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Suggested Improvements in the Indiana Legislative Process

SUGGESTED IMPROVEMENTS IN THE INDIANA LEGISLATIVE PROCESS†

The Indiana legislative process is governed largely by provisions of the Indiana Constitution of 1851.[1] Although these provisions may have been adequate when adopted, students of governmental procedure express concern over the adequacy of many of these measures to cope with the state's legislative problems more than a century later.[2] The Indiana legislature is confronted with problems in several areas which could be remedied to a great extent by revising certain portions of the existing legis-

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56. There are no cases where trained psychologists, except the teacher-psychologist in Mangrum v. State, 227 Ark. 318, 299 S.W.2d 80 (1957), have given evidence on the intelligence or memory of a witness for impeachment purposes. Probably one of the reasons for this non-use is the inability of the opposing party to get an intelligence or memory test from the suspected witness. Unless there are old test results from the psychologist to interpret, the psychologist's testimony would have to be based only on hypothetical questions and observations.

57. Psychologists, too, can give the most accurate evidence of a witness' reliability when a more complex use of testimonial skills is required. Redmount, *The Psychological Basis of Evidence Practices: Intelligence,* 42 MINN. L. REV. 559, 589-90 (1958).

† The following note was prepared by and expresses the views of Birch E. Bayh, Jr., Speaker of the House of Representatives of the 91st General Assembly of Indiana (1959). Mr. Bayh was first elected to the House in 1955 and has served continuously since that time. He was minority floor leader in 1957 and is currently vice-chairman of the Indiana Legislative Advisory Commission.

1. IND. CONST. art. 4.

2. COUNCIL OF STATE GOVERNMENTS, OUR STATE LEGISLATURE 4 (1948); Willbern and Clark, *Pre-legislative Conferences in Indiana,* STATE GOV'T 43 (Winter 1949).

lative procedure. Foremost among these problems is the increasing burden which is imposed upon the state legislature because of the growing number and complexity of issues with which it must contend. As the population expands, as counties become urban rather than rural, and as society becomes more complex, the state is faced with an ever increasing number of problems.[3] The legislature is called upon to solve these new problems and, because of their magnitude[4] and complexity, it is all the more important that each suggested solution be subjected to the utmost deliberation. The problems created by the tremendous increase in number of issues to be considered by each legislative session can easily be imagined.[5] There were approximately one thousand bills introduced in each of the last two sessions. With few exceptions, these bills were considered and acted upon by the various committees. Between one-half and two-thirds of all bills introduced reached the floor of at least one house for consideration and from one-third to one-half of the bills were subsequently passed by both houses of the legislature and enacted into law. With a calendar of such magnitude it is almost a human impossibility for the average legislator to read,[6] study, and thoroughly consider each measure before he is forced to make some decision upon it.[7] Legislators who take their jobs seriously desire to be well informed upon all matters of legislation, but under present conditions this is an extremely difficult goal to attain. This is particularly so in the closing weeks of the legislature when night sessions greatly diminish the hours available for study.

The increase in number of legislative issues would not present such

3. Two good examples of such problems may be found in the field of education and highway construction. The 1959-60 budget provides the necessary funds to educate 33,000 more school children than were provided for in the previous budget. Educators estimate that this number will increase appreciably in the future. In the field of highways, the new federal highway program should increase the highway construction in the state appreciably. The new program provides federal funds on a ninety-ten matching basis, compared to a fifty-fifty matching basis in the old program.

4. For the first time in the history of the state, the biennial budget passed by the 1959 legislature exceeded one billion dollars.

5. The following provides an interesting comparison. In the Regular Session of 1857, five hundred and thirty-two bills were introduced. Seventy of these passed both houses of the legislature. In the Regular Session of 1859, six hundred and twelve bills were introduced. One hundred and forty-five of these passed both houses of the legislature. In the Regular Sessions of 1955 and 1957, nine hundred and seventy-five and nine hundred and fifty-nine bills were introduced in the respective sessions. Three hundred and forty-four and three hundred and sixty-one were enacted into law.

6. Quite often merely reading the bill does not adequately equip a legislator to pass judgment on the measure in question. In Indiana an amendatory bill omits that portion of an act which the bill proposes to amend. This necessitates not only a study of the proposed act, but also the old law before the true intent can be determined and adds appreciably to the task of the legislator who is seeking to become well informed.

7. A few legislators do manage this gigantic task, but only those who are very proficient readers and are capable of functioning efficiently on a minimum amount of sleep.

an acute problem if the legislature were permitted to increase the length of the session in proportion to the increase in legislative business to be considered. However, the Indiana Constitution provides that the Indiana legislative body shall meet in regular session once each biennium and that the length of such sessions shall not exceed sixty-one calendar days.[8] Thus, despite an increase in number and complexity of problems, the present legislature is restricted in length of session to the same period considered to be adequate by the draftsmen of the Constitution more than a century ago. This constitutional restriction has encouraged the development of a subterfuge to circumvent the time-limiting provision. It has become the common practice to "stop the clock" prior to the termination of the constitutionally prescribed sixty-one days and then to continue the session *ad infinitum*. In all probability no particular damage has been done because of the inability of past legislatures to comply with the constitutional requirement.[9] Nor has the consequent practice, the constitutional loophole of "stopping the clock," created havoc with state affairs. However, it is an accepted principle of constitutional government that constitutional provisions are included for a purpose, and if for some reason it is no longer possible or practical to adhere to these provisions, they should be modified so that their terms need not be habitually violated.[10] The custom followed in Indiana whereby the legislature continually flaunts the state constitution not only presents an ill-advised example for the citizens of the state, but also degrades the entire governmental process.

A closer analysis of the Indiana legislative process discloses the following related factors which tend to aggravate the primary problem of "expanding legislative burdens with insufficient time for their consideration." First, the composition of the Indiana legislature is subject to a large turnover from one session to the next.[11] In a representative form

8. IND. CONST. art. 4, §§ 9, 29. Excluding Sundays, the Ninety-first Indiana General Assembly had fifty-two days to convene, transact its business and adjourn.

9. Indiana cases have repeatedly held that the legislative journals provide conclusive evidence of the validity of the facts contained therein. Since the journals always specify that the legislature adjourned within the constitutional time limitation, it is impossible to prove that the session exceeded the prescribed sixty-one day period although the clock may have been stopped for several days. McCulloch v. State, 11 Ind. 424 (1858); State *ex rel* White v. Grant Superior Court, 202 Ind. 197, 172 N.E. 897 (1930).

10. Other examples of portions of the state constitution which have been flaunted with regularity are those which have reference to re-apportionment of the state legislature, IND. CONST. art. 4, § 4, and to the requirement that each bill shall be read by sections when placed upon its final passage, IND. CONST. art. 4, § 18. It would be physically impossible to comply with the provisions of this latter section and yet conduct the business of the session within the required sixty-one days.

11. Almost sixty per cent of the legislators who served in the House of Representatives in the Ninety-first Indiana General Assembly had never served in the legislature before. Several others had not served during the previous session.

of government this cannot and should not be eliminated. However, each new legislator must have a sufficient period of time to become familiar with the important problems of state government and the various idiosyncrasies of the legislative process. Second, although the pressure is acute upon new legislators, it is equally severe upon those experienced legislators who have been selected for positions of leadership. Whether the position is that of committee chairman, caucus chairman, floor leader or speaker, leadership brings with it additional responsibility and time consuming effort, all of which decreases the time which may be spent in the study of legislation. Third, insufficient time to thoroughly consider legislative issues is an aid to those occasional unscrupulous individuals who are continually searching for an opportunity to perpetrate a fraud upon the state for selfish reasons. Fourth, although the possibility of intentional error does exist, the liklihood of unintentional error is far greater. Because of imperfections in the most superlative performances, mistakes are inadvertently made by honest and capable employees. Errors are made in printing. Bills are misplaced. The legislators themselves fail to discover existing errors. To discover and correct such errors, a continual check and double check must be conducted. This procedure requires time.[12]

In the light of the foregoing discussion and because the present constitutional time limitation is responsible for (1) insufficient time to thoroughly study legislative matters, and (2) an attempt to circumvent the state constitution, neither of which are congruous with the ideal legislative procedure, the desirability of retaining such a constitutional provision is questionable. The most recent session of the Indiana General Assembly illustrated that a legislative session can be terminated within the constitutional time limitation. And one cannot adequately defend the proposition that each legislator should not be taxed to the limit of his capacity in an effort to obtain such a goal. However, it is the author's contention that neither the number of days devoted to state legislative problems, nor the ability of the legislators to physically endure the rigors necessary to adjourn within the constitutional limitations are matters of paramount importance. When surveying a legislative system the consideration of paramount importance is whether the legislative problems of the state are

12. The conference committee report is particularly susceptible to error. In anticipation of this possibility, the rules of the Indiana House of Representatives provide that: "All reports of conference committees for adjustment of differences between the House and Senate shall be read in their entirety, laid over for one day, read in their entirety again, and then placed before the House for action." INDIANA HOUSE OF REPRESENTATIVES, STANDING RULES AND ORDERS 55 (1959). However, in an effort to comply with the constitutional time limitation this safegaurd is commonly waived when it is most needed, during the hectic closing days of the session.

being solved in the manner best suited to benefit the state and the citizens comprising it. It is the author's further contention that, because of the overcrowded legislative calendar and unadjustable constitutional time limitation, Indiana's legislative problems are not being processed in the most effective manner and that the entire legislative process would benefit by a revision of the time limitation provision.[13]

When considering a change in the length of the Indiana legislative session care should be taken to (1) insure adequate time for consideration of legislative problems; (2) limit the length of the session in a manner which will provide incentive for speedy legislative operation and prevent needless prolonging of legislative activity; and (3) permit the extension of the normal term, if circumstances warrant such an extension, without the breach of a constitutional provision. Since Indiana's problem of increasing legislative burdens is not unique, the time allocated for legislative sessions in other states may be considered in the context of the above goals. Although a few states with annual legislative sessions have a shorter time limitation than Indiana, only eight states which have biennial legislative sessions have a shorter constitutional limitation. Of these, seven have a constitutional limitation of sixty days,[14] while the eighth has a limitation of forty days.[15] It should be pointed out that the 1950 population in these eight states ranged from 160,083 in Nevada, to 2,378,963 in Washington, compared to a population of 3,934,224 in Indiana.

Of the ten most populous states, Indiana has the shortest session of all. Other states in this group meet the "time" problem in various ways.

13. Two recent errors support this contention. 1.) The basic motor fuel tax law provides that gasoline distributors shall be permitted to deduct a certain per cent of the tax collected to provide for evaporation and collection costs. Prior to 1957 the state gasoline tax was four cents per gallon and the percentage allowed the distributor was three percent. When the gasoline tax was raised to six cents per gallon in 1957, Ind. Acts 1957, ch. 48, the legislature generally understood that the percent allotted to the distributor was decreased to two percent, thus prohibiting the distributor from getting a fifty percent windfall from the tax increase. However, when the laws were promulgated the distributor's percentage had not been changed. The change was made in the 1959 session, Ind. Acts 1959, ch. 84, but the error cost the state in excess of one million dollars during the two year interval. 2.) The 1959 Legislature enacted legislation which was designed to relieve the financial crisis presently facing local transit systems. It was the legislative intent to exempt these companies from the payment of tax on motor fuel. However, it was not until after the session that the bus companies and the legislators realized that the exemption which had been granted, Ind. Acts 1959, ch. 323, applied only to tax paid on gasoline and did not apply to tax paid on diesel fuel which is used in the majority of transit buses in the state.

14. Montana, MONT. CONST. art. 5, § 25; Nevada, NEV. CONST. art. 4, § 29; New Mexico, N.M. CONST. art. 4, § 5; North Dakota, N.D. CONST. art. 2, § 56; South Dakota, S.D. CONST. art. 3, § 6; Utah, UTAH CONST. art. 6, § 16 and Washington, WASH. CONST. art. 2, § 12.

15. Wyoming, WYO. CONST. art. 3, § 6.

Illinois,[16] Ohio[17] and Pennsylvania[18] have biennial sessions with no time limitations whatever. Massachusetts,[19] Michigan,[20] New Jersey[21] and New York[22] have annual sessions with no time limitations. California[23] provides for a one hundred and twenty day session in odd years and a thirty day session in even years, while Texas,[24] although it does not place a time limitation upon the length of session, prohibits the payment of legislators after one hundred and twenty days of the session.

Although several states do have legislative sessions of unlimited length, it is doubtful if an unlimited or greatly extended session would provide the soundest solution to the problem in Indiana. There are presently a large number of highly qualified men and women serving in the Indiana legislature. These men and women are able to plan their business and personal affairs around a specified schedule, because of the definite length of the legislative session. They are willing to serve, many of them at a financial loss, during this definite period, but this would not be so if the period of service were completely unlimited.[25] Many valuable and experienced public servants would be lost if such a plan of action was pursued. In addition, there is a need to provide some incentive against procrastination. If this incentive is not provided, the legislative session might become exceedingly lengthy and result in a much more costly session than the additional benefits merit.

In summary, first, the present length of session is too short and should be extended to permit a more thorough study of the increasingly numerous and complex legislative problems of today. Second, the ses-

16. ILL. CONST. art. 4, § 9.
17. OHIO CONST. art. 2, § 25.
18. PENN. CONST. art. 2, § 4.
19. MASS. CONST. art. 10.
20. MICH. CONST. art. 5, § 13.
21. N.J. CONST. art. 4, § 1.
22. N.Y. CONST. art. 13, § 9.
23. CAL. CONST. art 4, § 2.
24. TEX. CONST. art. 3, § 5.
25. Some students of this area propose a salary increase as the answer to the problem. They contend that if the state would pay more money it could attract men and women to run for the legislature who were capable of legislating within the prescribed time limitation. Although a sizeable salary increase might improve the caliber of legislators somewhat, it is questionable if such a procedure would provide a final solution to the problem. The fact must not be overlooked that many of our present legislators are serving to their financial detriment. They continue to do so because they are devoted and dedicated individuals who believe there is a great challenge in governmental service. In addition, there can be no certainty that better trained personnel can legislate in a shorter period of time. In fact, the reverse could well be true. More highly trained legislators would in all probability demand additional time because of their insistence upon sufficient time to thoroughly investigate each legislative problem. So it would appear that an increase in legislative salaries would not, in and of itself, remedy the problem of increasingly numerous legislative issues with insufficient time for their consideration.

sion length should be adequate but not excessive. A fifty percent increase in length of session, to ninety days, should provide adequate time to consider important legislative issues. Third, to prevent a constitutional violation in the event an emergency required additional time, it would seem advisable not to limit the length of session to ninety days by specific reference thereto within the constitution itself. This goal could be accomplished by limiting the period of remuneration to the desired length of session. Such an approach would avoid repeated constitutional violations and, in addition, would provide sufficient stimulation against procrastination.

Although it is contended that the present length of session in Indiana is inadequate and should be revised, such revision is not the only area in which improvement can be made in an effort to relieve the overcrowded legislative work schedule. Significant strides could be taken towards remedying this problem if issues to be considered by the legislature were limited to those of state-wide importance. Although the Indiana Constitution forbids consideration of "special interest" or "special area" legislation,[26] this provision is violated with increasing regularity.[27] As a result the legislature is deluged with numerous problems, local in nature, which should not be considered by the legislature and which greatly increase the legislative work load. Because of this practice, a legislator from one part of the state is asked to solve problems which exist locally in other areas of the state. To name a few: Should town X have a municipal purchasing agency? Should county Y have a planning commission? Should the state's capital city be permitted to build a civic building? Should its police force be permitted to operate under a merit system? Not only does this practice aggravate the overcrowded legislative schedule, there is serious doubt whether the state legislature can solve such problems as intelligently as the people who live in the communities to be affected by the proposed legislation. Several attempts have been made to solve the problem.[28] However, none have been successful. There are those groups who do not want home rule in

26. IND. CONST. art. 4, §§ 22, 23.

27. A few typical examples of such violations in the 1959 Session are bills which pertained to sewers in Indianapolis, Ind. Acts 1959, ch. 281; jurisdiction of the Madison County Superior Court, Ind. Acts 1959, ch. 131; an airport authority for the city of Evansville, Ind. Act 1959, ch. 15.

28. The last attempt was made in the form of a constitutional amendment. This measure successfully passed one session of the legislature, only to be defeated in the House of Representatives of the Eighty-ninth General Assmbly. S.J. Res. 3, 89th Ind. Gen. Ass. (1955). Similar measures were introduced in the following session but were again defeated. H.R.J.R. 7, 91st Ind. Gen. Ass. (1957); H.R.J.R. 12, 91st Ind. Gen. Ass. (1957). For previous history see Ice, *Municipal Home Rule in Indiana,* 17 IND. L.J. 375 (1942).

any form. Not only do they quake at the possibility of a change in legislative process, but some candidly admit that it is easier to sell their programs or legislation to one hundred and fifty men and women in the state legislature than it would be to sell it to their entire local community. Others say, "If I can't get it at home, I can still persuade the legislature to give it to me." Not only is this attitude deplorable, the practice of permitting state agencies to solve local problems is a dangerous one. The Indiana form of government is vitally dependent upon citizen interest for its existence. The more issues which can be decided on the local level, the more citizen interest is aroused and maintained; and the legislative work load would be appreciably decreased if legislative consideration were confined to matters of state-wide importance. Perhaps the ideal solution is yet to be proposed, but the fact remains, although Hoosier citizens and their elected officials eulogize the term "home rule" as a veritable rallying cry, little has been done to grant home rule to the local units of government. Such a step would greatly expedite the legislative process.

The model legislative process should not only encompass a session of sufficient length, but also should provide each legislator with sufficient opportunity to become thoroughly oriented to the numerous problems currently confronting the state prior to each session. The desirability of such orientation has been widely recognized throughout the nation and numerous orientation conferences have been held.[29] Such conferences are of two basic types: (1) those which are conducted as an integral part of the session, and (2) those held in advance of the session. These conferences have been sponsored (1) solely by state agencies and conducted entirely by state officials, (2) jointly by state agencies and state universities, (3) exclusively by state universities, and (4) by state universities, with the assistance of private foundations.

The 1958 Pre-legislative Conference in Indiana was conducted the month prior to the convening of the legislature and was sponsored jointly by Indiana University and the Ford Foundation.[30] This conference was by far the most comprehensive and informative to be held in the state to date, and was considered to be one of the most beneficial in the nation. The conference program was conducted in a manner designed to keep

29. For a discussion of pre-legislative conferences held during or prior to 1956 see THE COUNCIL OF STATE GOVERNMENTS, AMERICAN LEGISLATURES—STRUCTURE AND PROCEDURES 92-95 (Oct. 1958). For discussion and analysis of recent pre-legislative conferences see Kessler, Pre-legislative Conferences, March 1960 (unpublished research thesis in Indiana University Bureau of Gov't. Research).

30. One of the few complaints which was registered about the 1958 Indiana conference was that Ford Foundation funds were used to finance the conference. A few legislators were fearful that acceptance of such funds would obligate them in the future.

partisan politics to a minimum and presented an ideal opportunity for legislators to become thoroughly acquainted with state problems and with each other as well. The program presented a comprehensive study of problems in education, taxation, finance, transportation and highways, and urban communities and provided the legislators with the benefit of advice from nationally recognized experts in all of the substantive areas considered by the conference. There is little doubt that this conference provided an excellent foundation for the subsequent legislative session,[31] and it should prove most beneficial to the state legislative process if this procedure is followed and expanded in the future.

In addition to the pre-legislative orientation conference the legislative process should provide some means whereby legislators can be given the opportunity to study the numerous specific legislative proposals prior to the actual convening of the session. Not only would such a procedure provide an additional opportunity for legislators to become familiar with state problems, but pre-session introduction of bills would also permit more efficient utilization of the early days of each session. Much could be done to expedite the problems which arise during the closing hours of the Indiana legislative session if the first two weeks of the session could be utilized to better advantage. Because no calendar is available for consideration upon the convening of the legislature, initial daily sessions are brief and confined primarily to the introduction of legislation. Consequently, several days often elapse before a sufficient number of bills are introduced to permit committees to function and subsequently relay legislative matters to the houses for consideration. Other states have recognized this problem and have proposed various alternatives to effect a solution. As the result of a study in New York, the legislative leaders of both parties in 1957 joined in urging maximum use of pre-session filing.[32] Through this practice it is possible for legislators to introduce legislation at any time prior to the session. In addition to providing a legislative calendar during the early days of the session, this practice has the obvious advantage of giving the entire legislative body ample opportunity to consider such proposals. Reaction to this procedure has been

31. Veteran legislator, Representative Walter Maehling, expressed the opinion that because of the orientation conference, the freshmen legislators of the Ninety-first Session had acquired more knowledge of state problems and legislative procedure prior to the session than he did during the entire period of his freshman session. This was the third pre-legislative conference to be held in Indiana.

32. REPORT OF NEW YORK LEGISLATIVE COMMISSION ON LEGISLATIVE METHODS, PRACTICES, PROCEDURES AND EXPENDITURES (1957). Pre-session filing is also permitted in Connecticut, Georgia, Louisiana, Maine, Massachusetts, Michigan, Nebraska, New Hampshire, Vermont, West Virginia and Wisconsin.

mixed. It is heartily endorsed by the Council of State Governments,[33] but is opposed by some observers who feel that such a practice tends to place emphasis upon the number of bills introduced by each legislator.[34]

In addition to New York's recognition of this problem, the Iowa Legislative Research Bureau and the North Dakota Legislative Research Committee are currently investigating a procedure by which a calendar of bills can be available for consideration immediately upon the convening of the session. Moreover, a few annual session states[35] are presently considering the Congressional practice of carrying bills on the calendar from one session to the next during the life of the same legislature.[36] In a similar effort to expedite legislative consideration and to familiarize its members with proposed legislation, the Senate of Hawaii introduced a major innovation in 1957 which permits the members of that body to introduce bills in "short form." By this practice each bill is submitted originally in an abbreviated form, usually limited to one page in length. This short outline, stating the general purpose of the measure and the method of achieving it, is assigned to committee for consideration and printed. If the committee considers the bill meritorious, it will order the bill printed in conventional form and report it out for reading, consideration, and voting.[37]

The Indiana legislative process would benefit greatly from the adoption of procedures designed to permit the better utilization of the early days of each session. A provision to permit the introduction of bills during a short period prior to the actual session would have many advantages. This practice would not only allow legislators to become familiar with legislation early in the session, but would also permit early deliberation on proposed bills and provide legislative committees with a full work load at an early date in the session. If this procedure were followed, the period of time presently alloted for the introduction of bills[38] could be reduced and the time better utilized in committee labors and bill study. This would give the legislative body several additional days to

33. THE COUNCIL OF STATE GOVERNMENTS, OUR STATE LEGISLATURES 15 (rev. ed. 1948).

34. New York legislators were second only to California legislators in the number of bills introduced per legislator in the 1956 and 1957 sessions. THE COUNCIL OF STATE GOVERNMENTS, THE BOOK OF THE STATES 50 (1958-59).

35. Arizona, Michigan, New Jersey and New York.

36. The Congressional practice is presently followed in Georgia and South Carolina and in the territory of Puerto Rico.

37. HAWAII LEGISLATIVE MANUAL, REP'T NO. 3, A HANDBOOK FOR LEGISLATORS 37-38 (1958).

38. House rules specify that the introduction of bills shall be limited to the first thirty calendar days of the session. INDIANA HOUSE OF REPRESENTATIVES, STANDING RULES AND ORDERS 44 (1959). The Senate limits the introduction of bills to the first thirty-three calendar days. INDIANA SENATE, STANDING RULES AND ORDERS 46 (1959).

deliberate upon and enact proposed legislation.

In an effort to further familiarize individual legislators with the problems confronting the state, the Indiana legislature has relied to a great degree upon the use of interim study commissions. These commissions, operating under the auspices of the Legislative Advisory Commission,[39] are designed to examine existing problems in specific areas of state government during the interim between sessions and to report their recommendations to the individual legislators. If legislation is prescribed in any given area, bills are drafted for submission to the subsequent legislature. Although this practice has proved valuable, the study commission approach contains a few critical weaknesses. The various study commissions are chiefly composed of legislators, many of whom are subject to re-election prior to the next legislative session. In the past it has not been uncommon for a majority or all of the members of a given commission to be defeated and hence unavailable to present, and promote the program they have recommended to the next legislature. If more care is used in the assignment of commission members, with this problem in mind, it can be overcome to a certain degree. An increase in the number of members on the more important commissions would alleviate the problem by lessening the possibility of all, or a large portion of the members being defeated in the next election.

In the past, legislation which was prepared as a result of such study commissions has not fared well at the hands of subsequent legislatures. This has been due in part to the election fatalities mentioned above, but also in part to the method utilized to present these proposals to the individual legislators. A "shot-gun" report approach was utilized with each of the commissions forwarding a separate and seemingly unrelated report of their activities to the legislators. As a result, the per cent of these recommendations which were enacted into law was often very low. However, under the direction of the recent Legislative Advisory Commission, a master report, containing the reports of all sub-commission activity, was published and presented to the legislators prior to the ses-

39. "The Legislative Advisory Commission was created in 1945, Acts of 1945, Chapter 88, to collect information concerning the government and general welfare of the state and to report its findings and recommendations on matters which it deemed useful to the General Assembly, and submit such drafts of legislation as it deemed necessary for the information and consideration of the General Assembly. The membership of the commission is composed of the President of the Senate, the Speaker of the House of Representatives, five members of the Senate, not more than three of these members of the same political party, and five members of the House of Representatives, not more than three of these members of the same political party. The commission has the power to designate members of the General Assembly to such sub-committees as it shall create." INDIANA LEGISLATIVE ADVISORY COMMISSION, REPORT TO THE GENERAL ASSEMBLY OF 1959 (1958).

sion. Two-thirds of all measures contained in the report were enacted into law by the legislature. This was a most unusual degree of success. It is a waste of effort as well as the taxpayers' money if such reports and recommendations are not utilized to the fullest degree possible.

The relationship between the legislator and his constituency presents a problem of a somewhat different nature. Most legislators make a sincere effort to serve in accordance with the desires of those whom they represent. However, because of the limited time and the numerous problems which must be considered, it is often difficult for the constituents to communicate their desires to their legislator and even more difficult for the legislator to discuss the relative merits of the many bills with his constituents. Many communities have made an effort to bridge this chasm which exists between the county seat and the legislative halls by holding "cracker barrel" sessions on week-ends early in the session.[40] These have proven to be of tremendous value, both to the public and to the legislators.[41] However, as yet, far too few of our communities have adopted this practice. It should also be pointed out that such an approach to this problem fails during the closing weeks of the session at which time the legislature, itself, utilizes most of the week-end hours. Yet, the legislature should be constructed in such a manner as to make state government as representative as possible. The present sixty-one day, biennial session does not approach the ideal in this respect and consideration of possible changes in the legislative process should include cognizance of this matter.[42]

The final area of the Indiana legislative process to be considered in this discussion is that of the powers possessed by various segments of the state's legislative body. The broad power possessed by the Speaker of the Indiana House of Representatives has been the subject of frequent debate, and the Indiana legislative precedent[43] which grants the Speaker

40. The communities of Bloomington, Lafayette, South Bend and Terre Haute have been particularly successful with such programs. In each of these cities the local Chamber of Commerce has been the chief sponsor.

41. There is always the danger that such meetings could develop into political bickering sessions, but experience has shown that legislators as well as citizen participants make every effort to keep the conferences on a high, informative plane.

42. One suggestion concerning legislative revision would be most helpful in the legislator's effort to inform his constituents of the progress of the legislature. The proposal would create a "split session," thirty days for orientation and introduction of bills, a recess period of thirty days and thirty-one days for the consummation of legislative business. This suggestion has certain weaknesses, but it would permit the legislators to use the intervening thirty days, not only to converse with their constituents, but also to study proposed legislation.

43. This precedent has developed because of the continuous re-adoption by the House of Representatives of House Rules forty-seven and forty-eight. INDIANA HOUSE OF REPRESENTATIVES, STANDING RULES AND ORDERS 47, 48 (1959). As these rules have been interpreted the Speaker may, at his discretion, submit or refuse to submit a bill to

absolute power of life or death over all proposals presented to the legislature has been subjected to serious criticism. Fortunately, few men elected to serve in this capacity have used the power to the detriment of the state, and no harm is accomplished so long as this power is used judiciously. However, the possibility of its abusive use presents a constant threat to the Indiana legislative process.

The Speaker must have a certain degree of unlimited authority if he is to administer his duties properly. The chain of command must not be so dispersed that anarchy will result. However, this can be accomplished and continuity of authority maintained without granting the Speaker such, almost unimpeachable, power. The system presently followed by the United States House of Representatives of shifting much of this power to a rules or policy committee could be adapted to the Indiana legislature. The utilization of such a committee permits several legislators to share the responsibility for determining the ultimate fate of proposed legislation. This would relieve the tremendous pressure which is brought to bear upon the Speaker and would result in a more intelligent approach to the legislative process. If this practice is adopted in Indiana, care should be taken to maintain legislative responsibility. The majority party should not be unduly hampered in its efforts to enact a legislative program and subsequently should be held accountable to the people for such program. This can be accomplished by permitting the Speaker to appoint the rules or policy committee, thus insuring continuity and direction in policy decisions while at the same time limiting the power of the Speaker as an individual.

In addition to the power possessed by the Speaker, the power possessed by the committee and committee chairman has been the subject of considerable discussion and criticism. The value of the traditional committee system is too well accepted for this discussion to dwell at length upon the contention that such a system restricts the opportunity of the legislative body, as a whole, to consider much valuable legislation. Although the committee system has weaknesses, it is the foundation of our legislative procedure. Because of the committee system, our legislative body is divided into smaller working groups, each of which has the opportunity to become well versed in a definite area. This, to a great extent, alleviates the necessity of each legislator digesting all of the material which is introduced during the session. The committee reliably serves as a screen by separating the good from the bad in those proposals referred to it. For this reason a large and vital portion of all the

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the House on second and third reading. Obviously, the power to withhold legislation is the power to kill it.

labors of the legislature are transacted within the committee room. Without question it is possible to effectively kill or delay bills within the committee, and the committee chairman is often in a position to exert powerful influence, even to the extent of refusing to permit a bill consigned to his committee to be considered by the committee. However, so long as arbitrary committee action may be circumvented by action of the legislative body as a whole,[44] the present system in the Indiana legislature which delegates enormous power to the committee chairman and a role of major importance to the committee is a profitable one.

In surveying the distribution of power within the Indiana legislature it is necessary to consider the magnitude of the task at hand. The individual legislator does not possess the unlimited power which some might desire. However, if some limitation were not imposed, if the legislative leadership were not given sufficient authority, if the committee system were not efficiently utilized, it would be impossible to consider the several hundred legislative proposals presented at each session, and anarchy would reign. Consequently, the present distribution of power, perhaps with the exception of the excessive power possessed by the Speaker, preserves a maximum of the individual legislator's rights, while at the same time providing efficient legislative machinery.

The foregoing discussion has been designed to focus attention upon those areas in which the author believes study and readjustment will prove beneficial to the state's legislative process. The recommended legislative changes contained herein are designed to enable the more efficient functioning of the Indiana General Assembly with resultant benefits to Indiana citizens.[45]

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44. After a committee has had a bill under consideration for six days it may be withdrawn from a committee and presented to the House of Representatives by a majority vote of the membership of the House. INDIANA HOUSE OF REPRESENTATIVES, STANDING RULES AND ORDERS 47½ (1959). In the Senate, after the sixth day has passed and after notice of such fact, the bill in question must be returned to the body for consideration unless a majority of the Senate opposes such action. INDIANA SENATE, STANDING RULES AND ORDERS 57 (1959).

45. To avoid a possible delay of several years duration, desired changes in the state's legislative procedure which will require a constitutional amendment should be offered during the next session of the legislature. IND. CONST. art. 16, § 2 provides that while an amendment is awaiting the action of a succeeding General Assembly, or of the electors, no further amendments may be proposed to the General Assembly. The Ninety-first General Assembly acted upon two constitutional amendments and referred them to the electorate. Consequently, amendments may be submitted to the next General Assembly and if one should be adopted by it, the delay specified above would follow.