNORS How have the legislative programs of Texas governors fared? Governor W. Lee O'Daniel (1939-1949) with the failure of the important features of his legislative program, probably had the least success. Governor Allan Shivers (1947-1957), with his previous experience of twelve years in the legislature and two and a half years as lieutenant governor, was especially successful with his legislative program. Governor John Connally (1963-- ) had notable success with the 59th Legislature (1965). He has estimated

that 80 to 85 per cent of his program was enacted by the 60th Legislature (1967) in regular session. Several of his major recommendations to the legislature, however, were not enacted.

<sup>2</sup>  
CONCLUSION "I think it may be truthfully said that the Governor's relationships with members of the Legislature are the most delicate, the most fascinating, and the most rewarding of his activities."--  
Former Governor Allan Shivers.

1 Gantt, Dawson, and Hagard GOVERNING TEXAS - Document and Readings, (Thomas Y. Crowell Company, New York, 1966) From an article by Allan Shivers The Governor's Office In Retrospect.

2 Ibid

TO: Ducworth, <sup>K</sup>Mating, Ramey, Browncombe, May, Boller, Kyre, and S.O.  
From: Jordan

Enclosed, a copy of what I hope is the Final Draft of F&I. III.

I have cut and recut, leaving out sections that I felt were quite important, but not absolutely necessary. I had great regrets on cutting the section on unicameralism and I think it should be included in the Leader's Kits. I tried to shorten it, but the best I could do was one page at the minimum, so I left it out altogether.

You will note that the Final Draft has  $13\frac{1}{2}$  pages. Actually it is 379 lines plus footnotes, 13 lines longer than F&I I. Because I have only 15 headings to go into bold, colored type in contrast to 23 in the F&I I and because there were a few lines left empty at the bottom of F&I I, I think the printer can squeeze all of F&I III onto the paper. If this is not possible, I would suggest cutting out the section on MECHANICAL AIDS, p. 11, 10 lines. I feel I have cut other sections to the point that if more were cut they would not be too meaningful.

I must admit that I have been continuously frustrated by all the good things that I have had to leave out, many of your suggestions included. It would have had to have been half again as long if we had included everything! Well, at least the readers won't know about all the goodies in the wastebasket.



## THE FRAMEWORK AND THE FUNCTIONING

**RESPONSIBILITIES OF THE LEGISLATORS** In addition to the most obvious legislative responsibilities of enacting laws and making public policy, legislators have been empowered by the Constitution with judicial, executive, constitutional, electoral, and apportionment functions. But their primary role is that of lawmaker. How are they organized to perform this function? How do they function within this organization? Are there alternatives to the present structure and procedure which might make the system more efficient, and at the same time, most responsive to the will of the people? The following information is presented as an aid in answering these questions.

**QUALIFICATIONS OF LEGISLATORS** To qualify as a legislator, a person must meet the following Constitutional requirements: be a United States citizen and qualified elector of Texas; be a resident of the district for one year and of the state for two years (for Representative) or five years (for Senator); be at least twenty-one years of age (for Representative) or twenty-six (for Senator).

These qualifications are not very limiting, but other factors, including voter preference and professional background, play a role in selection. The electors of Texas have preferred men with a background in law, business, and agriculture. Although men are elected whose past experience contributes little to the role of lawmaker, lawyers have continually predominated in both houses. The voters rarely elect women, Negroes, and Republicans. For Senators, they have preferred men who have past political experience. The ease with which a person can absent himself from his regular career is a factor in determining what kinds of professional backgrounds predominate in a legislature.

A recent report<sup>1</sup> from the Committee of Economic Development (CED), in commenting on State legislatures in general, says: "Broad experience

in a wide variety of modern institutions and affairs should be more characteristic of membership than at present." The report suggests that "the larger states should look forward to having full-time rather than so-called 'citizen legislators' who devote most of their attention to their own professions."

**SIZE OF LEGISLATURE, APPORTIONMENT, TERMS OF OFFICE** The Texas Legislature is divided into two houses. The Senate has thirty-one members, each elected for a four-year term from one of the thirty-one senatorial districts into which the state is divided, on the basis of qualified electors, after each decennial census. In September of 1965 Texans voted for an amendment which allowed a single county to have more than one state senator and thereby made it possible for Texas to comply with the U.S. Supreme Court ruling on apportionment. Harris County now has five senators and at the other end of the scale is the senatorial district which contains twenty-seven counties.

The House has 150 members, elected for two-year terms. A ratio, obtained by dividing the population of the state by the number of House seats is used to apportion the members among the counties. After the 1960 census, the state was divided into eighty-six districts. Since the first reapportionment in 1881, the districts have increasingly deviated from the "ideally equal" district. In 1965, the legislature passed a House redistricting bill complying with the "one man, one vote" ruling of the U.S. Supreme Court. A federal court decision upheld most of the act, but directed the Legislature to make some corrections before August 1, 1967. The 60th Legislature (1967) passed a redistricting bill which allows a population deviation of 24.2% between the largest and smallest district; does not allow for electoral districts, and creates districts that cut across county lines for the first time in Texas history.

The 1967 redistricting bill continues to allow multi-member House districts. Critics of the system charge that it discriminates against minority groups. If the districts were single member, these groups might be able to elect a candidate more representative of their interests. A rural area may be lost in the shuffle of a multi-member district as easily as minority groups may be swallowed up in the city. Supporters of multi-member districts claim that such districts will be better represented by legislators elected at large and that single-member districts in metropolitan areas are likely to foster conflicts among the legislators which will retard the progress of the region.

The CED report<sup>1</sup> says: "No state legislature should have more than 100 members. Smaller size would elevate membership status, increase visibility, and help in recruiting qualified candidates." Its recommendation that terms of office should be for four years echoes the suggestions made in Texas that House terms should be lengthened. Proponents for longer terms argue that newly elected legislators are not too effective in making positive legislative contributions because they are unfamiliar with procedure. Opponents stress that the present system forces the legislator to be more closely attuned to the desires of his constituents.

**COSTS OF SEEKING OFFICE** Filing fees vary according to the population of the district which the candidate represents - from \$1 to \$300 per county. Candidates for state-wide offices pay a \$1,000 fee. The 60th Legislature (1967) failed to pass a bill which set filing fees at 10% of the salary of the legislative office.

The Texas Legislative Council reported on campaign expenditures in the first Democratic Primary of 1956. Expenses a decade later can be considered to be 25% higher. The admittedly incomplete report used conservative figures which indicated that candidates for the House spent

from \$250 to \$10,000 with the majority spending from \$2,000 to \$5,000.

For Senate seats, expenses began at \$3,000 and reached a maximum of \$40,000.

**SALARIES AND OFFICE EXPENSES** It is commonly agreed that legislators'

salaries and expenses should be high enough to enable any qualified person to serve without having to make a financial sacrifice. A 1960 constitutional amendment provided for salaries of up to \$4,800 per year for legislators in Texas and each legislature since then has set the salaries at that figure. Expense allowances of \$12 per day are also paid for the first 120 days of a regular session and for the 30 days of a special session. Ten cents per mile is allowed for travel to and from Austin during the session. Legislators are covered by social security and belong to the state employee retirement system. A resolution to permit legislators to set their salaries by law, rather than having them set by amendments to the constitution, failed to pass the 60th Legislature (1967). However, an amendment will appear on the ballot in 1968 which, if passed, could raise salaries from \$4,800 to \$8,400 per year and extend per diem allowances to cover 140 days.

In addition to secretarial help, legislators are allowed a drawing account for expenses of operating an office. It should be noted that these allowances do not always cover expenses. The power of the unethical lobbyist can be curbed when legislators break even on legitimate expenses. The 60th Legislature, (1967) passed a bill that raised the amount for expenses between sessions to \$1,000 per month for Senators and \$200 per month for House Members.

In many states legislators are paid salaries which are for the entire legislative term. In other states they are paid on a daily basis. Biennial compensation ranges from \$200 in New Hampshire to \$20,000 in New York, with the median in the \$4,000 to \$4,800 bracket. Daily rates go

from \$5 per diem in Rhode Island and North Dakota to \$50 in Louisiana, with a median daily rate of \$15. Throughout the country, consideration is being given to increasing the salaries of legislators. Citizens' committees in Montana, Maryland, and Ohio have all recommended increased legislative salaries. In Idaho, Nebraska, North Carolina, Utah, and Washington, as well as in Texas, constitutional amendments which would either raise or pave the way for raising legislators' salaries will be voted on this year or next. The CED report<sup>1</sup> recommended that salaries be increased substantially (\$15,000 minimum - \$25,000 per annum in the larger states) and indicated that this was possible without increasing operating expenses "if the size of legislative bodies is reduced."

THE LIEUTENANT GOVERNOR, HIS POWERS The Lieutenant Governor, elected by the voters in a statewide election, is assigned the task of presiding over the Senate by the constitution. In this position, he is recognized as the Senate leader because of the power current rules vest in the presiding officer. His leadership comes also from the fact that, as winner of a state-wide election, he represents powerful elements and groups in the state.

The Lieutenant Governor sets the size of the committees of the Senate and appoints their members and chairman. In so doing, he can heavily influence what will emerge from committees and hence what business will be done by the Senate. He refers all bills to committee. The placement of a bill in a friendly or hostile committee is up to his discretion. However, bills can be re-referred to other committees by a simple majority vote on the floor. He can use his power to make parliamentary rulings to control Senate actions. In exercising the traditional power of recognition, the Lieutenant Governor can control the consideration of bills on the Senate floor. The regular calendar order is often suspended by

a two-thirds vote for the introduction of favored bills and persons sponsoring unfavored legislation may find it difficult to be recognized.

**THE SPEAKER, HIS POWERS** The Speaker is formally elected by a secret ballot of the members of the House at the beginning of the Legislative session. In back of his election may lie several years of campaigning. The candidate must line up support for his election no later than the session preceding the one in which he desires the Speakership. Because he must have the votes of new members as well as returning members, he has to help in legislative contests throughout the state. His statewide campaign is expensive. How expensive is not known because there are neither regulations regarding money received or spent nor requirements of sworn reports about campaign contributions. However, the candidate who went on to win the speakership in 1961 had earlier told a reporter for The Texas Observer that his campaign would cost \$20,000.

As presiding officer of the House, the Speaker interprets House rules, refers bills to appropriate standing committees, appoints all committee chairman and vice-chairmen. Heretofore, the Speaker has also appointed committee members, but new rules, to go into effect at the end of the 60th Legislature, limit his appointment of committee members to the filling of vacancies and the appointment of all members of the Rules, House Administration, and conference committees. The committee chairman set the agenda and the date, time, and place of committee meetings, appoint subcommittees, and refer bills to them. Thus the Speaker, through his appointed chairman, is in a position to control legislation. He also has the power to delay rulings, to judge if the conference committee has adhered by the rules, and to assign or reassign bills, resolutions, and committee reports to the calendar.

**SALARIES OF THE PRESIDING OFFICERS** At the present time, the Speaker and

the Lieutenant Governor receive the same compensation as do other legislators. When the Governor is out of the State, the Lieutenant Governor is paid compensation equivalent to that of the Governor. In addition, each of them is furnished an <sup>a</sup>apartment for himself and his family in the Capitol during the session. Proposals to raise the salaries of the Lieutenant Governor and Speaker to \$18,000 a year were considered during the 1967 session, but they bogged down in the Senate. Supporters argued that because the position of presiding officer is more time-consuming than that of the average legislator, the salary should be proportionately greater.

**COMMITTEES** The Senate has twenty-five standing committees. During the 1967 session the House voted to reorganize and eliminate some of its forty-three committees. The House committees, at the start of the next legislature, will also number twenty-five and will tend to parallel those already in existence in the Senate. This situation promises to encourage the use of joint hearings and the shared use of research material which should save both time and money. Committee size ranges from five to twenty-one members. Members of each house serve on several committees; the activity and size of their committees determine their workload. In the House, the new rules attempt to equalize the workload by limiting members to serving on no more than three standing committees; chairmen of committees will be limited still further.

Lack of experienced legislators on committees can greatly impede the legislative process. Research, covering the years 1935 to 1961, revealed that more than 70% of the legislators serving on the major House Committees had no previous experience on that committee; in the Senate, the figure was 35%. Among the committee chairmen in the House, 50% had no previous experience in their committee; in the Senate the figure was 17%. In an attempt to solve this problem in the House, where the situation

is more acute with members elected for two year terms, pre-session orientation meetings have been held. In addition, a limited seniority system was established during the 60th Legislature to promote continuity and expertness on committees.

**LEGISLATIVE SESSIONS** The Constitution states that the legislature is to meet in regular session once every two years. An amendment, adopted in 1960 sets, for the first time, an explicit limit of 140 days on the length of a regular session. Because per diem expenses stop after the first 120 days, sessions usually end at that time. In addition to the regular session, the legislature may also be called by the Governor into any number of special sessions of no more than 30 days each. The Governor specifies what subjects are to come before the legislature during these special sessions.

**ANNUAL SESSIONS** The formulation and enactment of legislation demands and should receive a great deal of time and thought. The current nationwide trend toward annual sessions has been brought about by increased workload. Twenty-two states now have annual sessions and three (Iowa, Idaho, and Utah) will vote on annual session proposals this year or next. Opponents for using the system in Texas state that the present system, with special sessions, allows opportunity for legislative sessions whenever they are necessary without the undue expense of annual sessions. Many recommendations have been made throughout the country that legislative sessions be on an annual or continuing basis without constitutional limits on subject matter or length. Reasons advanced for annual sessions are: there is more time for study of problems and the proposed legislation for their solution; they eliminate the long period between sessions in which only the governor's initiative can start legislative considerations; they reduce the amount of hasty, ill-considered adoption of bills

at the end of a session; they allow for more continuity; research and secretarial staffs can be used more effectively.

Perhaps Texas has seen the last of biennial legislative sessions.

The decision by the 60th Legislature (1967) to adopt a one year budget may establish a pattern for annual sessions. It should be expected that a change to annual sessions would increase the pressure for substantial salary raises for legislators.

**FLOOR ACTIVITIES** A bill may be introduced in either house or simultaneously in both houses, except for a revenue bill, which must originate in the House. A bill may be conceived and drafted by someone other than a legislator (e.g. the Governor, local governmental authorities, state agencies, pressure groups) but only a legislator may introduce a bill. He does so by filing the bill with the presiding officer or the Chief Clerk or by introducing the bill from the floor. Bills are numbered in the order in which they are introduced. The Constitution limits the introduction of bills to the first thirty days of the session; however this limitation is eliminated by the adoption of a simple or concurrent resolution at the beginning of each session. Usually it is agreed that the introduction of bills in the first sixty days will be unrestricted, with introduction after that by special consent. Pre-filing of bills, whereby bills to be considered are filed prior to the legislative session, would provide legislators an opportunity to study bills in advance and consult with constituents before leaving for Austin.

First Reading consists of reading the caption and brief statement of the bill's purpose and provisions. The presiding officer assigns it to a committee. After hearings on the bill and consideration of amendments, the committee makes its report. A favorable report (be passed) automatically means the bill will be printed, distributed to each member,

and placed on the calendar. An unfavorable report (be not passed) can be overcome if a minority report is filed by committee members and accepted by the house; then the bill is printed and placed on the calendar.

In the Senate, bills are placed on the calendar in the order in which they are reported out of committee - regardless of number or importance. Placement on the calendar is no guarantee that a bill will be considered. Under the new rules, bills reported out of House committees will be arranged on the House Calendar by the Committee on Rules in a manner insuring priority to the most important bills, i.e. emergency items, state-wide major business ... local and consent calendar. Special times can be designated for consideration of the latter two types of bills. Local and special laws can not be given serious consideration in the little time available to the legislature during its regular session. These issues could be settled on the local level or in executive agencies, but it will take a change in the Constitution to relieve legislators of this time-consuming responsibility.

Second Reading consists of consideration of the text of the bill by the entire membership. The bill is then rejected, accepted, or accepted as amended. If adopted, it is passed to engrossment. Third Reading consists of reading the title of <sup>the</sup> bill. It is followed by a final vote. The Constitution specifies that bills are to be read on three different days, but a four-fifths majority can suspend this rule in the case of an emergency.

If expenditure of money is involved, the bill is sent to the Comptroller for his certification that the amount appropriated is within the amount estimated to be available. If not, he returns it to the Legislature where steps must be taken to reduce the appropriation or provide additional revenue. In case of an emergency and imperative public neces-

sity, a four-fifths vote of the total membership of each house can override this restriction.

Once a bill is passed in identical form by each house, it is sent to the Governor for his signature or veto. A two-thirds vote in each house may override his veto. An unsigned bill can still become law if it is not returned to the legislature within ten days or, in the case of an adjourned legislature, if the Governor does not register his disapproval with the Secretary of State and publicize his action within twenty days (Sundays excluded).

**MECHANICAL AIDS** In the House an electronic voting machine is used to tabulate totals on all votes and it records names as well, for record votes. In the Senate, all voting is done by voice. Unless voting is done by roll call, the presiding officer determines whether the yeas or nays have the majority. If <sup>a</sup> voting machine were used in the Senate, it would erase all doubts about the outcome of each vote.

A public address system is used in the House by the presiding officer and members who wish to address the chamber. The Senate does not use microphones and it is often difficult for interested observers to hear the proceedings.

**COMMITTEE ACTIVITIES** Standing Committees have the function of considering all bills referred to them after initial introduction in the Legislature. This serves the purpose of screening the bills presented so that impractical and undesirable legislation can be discarded. The use of subcommittees has <sup>a</sup>further screening effect. It is possible, but not too easy, for a member to request that a bill be re-referred to another (and hopefully more favorable) committee. If no action is taken by the committee on a bill, it <sup>dies</sup> ~~idea~~. In executive (closed) sessions of committees, amendments are prepared to suit the majority of the members. If all or most

committee meetings were open to the public, the resulting legislation might be considerably different.

Hearings are conducted during the second thirty day period of the regular session. If the committee decides to hear opponents and proponents on a bill, a forty-eight hour advance notice is given, stating time and place of the hearing. There are many who suggest that hearings should not only be open to the public, but well publicized in advance.

Conference Committees have the purpose of resolving the differences between two versions of the same bill as it is voted out of each chamber of the legislature. The chamber which originated the bill requests a conference committee, by a simple majority vote, when it is unable to accept the amendments of the other house. A conference committee is called only if the second house agrees by a simple majority vote. The Speaker and Lieutenant Governor each appoint a five-member committee from their respective houses to serve on the conference committee; the chairman is selected by and from the members of the committee of the originating house. To determine the matter in case of disputes, a majority of each chamber's committee must be in agreement.

In the 60th Legislative session (1967), the House proposed several new rules in regard to conference committees. These rules were adopted by the House but not by the Senate. An attempt was made to limit discussions and actions of the committee to only those matters in disagreement between the two houses. Committee members are <sup>not</sup> permitted to change, alter, amend, omit, or add text on any matter which is not in disagreement or to add text on any matter which is not included in either the House or Senate version of the bill. The presiding officer determines whether or not the rules have been followed. Limitations on conference committees dealing with appropriation, tax, re-apportionment, and

re-codification bills may be suspended by a concurrent resolution passed by a majority vote in the House.

Because conference committee reports must be accepted or rejected in total, much criticism has been raised against the practice of tacking "riders" on bills. Appropriation bills have been particularly vulnerable. These provisions, having nothing to do with the actual bill, are added by members of the conference committee and are assured of passage when the main bill is of vital importance. The new House ruling should put a curb on such practices. If the Senate adopted the same rule, it could put an end to riders.

Reports of appropriation, tax, re-apportionment, and re-codification bills must now, under the new House rules, be reproduced and legislators furnished with a copy of them forty-eight hours before any action can be taken. Other types of bills have a twenty-four hour limit. These new rulings should help to keep members better informed before the final vote.

The House revisions are certainly a step toward simplification and clarification of rules of procedure and point the way to future improvements in both houses.

The use of Interim Committees, those <sup>which</sup> ~~which~~ meet between sessions to consider possible legislation, has not been fully realized in Texas. The advantages of such a system are obvious - without the pressure of a legislative session, matters can be thoroughly researched and considered. Conclusions can be drawn which are not based on hasty decisions. Presently, interim committees do function in a limited way. Some seventy interim ~~and~~ study and investigating committees were created by the 60th Legislature (1967). However, because of a shortage of funds and because part-time legislators can not afford the time to fully participate on these committees, most business has been conducted by letter, rather than in meetings.

SUMMARY This has been an examination of the Texas Legislature, its responsibilities, its organization, and its procedure<sup>ture</sup>. Current proposals for change have been included. The task of making the chosen structure of the state legislature most efficient and most responsive to the people's will is a very complex one. The price of failing to do so is exorbitantly high. The challenges are reflected in the statement by Jesse M. Unruh, Speaker of the California Assembly:

No other governmental body deals more directly and continuously with the quality of life in America than the state legislature. ... The principal requirements of modern political structures are flexibility and imagination in response to the wide range of urgent problems which government has never dealt with before.<sup>2</sup>

It will take the education and constant efforts of all responsible citizens to maintain a system which can meet the challenges.

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1. "Modernizing State Government" as cited in State Legislatures Progress Reporter, June-July, 1967, Vol. 2, No. 9.
  2. "Reforming Our Legislatures"; address before the Young Democratic Clubs of Maryland, April 14, 1967 as cited in State Legislatures Progress Reporter, June-July 1967, Vol. 2, No. 9.

Arypo

July 25, 1967

To: Kyre, Jordan, Duckworth, May, Ramey, Martin, SO  
From: Brownscombe  
Re: First draft of F & I #3

I, too, am calling this manuscript a "first draft" instead of a "rough draft", for there's nothing rough about it--it's well organized, carefully stated, and finely polished.

The length is a problem. A page of the manuscript from which F & I #1 was printed is equivalent to only 2/3 of a page of this F & I #3 manuscript. Thus the 13 pages of the #3 first draft will need to be cut 1/3, or between 4 and 4 1/2 pages, to make a total of not more than 9 pages typed as is the first draft.

The hardest job, I think, is to cut the manuscript. Two types of material are, it seems to me, the most eligible for cutting. These are:

- (1) material which duplicates what we have already had (in the Leaders' Guide and kit of last October, for example) unless the duplication is a necessary part of a new or different approach developed in the manuscript;
- (2) material which would be of little interest to the usual League reader although excellent for the serious student. (A Facts & Issues is a summary sort of publication, a general survey, which does not go into depth on topics.)

My suggestions follow.

Page 1.

Omit the heading and the section on functions of the legislature. This is resource material rather than general membership material. It can be effectively used in a discussion group when appropriate, but in an F & I it tends to muddy the waters, in my opinion. My suggestion is to substitute instead a very short introduction (no more than 10 lines) which tells what the F & I proposes to do--something, for example, about the tremendous importance of the legislature in Texas government, that it is composed of two houses (the Senate and the House of Representatives) and that the F & I will examine the structure and procedures of the legislature, which have a great effect upon lawmaking. This might be the place, also, in which to mention that Texas is a one-party state, with legislative organization and procedure shaped by that fact and different in various respects from two-party states.

I think Helen's suggestion as to headings is good (and I would apply it throughout the F & I)--to make them as they are in F & I #1 (on the same line as the first line of the paragraph) both for the sake of uniformity and because it saves space. Thus I would delete, in the middle of page 1, STRUCTURE AND PROCEDURE, ~~use~~ use MEMBERSHIP as the heading, delete the question "Who are these men who guide the destiny of Texas?" and delete, also, the subheads "In the Senate" and "In the House". I would retain the present next-to-last paragraph on page 1, and in order to make it less abstract a couple of sentences like the following might be added at the end of the paragraph: "Bexar, Dallas, Harris, and Tarrant counties are in more than one senatorial district and have, respectively, three, four, five, and two senators."

At the other end of the scale is the senatorial district which contains 27 counties." (That district, by the way, is #12)....I suggest omitting the last paragraph on page 1.

Page 2.....

I suggest shortening the second sentence of paragraph 1 to "The House has 150 members, elected for two-year terms."

I suggest omitting paragraph 2, as the defeat in 1965 of the constitutional amendment for 4-year terms for representatives would seem to make it of less importance.

I suggest compressing paragraph 3 and the first sentence of paragraph 4 into fewer sentences, something like this, for example: "Representatives' districts are based on population. Since the first reapportionment in 1881 the districts had increasingly deviated from the 'ideally equal' district, until by the early 1960's the metropolitan areas had come to be greatly underrepresented and there was also inequality of representation among rural districts." (See McCleskey, 1966 edition, pp. 129 and 130.) I would follow this with the last three sentences of paragraph 4, altered a bit, to read: "In 1965, the legislature passed a House redistricting bill complying with the 'one man, one vote' ruling of the U. S. Supreme Court. A federal court decision upheld most of the act but directed the legislature to make some corrections before August 1, 1967. The 60th Legislature (1967) passed a redistricting bill which allows a population deviation of 24.2 per cent between the largest and smallest district, does not allow for flatorial districts, and creates districts that cut across county lines for the first time in Texas history."

To begin paragraph 5 I think there should be an introductory phrase explaining that the 1967 redistricting continues to allow multi-member House districts and how many there are and in which counties, and then proceed with the criticisms. In the first line of paragraph 5 I'd delete "unfairly" as being redundant. In the second sentence of the paragraph I'd change "These groups would otherwise be able to elect" to "If the districts were single-member these groups might be able to elect"....And I would make the third sentence less positive--"A rural area may be lost in the shuffle of a multi-member district as easily as minority groups may be swallowed up in the city." Multi-member vs. single-member districts seems to be a live issue, and I think the other side should also be given (even though it does add three or four lines) so following the Lubbock, Terry and Hockley example at the top of page 3 I'd say: "Supporters of multi-member districts claim that the area as a whole will be better represented by legislators elected at large, that single-member districts in metropolitan areas are likely to foster conflicts among the legislators which will retard the progress of the region."

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Page 3.....

The Salaries and Office Expenses paragraphs seem to me to need some re-working for greater clarity and some additional information and comparisons to present a fuller picture. (Who knows, perhaps we can start F & I readers to thinking about the pros and cons of that pay raise amendment we'll vote on next year!) My suggestions for the

five paragraphs follow:

"Salaries: It is commonly agreed that legislators' salaries and expense allowances should be high enough so that competent people can serve in the legislature without having to make a financial sacrifice.

"A 1960 constitutional amendment provided for salaries of up to \$4,800 per year for legislators, and each ~~session~~ legislature since then has set the salaries at that figure. Expense allowances of \$12 per day are also paid for the first 120 days of a regular session and for the 30 days of a special session. Ten cents per mile is allowed for travel to and from Austin during the session. Legislators are also covered by social security and belong to the state employee-retirement system. A resolution to permit legislators to set their salaries by law, rather than having them set by amendments to the constitution, failed to pass the 60th Legislature. However, an amendment will appear on the ballot in 1968 which, if passed, could raise salaries from \$4,800 to \$8,400 per year and extend per diem allowances to cover 140 days.

"In many states legislators are paid salaries which are for the entire legislative term. In other states they are paid on a daily basis, either for days in actual session or for a limited number of session days before compensation ceases. Per diem salaries tend to limit the length of legislative sessions. Biennial compensation ranges from \$200 in New Hampshire to \$20,000 in New York. Daily rates go from \$5 in Rhode Island and North Dakota to \$50 in Louisiana. The median biennial salary is in the \$4,000 to \$4,800 bracket; the median daily rate is \$15.

"In Idaho, Nebraska, North Carolina, Utah, and Washington, as well as in Texas, ~~which~~ constitutional amendments which would either raise or pave the way for raising legislators' salaries will be voted on this year or next. Probably the most unusual proposals are those in Idaho and North Carolina, where legislators are asking to set their own salaries. Citizens' committees in Montana, Maryland, and Ohio have all recommended increased salaries for legislators. [Note: the additional information in this paragraph is from an article by Kent Zimmerman of the Associated Press, "18 States Tackle Constitutional Revision", in the DALLAS TIMES HERALD for July 16, 1967.]

"Office Expenses: Each senator is allowed three to four full-time secretaries during the session plus an allowance for contingencies (office supplies, stamps, telephone, etc.) which, although not a fixed amount, is probably between \$2,000 and \$3,000 each biennium. Each representative is allowed one full-time and one part-time secretary during the session and can expect to have from \$1,100 to \$1,300 per biennium for a contingency allowance. The 60th Legislature raised the allowance for expenses between sessions to \$1,000 per month for senators and \$200 per month for House members."

Page 4.....

My opinion is divided as to whether to retain the paragraphs on filing fees and campaign expenses. I see no relationship between these topics and the structure and procedures of the legislature, and I note that in books on Texas government (McCleskey, Benton, MacCorkle and

Smith, and Patterson, McAlister and Hester), these topics are discussed in the chapters on political parties and elections, not in chapters on the legislature. Also, to delete these paragraphs would cut the manuscript by 1/3 page. On the other hand, ~~perhaps~~ if we want to give a picture of the expenses of a legislator to balance our account of his compensation, then filing fees and campaign expenses are pertinent. And since the amendment to raise salaries is coming up in 1968 perhaps we do want to include this information as a possible help to voters in making up their minds. If Filing Fees and Campaign Expenses are to be included my suggestion is that they be changed somewhat, as follows:

"Filing Fees and Campaign Expenses: Ceilings are placed by law on filing fees paid by candidates for the legislature on the primary election ballot, and they vary from a few dollars in a small county to \$1,000 in the largest counties. Candidates for statewide offices pay a \$1,000 fee. The 60th Legislature failed to pass a bill which set filing fees for candidates for the legislature at 10% of the salary for legislative office. As it now stands, filing fees will vary according to the population of the district which the candidate represents.

"The Texas Legislative Council reported on campaign expenditures in the first Democratic primary of 1956. The report is admittedly incomplete and the figures are conservative; expenses ten years later were probably at least 25% higher. Winning candidates for representative spent from \$250 to, in four districts, \$10,000. The majority spent from \$2,000 to \$5,000. For Senate seats, expenses began at \$3,000 and reached a maximum of \$40,000." The filing fees I used are from McCleskey 1966 edition, p. 59....I assumed that the campaign expenses given in the Texas Legislative Council report were for winning candidates; if not, the sentence needs to be corrected....I deleted the sentence about the Ethics Bill because it seemed a little off the topic, not quite germane.

Pages 1 through 3, Summary.....

How very hard it is to cut a manuscript as good as this one! As I figure it, if my suggestions prove acceptable, a total of 27 lines, which is 3/4 of a page, will be cut from these three pages. (That is, 16 lines from page 1, plus a net of 14 lines from page 2, minus a gain of 3 lines from page 3.)

Recommendations for Further Cuts - pages 12, 13 and 11.....

I suggest that the two pages on unicameralism (pages 12 and 13) be omitted altogether. I think that this material is not particularly relevant for an F & I on the Texas legislature and that since we must cut at least 3 1/4 pages more from the manuscript these two pages will be least missed. The following quotations from McCleskey, Benton, and MacCorkle and Smith express better than I can the background for my feeling that to discuss unicameralism at this time would not be useful.

McCleskey, 1966 edition, page 170 - "The proposal for a unicameral legislature....runs so contrary to popular sentiment as to be unlikely of adoption in the near future." After speaking quite favorably of the Nebraska experience he continues: "However, so deeply rooted is the bicameral principle that displacing it would be a political feat of immense proportions. Hence, we should not take too seriously the action of the House committee in 1965 when it reported favorably a proposed amendment to establish a unicameral legislature."