

THE ORIGIN OF THE OKLAHOMA LEGISLATIVE COUNCIL
AND ITS DEVELOPMENT TO 1951

By

JAMES A. HOUSTON

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BACHELOR of ARTS

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THESIS AND ABSTRACT APPROVED:

E. Foster Jewell

Thesis Adviser

Guy R. Donnell

Faculty Representative

A. B. M. Futoch

Dean of the Graduate School

309033

PREFACE

When the subject "The Oklahoma State Legislative Council" was chosen as the topic for this thesis, a field was entered in which much interest is being focused but little reduced to writing. It is not the purpose of this monograph to present a detailed account of the Oklahoma Council but to present a general survey of this aid to state legislation. In spite of the many phases of the Council movement and operations discussed, no claim is made that this constitutes a sufficient treatment of all the numerous questions which will occur to the reader as he views the contents. Because of the remoteness in terms of years of the action in forming an Oklahoma Legislative Council and the frailty of the human mind in accurately recalling past events, it became difficult to reproduce much of the data as to what occurred in these early formative years. Many of the pioneers of the movement in Oklahoma are now deceased. Others are still active but cannot independently recollect just what the situation was. Still others possess pertinent knowledge of the period but for undisclosed reasons, refuse to divulge it.

There seems to hang about discussions of the Legislative Council in Oklahoma an air of uncertainty or absolute refusal to discuss many of the phases of action in the period of the beginning of the Council. Many persons who were active in the Legislature during the early period will not reveal a true picture of these events, possibly because of future political ambitions.

Sincere appreciation, however, must be expressed to Mr. Charles B. Duffy, whose help in presenting what is considered to be a most accurate picture of the formative years of the Council was of much value; Mr. T. W. Eason, author of the first Legislative Council Bill in Oklahoma, for establishing the background for his bill introduced in 1933; and to Mr. Louie Gossett who was most helpful in giving a clear picture of the personalities of the Sixteenth and

the Seventeenth Oklahoma Legislatures. To these three gentlemen go my thanks and appreciation for their assistance without which there would be many more gaps in the story of the Oklahoma Legislative Council.

The basic data and analysis in this study extend to the year 1951, although a few items such as Tables I, II, III and IV and Governor Murray's message, are of a later date.

Special mention is due my adviser, Dr. E. Foster Dowell, whose careful criticisms have guided me away from many disastrous errors. If this work can be considered a contribution it will be because of the untiring efforts of Dr. Dowell, without whose help this task would have proven impossible.

Even though it fails to accomplish its purpose, this research has proven of much benefit to me. The contacts made and introductions gained as a result of this project have already provided ample compensation for my efforts.

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CHAPTER I

THE ORIGINS OF THE LEGISLATIVE COUNCIL CONCEPT

"In many respects the legislature has remained the most static part of the machinery of state government. Until a few months ago when Nebraska voted a constitutional amendment inaugurating the one-house legislature, no fruitful attempt had been made to reform the legislative structure of our states since the adoption of the Federal Constitution. Our state authorities have steadfastly refused to face the shortcomings of a legislative system which no longer meets the demands of the present day, much less the immediate future."

The above statement was written by A. E. Buck in 1936. More than thirty years preceding, S. P. Orth wrote that,

"We seem entirely oblivious to the foreward strides of our republic.....We seem to forget that since the days of the first thirteen states, our population and social and economic conditions have undergone wonderful changes. Then society was agricultural and wealth individual; now society is urban and wealth corporate. The change in needs and the multiplicity and diversity of emergencies which arise in this complex society we meet with the legislative methods which were suited to the simple needs of a sparsely settled agricultural community."

Lord Bryce, in 1888, declared that the "real blemishes in the system of state government are all found in the composition or conduct of the Legislatures." Buck, an advocate of Bryce's contention lists these weaknesses in existing legislatures as (1) generally large and unwieldy structures, (2) cumbersome and often ineffective methods, (3) lack of much needed co-operation between the legislature and the executive and (4) failure to provide responsible leadership.

1. A. E. Buck, Modernizing our State Legislatures, (Philadelphia: American Academy of Political and Social Science, 1936), p. 1.

2. S. P. Orth, "Our State Legislatures," Atlantic Monthly, XCVII, (December 1904,), pp. 728-729.

3. Buck, op. cit., p. 4.

4. Ibid.

Very little has been done in recent years to remove these blemishes. With the task of legislators becoming constantly more burdensome and complex, legislators and students of government have searched for devices to facilitate the work of the lawmakers and to improve the quality of the laws enacted. But even so, legislative prestige has remained at a rather low level as is evidenced by the various means which have been employed by voters in recent years to circumvent legislative action and authority.

In order to recover their proper prestige, legislators are also seeking and using devices to improve their work. Two of the most important developments of recent years affecting the work of our legislative bodies are the constant increase in the volume of their work and its increasing complexity. Many measures if properly handled, call for expert knowledge in such fields as law, economics, political science, public administration, business administration and other specialized fields. Few Legislators are likely to possess such knowledge. If a state legislative body is to meet satisfactorily the demands thrown upon it, it must take steps toward securing expert aid and advice in handling such matters.

1. LEGISLATIVE AIDS

Three major devices have been originated to aid legislators in gaining the specific technical knowledge which they do not generally possess. These devices are the Legislative Council, the Legislative Reference Bureau and the Bill Drafting Agency.⁵

The duties and powers of the Legislative Councils vary, but among the major purposes of all is to conduct continuous study of state problems and prepare a program of legislation for the next legislative session. In essence, the

5. Council of State Governments, The Book of the States, 1950-51, (Chicago* 1950), VIII, p. 106.

Council is an interim joint legislative committee engaged in investigation and research. Facts uncovered and conclusions reached are expected to provide a basis for consideration by the next session of the Legislature. With these facts on hand at the convening of the Legislature it may also be expected that the tasks of the legislators might be lightened to some extent.

Primarily for the purpose of distinction, let us consider briefly the other aids for state legislators. The task confronting modern legislatures, as stated before, is very complex. Its proper conduct requires the exercise of sound judgment, the possession of detailed data regarding political, economic and the social conditions and institutions, a knowledge of existing laws, information concerning the statutes enacted by other states and evaluation of the administration of the various laws in other jurisdictions. Only in a small degree can our legislators possess this knowledge. The only feasible way to meet this lack of information is to establish an agency to secure such facts and make them available to the members of the legislature for consideration.

The first attempt to remedy this situation took the form of a legislative reference service. Its success in Wisconsin in 1901 led to its adoption by other states. By 1917 this device had spread to over half the states and by 1950 more than forty commonwealths had established special reference facilities to assist legislators. Some or all of the following services are generally provided by legislative reference services in the various states: (1) the service prepares factual research information and publishes legislative manuals, state directories, indexes, digests and bills and statutes; (2) assists in bill drafting, statute revision and collects and assembles reference books and statutes of other states, (3) they also collect and preserve bills, reports and documents,

6. Ibid., p. 128.

received from other states and which are likely to be of value in framing future legislation.⁷ In recognition of the fact that the states follow along the same general path of development and that each will eventually come to a problem that a sister state has just met and overcome, the American Legislators Association has under its auspices created a National Association of Legislative Reference Bureaus to facilitate the work of the various state research agencies.⁸ This intergovernmental association has proven of great value in spreading such information from state to state. Prior to its establishment, letters of inquiry from State A to State B inquiring as to what State B was doing in regard to a certain situation crossed paths with a letter from State B to State A asking them what they had done in regard to the same situation. Now, instead of "feeling in the dark" for information, a state legislative reference bureau has only to refer to the files of the national association and determine immediately what the states have done before and are now doing in combating a given situation.

Legislative reference services meet but one of the many needs of a legislature. When the general content or idea of a bill is determined, the idea is then ready to be incorporated into a correctly drafted bill. This task of bill drafting requires a high degree of technical skill. Not only must an act make its general purpose known, it must be framed in such a manner so as to reduce the possibilities of its being misconstrued. The drafting of bills is a special art to be acquired only by special study and practice. It is hardly necessary to repeat that few of the members of the legislative bodies are trained in this task. Our legislators need trained assistance in bill drafting as much

7. Ibid.

8. Ibid.

as they need expert aid in legislative research.

In the field of bill drafting there are many private organizations which draft model bills designed to meet general problems but susceptible to modification to meet local needs. Many of these model drafts are drawn up by special interest groups, but for the most part they are prepared by experts acting only in the interest of the general public welfare. Among those outstanding in the field of model bill drafting is the National Commission on Uniform State Laws, the National Municipal League and the American Judicature Society.⁹

These latter two aids, legislative reference bureaus and bill drafting agencies, vary by states in structure as well in specific services. Some are subordinate branches of the state library or the state law library. This practice is most common where the bureau does little or no bill drafting. Where bill drafting is a major activity they are a bureau independent of either of the mentioned libraries. This type of organization with an independent reference bureau was found in Illinois, Indiana, Michigan, Ohio and Pennsylvania in 1950.¹⁰

In 1950 twenty-two states possessed each of the three aids, the Legislative Council, the Legislative Reference Service and a bill drafting agency. Four or the states, Arkansas, Kansas, Nebraska, and Utah, place all legislative devices in a single agency and term it the Legislative Council. Fifteen other states had a combination of two of the three aids which combined the bill drafting agency with the legislative reference bureau.¹¹ Of the thirty-seven states possessing bill drafting agencies and legislative reference bureaus in 1950

9. Ibid.

10. Ibid. The list of states given here and elsewhere are, except where otherwise noted, as of 1950-1951, when this thesis was prepared.

11. Ibid., pp. 130-131. These states, in 1950, were Arizona, Colorado, Delaware, Georgia, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, New York, North Carolina, New Jersey, Rhode Island, Tennessee and Vermont.

place them in a single agency.¹² In seven of these, Arkansas, Florida, Iowa, Maryland, Oklahoma,¹³ Pennsylvania and Tennessee, the office of the Attorney General is directed to assist with bill drafting. Five of the states remaining have made use of one of the three aids. Nevada, Oregon, New Hampshire, New Mexico and Wyoming each have a Legislative Reference Service. Four states, West Virginia, Idaho, Montana and Mississippi have utilized none of the three aids, although the latter two have provided that bill drafting is to be done by the Attorney General's office. In the overall picture of bill drafting the Attorney General assists in fourteen states while in six, Iowa, Kentucky, Maine, Vermont, New Jersey and Washington, separate departments have been established.

2. EXPERIENCES WITH THE INTERIM COMMITTEE

One of the most serious handicaps of our state legislatures is the limited time during which we expect them to conduct their duties. This disadvantage would be greatly lessened if the legislature had a program prepared for its immediate consideration when it convened. A partial attempt to meet this need is occasionally made by state legislatures through the special interim committee to which is assigned the duty of making inquiries into particular subjects and reporting its findings to the next legislature upon its convening. This committee takes the form generally of a special investigating committee provided for by a joint resolution of the legislature in the course of the preceding session. Appointments are made by the presiding office of the respective houses at the

12. *Ibid.*, States in this category are Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Missouri, North Carolina, Tennessee, Texas, Virginia, North Dakota, Ohio, Oklahoma and Wisconsin.

13. See 65 *O.S.* 1951, Sections 45-53, (1949 Oklahoma Session Laws, pp. 699-701) for the establishment of a Legislative Reference Division in the Oklahoma State Library to provide assistance in bill drafting.

expiration of the session and the committee is activated to carry on its duties during the interim or until it completes its report which is made to the succeeding legislature. The usefulness of this type of investigating committee varies from state to state. They rarely do anything unless that there is an insistent public demand for an investigation or the chairman is a person of industry and ability who takes his appointment seriously.¹⁴ The work of the committee is usually done with inadequate funds which often produce disappointing results. Generally little attention is paid to the report which is as often as not misplaced and seldom of much benefit. As these committees are set up to study and report on only one subject it becomes necessary, if overall studies are made, to appoint a series of committees, working esparately and employing their own individual staff. To adequately staff these individual committees would greatly increase the cost of the study and such individual staffing would lead to a waste of funds as many of the functions of the committees, acting individually, could be satisfactorily co-ordinated into a central office or staff. In this fact alone rests the major advantage of the Legislative Council as compared against the interim committee.

Between 1920 and 1940 the General Assembly of Indiana authorized no less than twenty-four special interim committee studies of legislative problems. Diligent search by interested parties failed to disclose any evidence on the part of one-fourth of these commissions but the others turned in reports averaging 100 pages in length and costing an average of \$4,000 per report.¹⁵

In the establishment and operation of the interim committee there seems to

14. W. Brooke Graves, American State Government, (New York: D. C. Heath & Co., 1936), pp. 259-260.

15. S. P. Sikes, "The Interim Committee in Indiana's Legislative Program", The American Political Science Review, XXXVII, (October 1942), pp. 906-915, at p. 906.

be no set pattern with the exception that they are the agents and creatures of the legislature. In many of these studies there is no legislator participation. Legislators are sometimes members of the fact-finding commissions, but in many instances do not participate in the process at all. In some committee studies a research staff is set up with a research director who was charged with the actual assembling of material and preparation of the report. Membership on the committee is titular only. Members simply signed a copy of the report and as a token of membership receive a copy. Members might assume responsibility for some aspects of the assignment if such procedure were agreed upon or if such work was assigned by the chairman of the committee. Often the final report is merely a formal acceptance of a preliminary draft prepared by some of the outstanding members of the commission. Another method of interim committee study often employed is to allow an interested department or even a private research organization or interest group to loan to the committee an employee to carry on the research and prepare the report. This method should prove very satisfactory, especially to the interested department or private interest group supplying the research aid.¹⁶

Because of the lack of a central office or staff to follow-up the work of the interim committee the results gained by its study is often lost. Reporting on Indiana, Professor Sikes states that studies there have not been preserved nor made available. In only one instance does there seem to have been a wide distribution of the report. In only one instance does there seem to have been a wide distribution of the report. In four cases it seems evident that the committee was not aware that earlier reports had been made in the same area of study. One survey, costing \$5,000, was published by making typewritten copies, only one of which seems to be extant. Only one of several state officials

16. Ibid., p. 911.

consulted by Professor Sikes on the matter realized that more than four or five interim studies had ever been made on all subjects combined and no official knew with any certainty where copies of any of the reports could be procured.

On the other hand, reports from a California survey indicates that the California legislators are satisfied with the operation of the interim committee. The Interim Committee of the California Legislature on Legislative Expense, reporting in 1933, made an attempt to evaluate its work through a questionnaire sent to all members of the California Legislature. On the basis of replies received and quoted in their report, the Committee summed up their conclusions in the following manner:

"Taking into consideration all the above questions, this committee concludes that such interim committees are beneficial and accomplish much good..... In view of the many good statutes we now have on our books and the benefits resulting from interim committee work, we would be remis in our duty if we did not recommend their continued use on subjects of major importance."

Despite its shortcomings, it seems the interim committee, in the absence of other aids and of a Legislative Council and set up as a temporary basis for limited study, can and will continue to serve as an important part of the legislative process. In a basic comparison of the interim committee with the legislative council, considering their reports in regard to timeliness, availability and sheer usefulness, the Legislative Council has proved superior. The Council provides many advantages not met by the interim committee. It provides a clearing house or secretariat in the form of the office of its director through

17. Ibid., p. 912.

18. Report of the Interim Committee of the California Legislature on Legislative Procedure and Reduction of Legislative Expense as quoted in: W. F. Willoughby, Principles of Legislative Organization and Administration, (Washington: Brookings Institution, 1934), pp. 587-588.

19. Sikes, op. cit., p. 915.

which legislative studies and investigations clear. It also co-ordinates legislative investigations and provides a systematic method of publication, custody and distribution of the reports resulting from those investigations.

3. THE NATIONAL MUNICIPAL LEAGUE AND THE LEGISLATIVE COUNCIL

The concept of the Legislative Council as we know it today was first advanced by the National Municipal League and its Model State Constitution which was originally drawn up in 1921 and frequently revised thereafter.²⁰

The Model State Constitution, as originally proposed, provided for an interim council of seven members including the governor. The council had the power to call a special session of the legislature with the legislature having the balancing power of dissolving the council and electing new members.²¹

The members of the Council, in this original form, were given specific directions to collect information concerning the government and the general welfare of the state and to report their findings to the legislature.²² The report was to contain the findings of the council members and their recommendations in the form of bills which they felt to be necessary for the operation of the state.

The compensation of council members and their duties and functions are drafted in general and indefinite terms in order to be easily modified by any state desiring to make the plan satisfy the needs of the state and meet its own peculiar conditions.²³ The Council plan as first advanced did not provide for a

20. The Committee on State Government, The National Municipal League, The Model State Constitution, (New York: 1921), Subsequent revisions have been made in 1928, 1933, 1941, 1946, 1948, 1950.

21. Ibid., The Model State Constitution, (New York: 1950) 7th ed., III, 17, p.8.

22. Ibid., Section 19, p. 8.

23. Ibid., Sections 19 and 20.

strictly legislative council which is now regarded as the most desirable method. The model council plan granted to the council constitutional status and gave it power to pass laws and ordinances.²⁴ Subsequent editions of the Model State Constitution have changed somewhat the first proposals.²⁵ Membership has been increased from a maximum of seven to allow a membership of from seven to fifteen members chosen by the legislature instead of being appointed by the presiding officers of the legislature as was formerly provided.²⁶ They will continue in office until their successor has been elected and qualified.²⁷ The legislature may, by a majority vote of its members, dissolve the council and elect its successor. The Council is allowed to choose one of its own members as its chairman, appoint its director of research and adopt its own rules of procedure, except such rules as may be established by law. The Secretary of the State Legislature serves as ex officio Secretary of the Council.²⁸

The duties of the Council under the revised plan require it to collect information on matters of state importance and recommend legislation. Other powers may be assigned by law, and the Legislature may grant to the Council authority to supplement existing legislation by general orders.²⁹ This is a step away from the intention of the original act which granted to the Legislative Council the power to pass ordinances without the legislature granting it this power. No gen-

24. The Model State Constitution, 1st ed., op. cit., III, 19, p.8.

25. This change was first made in the 6th edition of the Model State Constitution in 1948.

26. The Model State Constitution, 7th ed., op. cit., III, 19.

27. The unicameral legislature is advocated in this model.

28. Ibid., Section 18.

29. Ibid.

eral orders, however, shall go into effect until published as provided by law. As to compensation, council members may be paid additional remunerations.³⁰ Through continued emphasis by the National Municipal League and the Council of State Governments which kept the issue continually before the legislators and other interested state officials, the council plan was finally recognized as a potential aid in state law making.

4. THE WISCONSIN EXECUTIVE COUNCIL

The first application of the model act was made by the State of Wisconsin. In 1931 the Wisconsin Legislature authorized the establishment of an Executive Council.³¹ This measure resulted from the recommendations made to the Wisconsin Legislature by Governor Phillip La Follette in his first message before that body on January 31, 1931. The Governor called attention to the need of popular representative government to provide a responsible and efficient alternative to direct legislative action. He suggested that a satisfactory alternative must provide ample consultation and study prior to the introduction of bills and the presentation of programs by a group ready to assume responsibility for this adequacy. The Council was to provide for legislative criticism of the Administration by responsible representatives of the public. Governor La Follette cited Walter Bagehot as a shrewd observer of government and quoted his writings to the effect that administration includes legislation for it is concerned with the regulation of future conduct as well as the limited management at present.³²

30. Ibid., III, 20.

31. Wisconsin Laws, 1931, Chapter 33.

32. Message of Phillip La Follette, Governor of Wisconsin to the Wisconsin Legislature made on January 15, 1931, as reported by John M. Gaus, "Wisconsin's Executive Council", American Political Science Review, XXVI, (October 1932), pp. 914-915.

The body of the Council was to consist of five Senators and five Assemblymen appointed as were standing committees of the respective houses and ten other citizens appointed by the Governor without confirmation.³³ These appointments were to expire with the term of the Governor. The Council was to function as an advisory body to the Governor and made studies of any matter which the Governor might refer to them. They were also charged with the duty of investigating the functioning of governmental departments. Their powers were to employ assistants, administer oaths, issue subpoenas, compel attendance of witnesses and the production of papers, books, accounts and documents and testimony.³⁴

5. THE KANSAS STATE LEGISLATIVE COUNCIL

The first successful attempt in the establishment of a Legislative Council in the purest sense of the term was in Kansas. The act providing for the Kansas Legislative Council became effective March 14, 1933.³⁵ The Council consisted of ten Senators and fifteen members of the House of Representatives who were appointed by the presiding officer of their respective house. These two officials were also ex-officio members and respectively chairman and vice chairman of the Council.³⁶ The statute provided that party representation of the Council should be generally in proportion to the relative number of members of the two major political parties in each house but in no event should the majority party of either house be represented by more than two-thirds of the members of the Council from either house.³⁷ This provision may be criticized on the ground that it gives

33. Wisconsin Statutes, 1931, 15.001.

34. Ibid., 15.002.

35. Kansas Statutes, 1933, 46.301, p. 7386.

36. Ibid.

37. Ibid.

at times an unnatural proportion of members from the minority party on the Council. The minority party is always guaranteed one-third of the membership of the Legislative Council even though it might actually constitute much less than one-third of the membership of the legislature. The statute further provides that each congressional district be represented on the Council. Vacancies are filled by the presiding officer of the house of the vacating member.³⁸

The duties of the Council require it to conduct investigations concerning the government and general welfare of the state and to study possible consolidations in state government looking toward the elimination of all unnecessary activities and all duplications of personnel and equipment. It is also charged with the co-ordination of departmental activities. The Council is sent into the field of local government with instructions to investigate and study possible reform in the system of local governments. Co-operation with the administration in devising means of enforcing laws and improving the effectiveness of administrative methods is also required of the Council.³⁹

The credit for the organization of the Kansas Council is due largely to Mr. F. H. Guild and Mr. Sam Wilson whose untiring efforts were responsible for the preliminary impetus and later adoption of the Council idea in Kansas. The need for a Legislative Council became apparent to Mr. Wilson after he had observed the finished work of a tired private committee which was doing some studies to promote its own program in the legislature.⁴⁰

From Mr. Wilson the idea spread. Newspaper publishers and legislators took

38. Ibid.

39. Ibid., 46.303.

40. Camden S. Strain, "Kansas Legislative Council," American Political Science Review, XXVII, (October, 1933), pp. 800-803.

notice and began assisting him in his efforts to relieve some of the pressure on the Kansas Legislature. It was at this point that Mr. Guild entered into the move to bring a Legislative Council to Kansas.⁴¹

After a bit of planning, research and public relations the idea gained popular support and the Kansas Council was established with Mr. Guild becoming its Director of Research. The remarkable success of the Kansas Council is now a matter of public knowledge and many of the Councils subsequently organized have followed its creating statute as their model.⁴²

 - 6 -

41. Ibid.

42. Oklahoma, Texas, and South Dakota are use but a few of the states which use the Kansas Statute as their guide for the organization of their own councils.

CHAPTER II

LEGISLATIVE COUNCILS AMONG THE STATES

The Legislative Council has a twofold purpose. Its first purpose is to provide machinery for effective legislative partnership with the executive in the formation of policy. This combines Council responsibility with that of majority party leadership for effective legislation. The ability of the Council to convene between sessions should provide for continuing leadership. Its second purpose is to provide a means through such median as research reports, hearings and accounts of meetings by which the legislature may obtain a basis of fact upon which to base its deliberations. This objective is furthered when there is a competent, adequately supported, and properly staffed research division to serve members of the Legislature.¹

The powers, duties and functions of Legislative Councils vary in each state. Their duties may be generally summarized as follows: (1) to gather information on state government, a service performed by the Oklahoma and all other state Legislative Councils; (2) to recommend legislation; (3) to draft proposed measures into presentable bills; (5) to co-operate with special committees of the legislature; (6) to study legislative procedure; (7) to co-operate with the state administration; (8) to study the effects of statutory and constitutional provisions; (9) to study the financial and personnel needs of state government; (10) to revise statutes; (11) to prepare for presentation to the succeeding legislature a program of proposed legislation for their consideration; (12) to make public their report on recommendations to the legislature prior to the convening of the session which is to consider the program and (13) to prepare research re-

1. Book of the States, 1950-1951, op. cit., p. 122-123.

ports for the benefit of the legislators of the state.²

The first practical application of Article III, Sections 17 to 20,³ of the Model State Constitution, first drafted in 1921 by the Committee of State Government of the National Municipal League, was made in 1931 by the creation of an Executive Council in Wisconsin. Since that beginning, through the constant efforts of the National Municipal League and the Council of State Governments, together with the remarkable success of the movement in Kansas, the Legislative Council idea has grown until some twenty-nine states now have similar organizations.⁴ Although varying somewhat in membership and compensation of members, their duties and functions have become standardized to a large extent.

Following the trial in Kansas in 1933, other states began adopting the program as is evidenced by Table I on page 18 showing the states adopting the Council plan and the year of their adoption. Following Kansas was Michigan later in 1933. The Michigan Council was abolished in 1939.⁵ For the next few years the movement lay dormant. Its revival came in 1936 with the organization of a Legislative Council in Virginia. Since that time it has increased irregularly. Four Councils were organized in 1937 and three in 1939. The five years between 1945 and 1950 saw the greatest period of increase. In this time fourteen Legislative Councils were organized with the greatest single year being 1947 when six new Legislative Councils were established. Three Legislative Councils

2. Ibid., pp. 126-127.

3. The Following sections of the Model State Constitution provide for the constitutional status of the Legislative Council: Section 17, membership; Section 18, organization; Section 19, its duties; and Section 20, compensation.

4. June 21, 1952.

5. The Oklahoma Constitutional Survey and Citizens Advisory Committees, State Legislative Council, Oklahoma Constitutional Studies, (Guthrie: Co-operative Publishing Co., 1950), p. 54.

were established in 1951.⁵ By April 1953 five additional Legislative Councils were established in Alaska, Arizona, Colorado, Montana and Tennessee.^{5A}

TABLE I

DATES OF ESTABLISHMENT OF LEGISLATIVE COUNCILS AND
COUNCIL-TYPE AGENCIES 1933-1953⁶

Kansas	1933
Kentucky	1936
Virginia	1936
Connecticut	1937
Illinois	1937
Nebraska	1937
Pennsylvania	1937
Maryland	1939
Oklahoma	1939
Maine	1939
Wyoming	1943
Missouri	1943
Alabama	1945
Indiana	1945
Nevada	1945
North Dakota	1945
Arkansas	1947
Ohio	1947
Utah	1947
Minnesota	1947
Washington	1947
Kentucky	1948
Florida	1949
South Carolina	1949
Texas	1949
South Dakota	1951
New Mexico	1951
New Hampshire	1951
Alaska	1953
Arizona	1953
Colorado	1953
Montana	1953
Tennessee	1953

5. The Book of the States, 1950-1951, *op. cit.*, pp. 125-128.

5A. Letter of April 21, 1953 from Mr. Herbert L. Wiltsee, Regional Representative, Council of State Governments.

6. Ibid., The Book of the States, 1952-1953, pp. 122-123.

1. COUNCIL MEMBERSHIP

Council memberships vary in number from that of the entire legislature in Oklahoma, South Dakota, and Nebraska to that of six in Alaska and four in the state of Nevada.⁷ In at least eleven states,⁸ the President and Speaker of the House are included in the Council membership by reason of their office, Kentucky includes in its Council membership either the Governor or Lieutenant Governor as they alternate in this position.⁹ Maryland has perhaps the greatest number of ex-officio members on its Council. In this state the presiding officer of both houses, the majority and minority leaders of both houses and the chairman of the Judiciary Committees of the respective houses are seated on the Council along with ten Senators and ten Representatives chosen in the regular manner.¹⁰ In most instances the House of Representatives, being the larger of the Houses, is given more seats on the Council than is the Senate, however, in twelve of the states they are equal in Council representation.¹¹ In Arkansas and Texas, the House of Representatives places twice as many of its members on the Council than does the Senate in these states.¹² In total membership, four states have a membership of less than ten, four have ten, seven between ten and twenty, two states have twenty and eight have more than twenty.¹³

7. Ibid.

8. As of 1950: Alabama, Arkansas, California, Connecticut, Florida, Illinois, Indiana, Kansas, Texas, Utah and Washington.

9. The Book of the States, 1950-1951, op. cit., pp. 126-127

10. Ibid.

11. As of 1950: California, Florida, Illinois, Indiana, Kentucky, Maryland, Minnesota, Missouri, Nevada, Ohio, Pennsylvania, Utah, Virginia and South Carolina.

12. The Book of the States, 1950-1951, op. cit., pp. 126-127.

13. See Table II on Page 20 for complete data on membership as of 1952.

TABLE II

MEMBERSHIP OF LEGISLATIVE COUNCILS 1951¹⁴

STATE	STATUS	SENATE	HOUSE	OTHERS	TOTAL
Alabama	Statutory	4	6	2a	12
Arkansas	"	7	14	2a	24
Connecticut	"	6	10	2a	18
Florida	"	7	7	2a	16
Illinois	"	10	10	2a	22
Indiana	"	3	3	2a	8
Kansas	"	10	15	2a	27
Kentucky	"	3	3	mla	7
Maine	"	3	7	--	10
Maryland	"	10	10	-s	20
Minnesota	"	9	9	--	18
Missouri	Constitutional	10	10	--	20
Nebraska	Statutory	43x	43x	--	43x y
New Hampshire	"	3	40	5ap	48
New Mexico	"	3	4	2a	9
Nevada	"	2	2	--	4
North Dakota	"	5	6	--	11
Ohio	"	3	3	--	6
Oklahoma	"	44	118	--	162y
Pennsylvania	"	12	12	2	26
South Carolina	"	a	a	ac	--
Texas	"	5	10	2a	17
Utah	"	4	4	2a	10
Virginia	"	5	5	--	10
Washington	"	9	10	2a	21
Wisconsin	"	6	9al	--	15
Wyoming	"	6	6	--	12
South Dakota	"	35	75	--	110y

a - includes President of Senate and Speaker of the House

b - Governor or Lieutenant Governor

s - President of Senate, Majority and Minority Leaders and Chairman of the Judiciary Committees of the respective houses.

al - Chosen from each congressional district with remainder at large.

ap - The Governor appoints five citizen members, three of the majority and two of the minority party.

x - Unicameral

y - All members of the Legislature are members of the Legislative Council

14. The Book of the States, 1952-1953, op. cit., pp. 122-123.

TABLE III
 ATTEMPTS TO CREATE LEGISLATIVE COUNCILS, 1939-1951^{14A}

STATE	MEASURE	DATE
Arizona ^{14B}	House Bill 105	1940
	House Resolution 238	1948
Iowa	House File 37	1949
	House File 29	1950
Massachusetts	Senate Bill 50	1943
	House Bill 1195	1951
	House Bill 322	1951
Montana ^{14B}	House Bill 60	1941
	House Bill 32	1941
	Senate Bill 20	1941
	Senate Bill 138	1943
New Mexico ^{14B}	Senate Bill 54	1950
New York	Senate Bill 472	1945
	Senate Bill 1822	1946
	Senate Bill 2269	1951
	Senate Bill 2177	1948
	Senate Bill 2379	1949
Ohio	House Bill 117	1945-1946
Rhode Island	Constitutional Amendment	1939-1940

14A. These proposed bills to create Legislative Councils in the various states were taken in 1951 from a collection of such proposals collected by Mr. Jack Rhodes, Director of the Oklahoma Legislative Council and are available in the Office of the Director of the Oklahoma Legislative Council.

14B. Legislative Councils established in 1953.

2. UNSUCCESSFUL ATTEMPTS TO ESTABLISH LEGISLATIVE COUNCILS

Arizona has made two attempts to create a Legislative Council. The first was made in the Fifteenth Legislature meeting in 1940 and later in the Nineteenth Legislature meeting in 1948. Both were only attempts as neither was successful.¹⁵ In Iowa two measures proposing the establishment of a Legislative Council were introduced. One in 1949 and another in 1950.¹⁶ Three bills have been introduced in Massachusetts, the first by Senate action in 1943 and then by House action in 1951 with two bills being introduced in that session. These measures would have created a Legislative Research Council which would have functioned as or similar to a Legislative Council as popularly defined.¹⁷ Four efforts to establish the Council in Montana have been defeated. Three of these came during the 1941 session and the fourth in the following session meeting in 1943. The latter bill would have created a Legislative Research Office.¹⁸ New Mexico, in its Twentieth Legislature tried to set up a Legislative Reference Service under the direction of a standing committee of the State Legislature.¹⁹ New York has made five attempts to make a Legislative Council a part of the legislative organization of the state. The first attempt was made in 1945. In 1946 a bill designed to create a Legislative Council in New York was again introduced. Their final attempt was in 1951. This last bill was preceded by two other bills

15. Senate Bill 105, 15th Arizona Legislature, 1940, and House Resolution 238, 19th Kansas Legislature, 1948.

16. House File 37, Iowa Legislature, 1949; House File 29, Iowa Legislature 1950.

17. Senate Bill 50, Massachusetts Legislature, 1943; House Bills 1195 and 322, Massachusetts Legislature, 1951.

18. House Bills 60 and 32 and Senate Bill 20, Montana Legislature, 1941; Senate Bill 138, Montana Legislature, 1943.

19. Senate Bill 54, 20th New Mexico Legislature, 1950.

which were introduced in 1948 and 1949.²⁰ To this date, however, despite these continual efforts to establish a Council in New York, this state still does not have a Legislative Council.

In Ohio one bill to establish a Legislative Council in that state has been defeated.²¹ The General Assembly of Rhode Island in 1939 and 1940 considered a constitutional amendment to provide for a Legislative Council in its legislative structure, but no action was taken on the matter. Had this move been successful Rhode Island would have been the first state to form a Legislative Council with a constitutional status even though such status was the recommendation of the National Municipal League in its Model State Constitution.²² Missouri won the distinction of being the first state with a Legislative Council resting on a constitutional provision when it accorded this status to its Council in 1943.

In Tennessee a bill to create a Legislative Council has been introduced. The bill reached the Senate Calendar on the seventy-fourth day of a seventy-five day session where it was tabled by a so-called economy block and this bill did not gain further consideration.²³ As far as can be determined no attempts whatsoever have been made in Georgia and Mississippi up to this time.²⁴

20. Senate Bill 472, New York Legislature, 1945; Senate Bill 188, New York Legislature, 1946; Senate Bill 2269, New York Legislature, 1951; these bills were designed to amend Chapter 37 of the Laws of 1939, which is entitled "An act in relation to the legislature constituting Chapter 32 of the Consolidated Laws of New York, by inserting a new article to be known as Art. 4-B which would provide a Legislative Council for New York." Other attempts were made by Senate Bills 2177 in 1948 and 2379 in 1949.

21. House Bill 117, 96th Ohio General Assembly, 1945-1946.

22. Model State Constitution, op. cit., (1st. Ed.), 1921.

23. A note in the files of Jack Rhodes, Director of the Oklahoma Legislative Council, revealed this information.

24. June 24, 1952.

The titles of the Legislative Councils vary with the states. While a majority of Councils are known as Legislative Councils, Indiana calls its agency functioning as a Legislative Council, a Legislative Advisory Commission. In Maine and Minnesota it is known as a Legislative Research Committee. Missouri has labeled its agency as a Committee on Legislative Research.

Some states are using a Legislative Counsel. Among them are Idaho and Iowa. The Idaho Statutes provide that the Legislative Counsel should be:

"An executive officer whose duties it is to prepare and assist in the preparation, amendment and consideration of legislative bills when requested or upon suggestion. He will advise any legislative committee, commissioner, or bureau as to the preparation of bills to be submitted to the legislature and shall advise the legislature from time to time as to needed revision of the Statutes. He shall present to each session of the legislature a statement calling attention to laws which have been appealed by implication or declared unconstitutional by the courts but which have not been expressly repealed."²⁵

In Iowa's legislature it was suggested that there be appointed a legal assistant to the Attorney General whose duties it should be to advise and assist in the drafting of proposed legislation and do legislative research.²⁶ Three subsequent attempts have been made to create in Iowa a Legislative Council.

3. COUNCIL ORGANIZATIONS

The organization of the Legislative Council has become fairly standardized. Work is carried on through the utilization of the committee system in the councils of larger membership. On the small councils, however, each member serves on all of the committees as the council is set up as one committee which studies all issues and subjects presented to it.²⁷ In states where the size of the Coun-

25. Idaho Session Laws, 1947, Chapter 40, Section 3.

26. Senate File 79, Iowa Legislature, 1949.

27. As was Oklahoma's Council prior to the passage of Senate Bill No. 68, 22nd Oklahoma Legislature, 1949.

cil will permit, it is broken down into several committees designated as standing committees and special committees are set up as the need for them develops. Membership on the committees is generally by appointment by the presiding officer of the Council but in Oklahoma and South Dakota where the entire membership of the legislature is on the Legislative Council the Councilmen are allowed to select two standing committees on which they would like to serve. The Chairman of the Council reserves the right to appoint members to additional committees if such action becomes necessary.²⁸

Chairmen of the Councils are also obtained in various ways. Some are elected by the Council and others gain their positions as a result of holding some position in the regular organization of the Legislature. For example, the Speaker of the House of Representatives and the President Pro Tempore of the Senate alternate in the positions of Chairman and Vice Chairman of the Oklahoma Legislative Council.²⁹

4. FINANCIAL ASPECTS

Any operation of state government, if to be of any material benefit, must be adequately supported. Legislative Councils, even though an agency set up within the legislature of a state, require quite substantial sums of money to establish and carry out their duties. The budgets of the various Councils of the United States in 1951 range from \$25,000 yearly in Washington to \$190,000 in Missouri. One of the larger expenses of a Legislative Council is the compensation of its members. This compensation ranges from actual expenses only to an allowance of \$20 per day. Table IV on page 26 presents a state by state breakdown of Council fiscal data.

28. Rule No. 6, Rules of the Oklahoma State Legislative Council, 1951-52.

29. Oklahoma Statutes, 1941, Title 72, Section 451.

TABLE IV

STATE LEGISLATIVE COUNCILS, FISCAL DATA 1951^{29A}

STATE	BUDGET 1951-53	COMPENSATION
Alabama	\$ 86,500	\$10 per diem plus expenses
Arkansas	36,200c	\$15 per diem plus travel expenses
Connecticut	42,750	\$20 per diem plus expenses
Florida	102,500	Actual expenses only
Illinois	98,040	Actual expenses only
Indiana	85,750	\$10 per diem plus expenses
Kansas	145,000c	\$15 per diem plus expenses
Kentucky	150,000cp	\$15 per diem plus travel expenses
Maine	88,748	\$10 per diem plus expenses
Maryland	80,000p	\$20 per diem plus expenses
Minnesota	106,800	Actual expenses only
Missouri	190,000c	Actual expenses only
Nebraska	75,885	Actual expenses only
Nevada	39,041	Travel expenses only
New Hampshire	10,000	Actual expenses only
New Mexico	50,000	\$15 per diem plus travel expenses
North Dakota	40,000c	\$10 per diem plus expenses
Ohio	100,000+c	Actual expenses only
Oklahoma	100,000ae	Travel expenses only (milage)
Pennsylvania	250,000	Travel expenses only
South Carolina	100,875p	\$10 per diem plus expenses
South Dakota	25,000	\$10 per diem plus expenses
Texas	104,000c	Actual expenses only
Utah	40,000	Actual expenses only
Virginia	37,760 c, am	\$10 per diem plus expenses
Washington	100,000 an	\$15 per diem plus expenses
Wisconsin	66,000	Actual expenses only
Wyoming	25,000	\$12 per diem plus expenses

c - Excludes earmarked appropriations for special studies or other specified purposes.

p - 1950-1952 biennium.

ac - Includes \$20,000 for Legislative Audit Committee

am - Plus \$63,999 for Division of Statutory Research and Drafting.

an - No direct appropriation to the Council. This amount budgeted out of the total legislative expense appropriation.

29A. The Book of the States, 1952-1953, pp. 122-123.

5. THE CONSTITUTIONALITY OF THE LEGISLATIVE COUNCIL

The first cry generally heard concerning any innovation in government is that the measure is unconstitutional. This objection to the Legislative Council has generally come from the opposition as a means of inducing uncertain members of the legislature to vote against the measure. When all other means to defeat a given bill has proved ineffective, the cry of "unconstitutional" is always heard. Citing an instance close to hand, such a cry was raised when the bill creating the Oklahoma Legislative Council was before the Oklahoma House of Representatives. I quote from a letter from one of the members of that body who opposed the measure:

"I, as a number of distinguished lawyers and members of the house opposed the bill because we believed it to be unconstitutional. I took the position and I believe that my opinion was shared by each of those voting against the bill that the bill was an effort on the part of the legislature to circumvent the Constitution prohibiting the legislature from reassembling in whole or in part after sine die adjournment without a special call by the Governor as provided by law."³⁰

In only one state has there been a court test of the question. It arose in the State of Washington as the result of the refusal of Washington State Auditor Cliff Yelle to issue a warrant for the payment of expenses of a council member incurred while he was acting on official council business. The case was filed by the State of Washington on the relation of Herbert M. Hamblen, a member of the Washington Legislature and Legislative Council, seeking a writ of mandamus to compel Mr. Yelle, the State Auditor to pay the expenses incurred by Mr. Hamblen as a member of the Council. It was contended by the respondent that the Council was not restricted to the functioning as an agency of the Legisla-

³⁰. Letter from Mr. Louie Gossett, a former member of the Oklahoma House of Representatives from Antlers, representing Pushmataha County in the Sixteenth and Seventeenth Oklahoma Legislatures, 1937 and 1939; to the writer, July 11, 1951.

ture. He contended that this lack of restrictions limiting the Council to duties performed by the legislature made the Council a body independent of the legislature and created a civil office outside of the legislature. It was further argued that a membership on the Council constituted a civil office and as Mr. Hamblen was a member of the legislature which created the office, his membership on that Council during his term of office as a legislator violated Article II, Section 13 of the Washington State Constitution prohibiting members of the legislature from filling a civil office created by the legislature during the term for which such member was elected.³¹ Thirteen other states in their constitutions or statutes also have this provision.³²

The Washington Supreme Court in its opinion declared that a legislative committee acting in the interim in the interest of the legislature might be created by statute. The Court further stated that membership on the Council did not constitute a civil office created by the Legislature.³³

31. State of Washington, ex rel. Hamblen v. Yelle, 185 P2nd. 723 (1948).

32. These states in 1950 were Connecticut, Illinois, Kansas, Kentucky, Maine, Maryland, Missouri, Nebraska, North Dakota, Oklahoma, Pennsylvania, Rhode Island and Virginia.

33. The rules of law given by the Court in this case are:

"A Legislative Committee may be created by statute, authorized to sit during the interim between legislative sessions for any proper purpose, empowered to take testimony, compel attendance of witnesses and punish for contempt and directed to report its findings to the legislature."

"Members of the Legislature, creating a Legislative Council or interim Committee by statute, may serve thereon and membership thereof is not a 'civil office' within the meaning of the constitution prohibiting appointment or election of a member of the legislature to a civil office created thereby during his term."

"For the position of public employment to be a 'public office of a civil nature' it must be created by the Constitution, legislature or municipality or other body so authorized by the legislature."

"Members of State Legislative Council, created by Statute, are not holders of 'civil office' within the constitutional provision prohibiting appointment or election of a member of the legislature to a civil office created thereby during his term." State ex. rel. Hamblen v. Yelle, cited above in note 31.

The Court then quoted from State of Montana ex. rel. Barney v. Hawkins,^{33A} the five elements indispensable to any position to make it a public office of a civil nature.³⁴ The Court determined in this case that element number two, that an office must possess a delegation of a portion of the sovereign power of the government to be exercised for the benefit of the public, was not present. The opinion held that Council members did not legislate nor administer laws enacted by them, therefore the Council did not constitute a civil office.

Another of the more serious challenges to the constitutionality of the Legislative Council is the constitutional provisions of many states prohibiting the appointment of legislators to public offices of trust or profit created during their term of office. These have been circumvented by the Supreme Courts of some of the states. Such has occurred in Colorado and Nevada.

In Colorado the action was based upon a mandamus proceeding brought by Guy Hudson and Joe Plummer, former members of the Colorado Assembly, against T. Annear, State Auditor, to compel the issuance of salary warrants due them as employees of the State Treasurer. Hudson and Plummer were elected to and served in the Thirty-first Colorado assembly which session passed an income tax bill and gave the State Treasurer power to administer the program. The Treasurer then hired Hudson and Plummer to assist him with the administration of this act.

33A. State of Montana ex. rel. Barney v. Hawkins, 79 Montana 506, (1927).

34. These elements are: "1. It must be created by the constitution or created by a municipality or other body through authority conferred by law.

2. It must possess a delegation of a portion of the sovereign power of government to be exercised for the benefit of the public.

3. The power conferred or duties to be discharged must be defined, directly or impliedly, by the Legislature or through legislative authority.

4. The duties must be performed independently or without control of a superior power other than the law unless there be those of an inferior or subordinate office or authorized by the Legislature and by it placed under the general control of a superior office or body.

5. It must have some permanency and continuity and not only be temporary or occasional."

As they were members of the Assembly which passed the act it was contended that they were prohibited from receiving compensation under the act.³⁵

It was the opinion of the Colorado Supreme Court that the determination of what is constitutional is not committed exclusively to the Judicial Department and views of officials of the co-ordinate branches of government are entitled to consideration. On this ruling Hudson and Plummer were not disqualified as their appointment was evidence that the State Treasurer felt them to be eligible to receive the appointments and compensations for their services to the Treasury Department.

The situation in Nevada was somewhat similar.³⁶ A Mr. Kendall was a member of a Legislature which passed a bill setting up an office of Exhibition Commissioner for the state to prepare exhibits for the Panama-Pacific Exhibition and a Panama-California Exhibition. Kendall was given the appointment to serve as its exhibition commissioner by a board set up to arrange for the exhibition. It was the contention of State Auditor Cole, in refusing to honor warrants compensating Kendall for his services, that his employment was in violation of the Nevada Constitution prohibiting the appointment of a Senator or Representative.³⁷

It was the ruling of the Nevada Court that the fact that Kendall was not required to take the oath as required by the Nevada Constitution of state officers indicated that state officials did not consider him an officer.³⁸ They further concluded that the position of superintendent so employed was not an officer under the terms of the constitution.

35. Hudson et. al. v. Annear, 75 P2nd 587 (1938).

36. State ex. rel. Kendall v. Cole, 148 P 511 (1915).

37. Nevada Constitution, Article IV, Section 8.

38. Ibid., Article XV, Section 2.

CHAPTER III

THE LEGISLATIVE HISTORY OF OKLAHOMA'S LEGISLATIVE COUNCIL

1. THE LEGISLATIVE SITUATION

The first official action toward establishing in Oklahoma a State Legislative Council was made on January 10, 1935, with the introduction of a bill in the Fifteenth Oklahoma Legislature by Mr. T. W. Eason of Enid, Garfield County.¹ The bill was presented to a session which was confronted by the greatest economic crises ever faced by this state. Oklahoma City and Tulsa banks had refused to cash state warrants.² Three weeks after the opening of the session, on the first of February, 1935, 150,000 people were thrown upon the state for their support when the Federal relief organization released the care of all unemployed in the state to begin a program of state participation in relief.³ An open break between Governor Marland and the Speaker of the House of Representatives, Leon C. Phillips was rapidly approaching. Some observers believed that the Governor had, at least temporarily, lost control of the House of Representatives.⁴ The ambitious recovery program of Governor Marland, at the close of the sixth week of the 1935 session, was for all practical purposes blocked. The only measure in the Governor's major program which had cleared the legislature was the three per cent tax bill.⁵ The other important revenue measures were being pushed.

1. Oklahoma Legislature, 15th Session, 1935, Journal of the House of Representatives, p. 178, House Bill 34.

2. O. D. Hall, "Marland Program Starts Through the Mill," Harlow's Weekly, XLIV, (January 19, 1935), p. 4.

3. Ibid., "Inauguration Day and the Legislature," Harlow's Weekly, XLIV, (January 26, 1935), p. 5.

4. Ibid., "Administration Program Blocked in House," Harlow's Weekly, XLIV (February 16, 1935), p. 4.

5. Oklahoma Legislature, op. cit., House Bill 234.

The Governor, in a renewed effort to clear the legislative log jam, appeared personally before a joint caucus of both houses and asked support for his recovery program.⁶ Speaker of the House Leon C. Phillips countered with the declaration that the present House of Representatives was "***** conservative to save the state from the hallucinations of the dreamers."⁷ Following this statement, Speaker Phillips, in a move to exercise his control of the House, announced a four-point program for the House of Representatives. This program called for balancing the state's budget; providing for the necessary operating expenses of government; providing relief for the unemployables and taking care of the common schools.⁸

2. REPRESENTATIVE EASON'S ATTEMPT TO ESTABLISH A LEGISLATIVE COUNCIL

It was during this period of conflict that Mr. Eason had hoped to secure the passage of the bill designed to create the State Legislative Council of Oklahoma.⁹ From experience gained during a previous term in the House of Representatives, Mr. Eason realized the need for a program of legislation ready for immediate consideration by the legislators at the convening of the session. He also felt that leadership should be provided by some group within the legislature to work toward the passage of this program. The waste of time before the legislature could begin effective operation was proving a very expensive delay during a period when the state was in debt and could not raise enough revenue to finance its current operations. With no means of screening prospective laws

6. Hall, "Administration Program Blocked in the House," op. cit., p. 4.

7. Ibid., p. 5.

8. Ibid.

9. House Bill 34, op. cit.

many measures for either useless or selfish reasons were being introduced, gaining a place on the calendar, clogging committee sessions, and raising the expense of the legislative session. Mr. Eason cites an example of this waste of energy and money. A bill was introduced to regulate the size of a loaf of bread. It was printed and then printed on the calendar daily for a period of sixty days. The sponsors of the bill gained a hearing before a committee and, with a group of attorneys representing the various factions, consumed time and money, and in some measure delayed the progress of the session, which needed this time to consider more necessary bills.¹⁰

The bill to provide a Legislative Council in Oklahoma was patterned after the Kansas Council, and was drafted with the help of the Attorney General's office. It was an attack on the problem of the sluggishness of the Legislature as then organized. Although Mr. Eason was the most prominent advocate of the proposed reform he had the aid and assistance of veteran members of the House of Representatives. He sought the advice of administration leaders in the House and before introducing the bill he conferred with James C. Nance who thought it to be a good thing and advised him to go ahead in the matter.¹¹

Following the approval of his idea by Senate and House leaders, representative Eason brought the suggestion to Governor Marland in one of the many planning sessions held by the Governor in his Ponca City home. The Governor expressed a favorable attitude toward the council movement and referred the matter to the Brookings Institution which was at that time conducting a survey of

10. Statement by T. W. Eason, former member of the Oklahoma House of Representatives representing Garfield County in the Fourteenth and Fifteenth Oklahoma Legislatures, 1933-1935. Interview by the writer with Mr. Eason, February 6, 1951.

11. Ibid.

Oklahoma's State Government at the request of a Citizen's Committee sponsored by Governor Marland before he became the state's Chief Executive.¹²

Legislative reorganization was also being considered by other groups. The Oklahoma Tax Economy League and the Oklahoma State Chamber of Commerce were suggesting a unicameral legislature and a modified type of continuous session. This plan, which was best presented in the program of the State Chamber of Commerce, suggested reduction of the number of legislators from 162 to not more than 35 who would meet as one body at frequent intervals for the purpose of making adjustments of expenditures to actual income and of making such corrections and additions to the general laws as conditions demanded.¹³

Through his father, Mr. T. T. Eason, then a director of the State Chamber of Commerce, Mr. T. W. Eason gained the support of the Chamber for his Legislative Council bill in place of their suggested unicameral organization. In order to gain a partial adoption of its plan, the Chamber of Commerce backed the bill providing for the Legislative Council.¹⁴

3. LEGISLATIVE ACTION ON THE EASON BILL

Following its introduction the bill to create the Legislative Council was referred to the Committee on Interstate Relations, of which Mr. Eason and the co-author of the bill, Representative Abernathy were members.¹⁵ It was reported "Do

12. Ibid.

13. Research Department, Oklahoma State Chambers of Commerce, "Governmental Needs", Tax Tour, (June 1943), p. 4.

14. Statement by Dr. J. M. Ashton, Director of Research, Oklahoma State Chamber of Commerce, personal interview by the writer in Mr. Ashton's Oklahoma City office, February 6, 1952.

15. Oscar H. Abernathy, Hollis, representing Harmon County in the Fifteenth Oklahoma Legislature, 1935.

Pass" by this Committee and ordered printed and placed on the calendar where it remained until March 15 when a special committee was appointed to recommend bills to third reading.¹⁶ This special committee recommended that the bill be re-referred to the Committee on Manufacturing and Commerce. The report was adopted and sent to this committee where Mr. Eason was chairman and Mr. Abernathy a member. Again it was reported "Do Pass" and advanced to third reading and final passage. It was again placed on the calendar where it remained until April 22 when it was stricken from the calendar by unanimous consent.¹⁷ This unanimous action was not taken with the consent of Mr. Eason. Having been injured in an automobile accident immediately preceding this action, he was not available to appear and present the merits of the bill and prevent its being stricken by unanimous consent. Why Mr. Abernathy did not defend the measure against this action has not been determined, but Mr. Eason States that Mr. Abernathy was never active in trying to secure the passage of the bill. Had Mr. Eason been present when the action was presented, it is reasonable to presume that the bill would have been pushed for further consideration.¹⁸ Prior to its being stricken the bill was considered in the Committee of the Whole where its constitutionality was challenged by Representative H. Tom Kight, Claremore, representing Rogers County, who declared it to be unconstitutional¹⁹ in that payment of members of the proposed legislative council violated that section of the State Constitution²⁰ wherein

16. Oklahoma Legislature, Fifteenth Session, Journal of the House of Representatives, p. 1551. This committee was appointed under Rule No. 31, House Rules, 1935, providing that a special committee might be appointed to consider and recommend bills in lieu of a regular standing committee.

17. Ibid., p. 3282.

18. Letter from Mr. T. W. Eason to the writer, March 20, 1952.

19. Statement by Mr. Eason, op. cit.

20. Oklahoma Constitution, V, 21, 1946 ed., Amended 1948.

the pay of members of the legislature and the length of legislative sessions were controlled.

4. THE ORIGIN OF THE DUFFY BILL

Following this defeat of the Legislative Council plan and his recovery from the injuries received in the automobile accident, Mr. Eason left the state and was absent for several years. A comparison of the legislative membership of the Fifteenth and Sixteenth Oklahoma Legislatures will show that many of the supporters of Mr. Eason and his Council plan were either defeated or did not seek reelection. With an almost complete turnover in the membership of the State Legislature, as this comparison will reveal, the Council idea was forgotten. The progress made on the previous bill was not known to most of the legislators, but the Legislative Council in Kansas was operating successfully.

Notice of this fact was taken by Senator Charles B. Duffy of Ponca City, who was attending a home-coming reception being given by the City of Topeka, Kansas in the fall of 1936 for the then newly elected National Commander of the American Legion, Harry Colmery, a Topeka lawyer.²¹ Being a personal friend of Mr. Colmery, Senator Duffy was designated as one of a party of three to represent the Legion of Oklahoma and the State of Oklahoma at the home-coming reception. As a State Senator from Oklahoma, Mr. Duffy was introduced to the then Lieutenant Governor of Kansas, Charles W. Thompson, who at that time was President of the Aetna Building and Loan Association and quite prominent in Kansas state affairs. As the presiding officer of the Kansas State Senate, Lieutenant Governor Thompson was well informed on the progress made by the Kansas Legislative Council and talked to Senator Duffy about it. Furthermore, Senator Duffy was introduced to several members

21. Letter of October 29, 1951 from Charles B. Duffy, former State Senator representing Grant and Kay Counties in the Sixteenth and Seventeenth Oklahoma Legislatures, 1937-1939, to the writer and oral statement of July 18, 1951.

of the Kansas Legislative Council, all of whom were very enthusiastic about its program and accomplishments.

That night at the banquet honoring Commander Colmery, Senator Duffy was seated beside the Lieutenant Governor, who, during the entire course of the banquet outlined in detail the history of the Kansas Legislative Council and agreed to send to the Oklahoma Senator all the available data concerning it. This data included the bill creating the Kansas Council, its reports to the legislature and a summary of its accomplishments in the form of completed legislation. During Senator Duffy's stay in Topeka he conferred at length with various members of the Kansas Legislative Council and from them obtained first-hand impressions of the operations of such a body.

Returning to Oklahoma, Senator Duffy determined to introduce in the Oklahoma Legislature a bill to create a Legislative Council. A few days thereafter he received the promised material from Lieutenant Governor Thompson. Over a period of months they carried on an extensive correspondence in which Senator Duffy gained much needed information regarding the Kansas Council and its organization and operation. Senator Duffy also contacted the Legislative Councils of other states then possessing such an agency and obtained copies of the laws establishing these councils and copies of their reports.²²

Shortly after his return from Topeka, Senator Duffy was chosen by the Oklahoma State Senate as one of its delegates to the inauguration of President Franklin D. Roosevelt in Washington D. C. He was also delegated to attend the annual meeting of the Council of State Governments which was to meet in Washington during the inauguration week. At this later meeting the Oklahoma delegates had the opportunity to and they did interview legislators, governors and other

22. Duffy letter and statement, op. cit. p. 36 above.

delegates from states where Legislative Councils were then in operation. In this manner they gained additional information and encouragement concerning the value of such a council.²³ On his return to Oklahoma Senator Duffy introduced into the Sixteenth Oklahoma Legislature in 1937, a bill providing for an Oklahoma Legislative Council.²⁴

5. LEGISLATIVE ACTION ON THE DUFFY BILL

Senator Duffy's bill passed its second reading and was referred to the Senate Appropriations Committee of which he was a member.²⁵ This committee, under the Chairmanship of the late Senator Paul Stewart, Antlers, representing Pushmataha County and later United States Representative from the Third Congressional District of Oklahoma, reported that the bill "Do Pass."²⁶ When it was brought up on general order on February 19, an attempt was made to amend the bill to include the President of the Senate as a member of the proposed Council, but it was tabled on a motion by Senator Duffy.²⁷ In later action of that day the bill passed the Senate, over which Senator Duffy was presiding, by a vote of twenty-eight for the Council, two against and fourteen either absent or excused. Then Senator Duffy, as presiding officer of the Senate, signed the bill and ordered it transmitted to the House of Representatives.²⁸

23. Ibid.

24. Oklahoma Legislature, Sixteenth Session, 1937, Journal of the Senate, p. 259. Senate Bill 122, Sixteenth Oklahoma Legislature, 1937.

25. Ibid., p. 287.

26. Ibid., 475.

27. Ibid., p. 565-566.

28. Ibid., p. 568.

After preliminary action of the House, the bill was referred to the Appropriations Committee where it was reported "Do Pass" and Representative James C. Nance joined Senator Duffy as co-author.²⁹ By unanimous consent of the House the proposed measure was advanced to third reading for consideration. Representative Nance then asked unanimous consent that it be advanced to third reading and final passage, which motion prevailed.³⁰ With the bill on third reading and final passage, it was moved that further consideration of the measure be indefinitely postponed.³¹ This motion was seconded but upon a further motion was tabled. Upon vote of the question of passage the House of Representatives voted "Aye," fifty-four; "Nay," thirty-nine and twenty-three did not vote as they were either excused or absent. This bill failed to receive a constitutional majority of the votes of all members elected to and constituting the House of Representatives, and therefore failed on final passage.³² Although the bill did receive a majority of all votes cast, five more votes in favor of the bill would have been necessary to secure the fifty-nine votes required to give it a constitutional majority. Senator Duffy attributes this defeat to the opposition of Representative Leon C. Phillips, Okemah, representing Okfuskee County, who had been Speaker of the House in the previous legislature, and was now leader of the opposition to the administration for which Senator Duffy was a loyal worker.³³

6. SENATOR DUFFY'S SECOND ATTEMPT TO CREATE THE LEGISLATIVE COUNCIL

After this defeat nothing was done in regard to creating a Legislative

29. Ibid., Journal of the House of Representatives, p. 1147.

30. Ibid., p. 2434.

31. Ibid., p. 4394-4395.

32. Ibid.

33. Statement by Senator Duffy, op. cit.; n. 21, p. 36

Council in Oklahoma until the Seventeenth Legislature which was convened in 1939. On the second day of that session, January 4, 1939, Senator Duffy introduced his second bill designed to create an Oklahoma State Legislative Council, prescribe³⁴ its powers and duties and provide an appropriation.

On the following day this measure was brought up for second reading and referred to the Appropriations Committee as was the preceding attempt in 1937. One significant difference was now apparent. Senator Duffy was now Chairman of the Senate Appropriations Committee. Sixteen days later it was reported from the Committee with a "Do Pass" recommendation and placed on the calendar.³⁵ On the following day, Monday, by general order, it was taken up for further consideration. Upon the reading of the bill, several routine and minor amendments were made by Senator Duffy. The amendments took the form of deleting and inserting words and commas and other details of such nature as were needed to correct the bill and clarify certain points where the meaning might not be entirely clear. After these corrections were made, Senator Duffy moved that the rules of the Senate be suspended and the bill, as amended, be considered engrossed and placed upon third reading. This motion carried. After the third reading the roll of the Senate was called on the question of final passage with the following vote being recorded. "Aye," thirty-three; "Nay," five and six not voting either being excused or absent. Having received the required constitutional majority the bill was declared passed and ordered referred for engrossment.³⁶ The next day it was moved that the vote by which the bill passed the Senate be reconsidered. A move

34. Oklahoma Legislature, Seventeenth Session, 1939, Journal of the Senate, p. 94.

35. Ibid., p. 105.

36. Ibid., p. 260.

to table this motion for reconsideration was made but withdrawn, and on roll call the motion to reconsider failed.³⁷ After this action the President of the Senate signed the bill and ordered it transmitted to the House.³⁸

7. OPPOSITION IN THE HOUSE OF REPRESENTATIVES

In the House, following preliminary procedure, the bill was referred to the House Appropriations Committee. It was amended and reported "Do Pass" with the amendments taking the form of adding a number of co-authors in the House. A minority report, signed by Finis C. Gillespie, Jr., Hobart, Kiowa County; S. E. Hammond, Okmulgee, Okmulgee County; D. C. Cantrell, Stigler, Haskell County; James A. Hayes, Okmulgee, Okmulgee County and Henry W. Worthington, Mangum, Greer County, recommended that it do not pass.³⁹ Representative Worthington, later a member of the State Senate representing Greer County, states, as spokesman for the group signing the minority report, that they were opposed to the Council because they thought it to be "a policy making body of the legislature and the recommendations were a take it or leave it method of creating legislation by just a few members."⁴⁰

When the bill was read at length the majority report was adopted. The bill was then ordered printed and placed on the calendar.⁴¹ On the legislative day of March 30, upon motion of Representative Murray Gibbons, Oklahoma City, Oklahoma

37. Ibid., pp. 271-273.

38. Ibid., pp. 278-279.

39. Oklahoma Legislature, Ibid., Journal of the House of Representatives, pp. 1518-1520.

40. Letter to the writer from Henry W. Worthington, formerly member of the Oklahoma House of Representatives, 1939, October 24, 1951.

41. Oklahoma Legislature, Journal of the House of Representatives, 1939, op. cit., pp. 1518-1520.

County, the House resolved itself into the Committee of the Whole for the purpose of considering Senate Bills on General Order on the House Calendar. Included in this group was the bill by Duffy to create the Legislative Council.⁴²

The Committee of the Whole recommended that the Duffy Bill, along with the others considered, "Do Pass." Thereupon Representative Kight, an opponent of the earlier Eason Bill, asked for a division of the question of the adoption of the Committee of the Whole report with special reference to Senator Duffy's Bill. Such a division was granted.⁴³ After the adoption of the other reports of the Committee of the Whole, it was moved that the report, in reference to the Duffy Bill be adopted. A substitute motion moving that the bill be recommitted to the Committee of the Whole for the purpose of amending it to the effect that the Council would include every member of the legislature, was submitted by Representative Hayes, a signer of the minority report recommending that the Council bill do not pass.⁴⁴ Thus in this stage of the creation of Oklahoma's Legislative Council began a movement to change the membership of the Council to include every member of the legislature.

Immediately following this action an in lieu motion was submitted by Representatives Louie Gossett and H. Tom Kight, to the effect that the bill be sent back or recommitted to the Committee of the Whole with instructions to amend the bill to provide that the Governor might appoint ten ex-Senators and fifteen ex-Representatives to carry on the duties of the Legislative Council as defined in the Duffy Bill.⁴⁵ At this point there were two divergent apponents to the Duffy

42. Ibid., p. 2002.

43. Ibid., p. 2011.

44. Ibid., p. 2011-2013.

45. Ibid.

Bill. One seemingly prompted by jealousy, and another challenging the constitutionality of the measure, and also in direct opposition to the move designed to admit the entire legislature to the Council. It was the fear of admitting the entire legislature to membership on the Council that prompted the Gossett-Kight opposition.⁴⁶

The Hayes motion, was presented by Representative Hayes, who had signed the above mentioned minority report recommending the defeat of the Duffy Bill before it gained the floor of the House.⁴⁷ It indicated a touch of jealousy on the part of these gentlemen in that the motion was designed to guarantee them a seat on the Council and was submitted immediately following the defeat of their attempt to stop consideration of the Duffy Bill. This contention of jealousy is supported by a statement by one of these gentlemen, former Representative Henry W. Worthington, admitting that they were opposed to the bill because they thought it was designed to create a policy making body of the legislature and a method of enacting legislation by "just a few members."⁴⁸

It was the purpose of the Gossett-Kight motion, in the opinion of its authors, to legalize the bill. They contend that they did not oppose it in principle, but it was their desire to have the bill so drawn that the Governor could select specialists from experienced legislators to meet at his call and perform the duties of the proposed Legislative Council. The personnel, according to a previously mentioned contention of Mr. Gossett,⁴⁹ should not be composed of members of the legislature which created the bill. If so they would be creating an office, mak-

46. Letter to the writer from Louie Gossett, op. cit.

47. See p. 40 above.

48. Letter to the writer from Henry W. Worthington, op. cit.

49. Quotation from Gossett letter as quoted in Chapter II, p. 26, this thesis.

ing an appropriation for salaries for the Council and then drawing salaries for which they voted. It was therefore the Gossett-Kight suggestion that the membership of the Council be selected from former members of the Legislature.⁵⁰

There are several faults apparent in a Legislative Council so organized. When compared with the present definition of a Legislative Council, a Council organized along these lines would destroy one of the more important purposes of the Legislative Council namely that of providing leadership within the Legislature to support the program as prepared by the Council when its recommendations are presented before the legislature. Under present rules of the legislature, these former members of the legislature would be limited in their access to the floor of the houses. Such a move would also have completely removed the control of the Council from the legislature. A Council appointed by and responsible to the Governor would become in effect an Executive Council and give the Governor a direct hand in the process of legislation. Appointing former legislators to the Council would also present the possibility of having injected into the legislative process men who in many instances had been removed from the Legislature by a vote of the people. The Gossett-Kight motion would have made these changes in the basic structure of the Legislative Council. It and the Hayes Motion to admit the whole legislature to the Council were tabled. A vote recurring on the Gibbons motion calling for the adoption of the Committee of the Whole report that Duffy's bill "Do Pass," passed with a vote of "Aye," sixty-two, "Nay," thirty-nine with fourteen as excused or absent.⁵¹

50. Letter to the writer from Louie Gossett, op. cit., July 11, 1951.

51. Oklahoma Legislature, Seventeenth Session, Journal of the House of Representatives, op. cit., pp. 2011-2013.

8. THE DUFFY BILL BECOMES LAW

On May 30, 1939, upon motion of Mr. Gibbons, the engrossed copy of the bill was placed on third reading and final passage. On the question of passage, it passed the House with a vote of sixty-two for and thirty-eight against with fifteen not voting either absent or excused.⁵² It is interesting to note that the bill passed the House with exactly the same vote as was cast on the Gibbons motion which adopted the report of the Committee of the Whole that the Duffy Bill "Do Pass." After the Speaker signed the bill in the House, it was returned to the Senate.⁵³

Again in the Senate the Duffy bill was ordered enrolled, and when reported enrolled, was signed by its author, who was then acting as the presiding officer of the Senate,⁵⁴ and sent back to the House for signature of the Speaker.⁵⁵ Then the bill was sent to the Governor for his action.⁵⁶

One week later, April 10, the Senate was advised by Governor Leon C. Phillips that the bill had laid on his desk for more than five days and had become law without his approval.⁵⁷ Governor Phillips, in his message to the Senate, gave reason for this action although it has been suggested that despite his personal opposition to the measure he had allowed it to become law without his approval in deference to his personal friendship with Senator Duffy.⁵⁸

52. Ibid., p. 2014.

53. Ibid., p. 2016.

54. Senate Journal, op. cit., p. 1062.

55. Ibid.

56. Ibid., p. 1086.

57. Ibid., p. 1793. 1939 Laws, pp. 19-22; Oklahoma Statutes, 1941, Title 74, Sections 451-462.

58. Duffy Letter, op. cit., Former Governor Phillips was contacted by letter on this matter but has refused to clarify his actions.

Thus after a struggle extending through three sessions of the Oklahoma Legislature the attempts to establish in Oklahoma a Legislative Council seemed to have succeeded. The above account of the legislative record shows that without the untiring efforts of Senator Charles B. Duffy the Council movement would have become a forgotten issue following the defeat of the Eason proposal. After his first defeat he did not give up. In the next session he introduced the same bill which had been defeated in the preceding session.⁵⁹ The leader of the opposition to his bill and the person whom Senator Duffy suggests was largely responsible for its first defeat, was now Governor, namely Governor Leon C. Phillips. The passage of the bill in the Senate each time was merely a senatorial courtesy toward one of its more outstanding and popular members. House members were under no such obligation as is evidenced by the vigorous actions taken in that body to defeat it. The journals of that session indicate that there was little active opposition to the measure in the Senate. There was, however, an abundance of it in the House. Outstanding in this group of active combatants were H. Tom Kight, Claremore, Rogers County; Henry W. Worthington, Mangum, Greer County; Louie Gossett, Antlers, Pushmataha County; James A. Hayes, Okmulgee, Okmulgee County; and Leon C. Phillips, Okemah, Okfuskee County, Speaker of the House when the bill was considered and Governor when it was passed.

Mr. Kight's opposition to the Council was first evidenced when he challenged⁶⁰ the constitutionality of the Eason bill in the Fifteenth Legislature in 1935. He came back with the same argument in the following session and attempted to amend the proposed council to the effect that former members of the Legislature⁶¹ be appointed to the Council.

59. Senate Bill 122, Sixteenth Oklahoma Legislature, 1937.

60. House Bill 34, Fifteenth Oklahoma Legislature, 1935.

61. Gossett-Kight in lieu motion, House Journal, 1939, op. cit., pp. 2011-2013.

Representative Worthington's action against the proposed Council came when he, as a member of the House Appropriations Committee considering the second Duffy bill,⁶² in 1939, signed a minority recommendation that the bill do not pass. Mr. Worthington was also in agreement with the Representative Hayes who was a determined opponent of the Council. Other than signing the above mentioned report, Mr. Hayes presented to the House a motion that the bill be re-committed to the Committee of the Whole for the purpose of amending the bill to admit the entire legislature to the Council.

Mr. Gossett is perhaps the mystery man of the opposition. He was not in the legislature when the first Eason bill was introduced. His service began in 1937 with the session which saw the introduction of the first Duffy bill. On this bill Mr. Gossett was listed as one of its co-authors in the House of Representatives and voted for the bill when it came up for consideration and later final passage.⁶³ In the next session Mr. Gossett joined Mr. Kight and became one of the more active members of the opposition although the bill he was now opposing was an exact duplicate of the bill which he had supported in the preceding session. In this later session he was the co-author of a move designed to remove the proposed Council from the control of the Legislature and make it a tool of the Governor.⁶⁴ When the votes were taken on the second Duffy Bill Mr. Gossett was always in the "Nay" column against the Council. This change in attitude has been attributed by Mr. Gossett to a lack of confidence in the membership of the Seventeenth Legislature. Another reason given by him is that he had not had sufficient time to adequately consider the purpose of the bill. Mr.

62. Senate Bill 20, Seventeenth Oklahoma Legislature, 1939.

63. House Journal, 1937, op. cit., p. 4394.

64. Gossett-Kight in lieu motion, op. cit.

Gossett, in defense of these actions states:

"As observed my votes on these bills were conflicting. My explanation for this conflict can be attributed to the following: fundamentally I was and am for the Council. I had the utmost confidence in the members of the Legislature in 1937, accordingly I did not give the same degree of thought to the abuses of the act I would have had conditions been reversed. However, when the same was re-presented in the next Legislature, I had the advantage of time to deliberate its merits, and was convinced in my own mind that the bill was unconstitutional and susceptible to unlimited abuses. I am still of the opinion that the bill has merits and very often a legislator will support an act that he is not too sure of if he knows with some degree of certainty that the persons who are to execute the conditions of the bill are those in whom he reposes confidence. The additional time I had to give the bill coupled with my confidence or lack of it in the two houses, no doubt depict my acts."⁶⁵

Now that the Legislative Council bill had become a law it would be expected under normal conditions that it would become effective immediately as the emergency clause was passed on the bill. All that now seemed necessary for the activation of the Council was the appointment of its members.

However, before the appointments were actually made, two questions arose which delayed this action. They were, according to Harlow's Weekly, "Was the new state law creating a Legislative Council of twenty-five members which would act as a preliminary advisory board for future legislation unconstitutional? Would such a body drawing the constitutional pay of regular legislators usurp the duties of the legislature?"⁶⁶

President Pro Tempore of the Senate James A. Rinehart of El Reno, thought so and refused to appoint the ten Senate members of the proposed Legislative Council as was provided in the act. Senator Rinehart felt the measure to be unconstitutional on the basis of an earlier decision of the Oklahoma Supreme

65. Ibid.

66. U. S. Russell, "'Stingy' Seventeenth Ends Amid State Applause," Harlow's Weekly, II, (May 6, 1939), p. 8.

Court holding that an act passed in 1927 providing for hotel and travel expenses of members of the legislature was in violation of the Constitution where it limited the pay of legislators to \$6.00 per diem for 60 days, \$6.00 per day in special session, and \$2.00 per day thereafter, and provided that members of the legislature should receive no other compensation.⁶⁷

As the Duffy Bill provided that members of the Council should receive \$6.00 per day compensation while attending the sessions of the Council and that the claims should be approved by the Chairman of the Council, who was the President Pro Tempore of the Senate, Senator Rinehart believed this was in violation of the Constitution.⁶⁸ Because of this belief, as President Pro Tempore of the Senate, Senator Rinehart refused to appoint the Senate members of the Council. No such suit was ever filed.

Senator Rinehart declares that he is a great believer in the Legislative Council and its work, and that his refusal to make the appointment was entirely upon the legal ground that he felt the measure was unconstitutional. However, Senator Rinehart now feels that this conflict between the statute and the Constitution has been removed by the 1949 Constitutional Amendment raising the salaries of members of the Legislature.⁶⁹ This amendment provides for salaries of \$100.00 per month for the legislators when the legislature is not in session and \$15.00 per day for seventy-five legislative days.^{69A} Since members

67. Dixon v. Shaw, 122 Oklahoma, 211, (1927).

68. Oklahoma Constitution, V, 21, (1946 ed.) Amended 1948.

69. Letter to the Writer from James A. Rinehart, State Senator, Representing the Fourteenth District, El Reno, Oklahoma, March 26, 1952.

69A. This change in the Constitution may be found in Oklahoma Constitution, V, 21, (Adopted July 6, 1948).

of the Council are not paid any compensation in addition to that provided by the Constitution and since the Legislative Council Act has been amended or in fact re-written and the members now receive no additional compensation,⁷⁰ it is the opinion of Senator Rinehart that the Legislative Council is within the bounds of the Constitution.⁷¹

In the days following the passage of the Duffy Bill and preceding its activation in 1947, the action of Senator Rinehart in refusing to appoint the Senate members to the Council was never formally challenged and in this manner the proposed creation of a Legislative Council for Oklahoma was allowed to fail and lie neglected for the next several years before its reactivation and its initial organization.

There have been suggestions that the immediate reasons for the failure of the Council following the passage of the Duffy Bill was the failure of the legislature to appropriate funds for its operations. No basis for these suggestions can be found. All of the Legislative Council bills introduced in the Oklahoma Legislature carried a section providing funds for the operation of the Council and compensation of the members, including the Duffy Bill which was passed in 1939. However, should the appropriation have been made for the funds for the operation of the Council and it vetoed, arrangements had been made for funds for the operation of the Research Department and to carry on limited Council activities. This arrangement was made by Senator Duffy who was Chairman of the Senate Appropriations Committee. As this arrangement was never needed and its details were never completed and thus not available.⁷²

70. Oklahoma Statutes, 1951, Title 74, Sections 451-463.

71. Letter from James A. Rinehart, op. cit.

72. Statement by Charles B. Duffy, op. cit.

CHAPTER IV

OKLAHOMA'S LEGISLATIVE COUNCIL IN ACTION, ITS HISTORY 1947-1951

1. ACTIVATION OF THE OKLAHOMA LEGISLATIVE COUNCIL

The statute authorizing the establishment of a Legislative Council in Oklahoma and setting forth its duties and limitations was enacted in 1939,¹ and was based largely upon the Kansas Legislative Council. It was not until 1947 that this provision was vitalized by an appropriation for its expenses after it had been made inoperative by the failure of the Senate to appoint its members of the Council in 1939.

The issue of a Legislative Council which had lain dormant since 1939 was revived by a joint committee on legislative taxation set up by House Joint Resolution Number 8 of the Twentieth Legislature. It was composed of twenty-three Senators, headed by James C. Nance, Chairman of the Committee; twenty members from the House of Representatives headed by Wilson Wallace, Ardmore, Carter County, Vice-Chairman of the Committee and thirty citizens headed by L. D. Melton,² Secretary of the Committee and later Director of the Legislative Council.

Though the Committee was set up to study state finances and suggest revisions of state tax laws, the Committee also studied two other measures, Workman's Compensation and a permanent interim legislative committee. Following a general discussion of the needs for and the values to be gained from a Legislative Council, the Committee submitted the following recommendation:

"It is recommended that a statute be enacted providing for a state Legislative Council to be composed of ten members of the Senate and

1. Oklahoma Statutes, 1941, Title 74, Sections 451-462.

2. Oklahoma Legislature, Twentieth Session, 1945, Joint Legislative Taxation Committee, Report and Recommendations to the Twenty-First Oklahoma Legislature (Oklahoma City: 1946), p. viii.

fifteen members of the House of Representatives with sufficient appropriations to enable the Council to employ a research staff and otherwise to function as an interim body."³

It was on the basis of this recommendation submitted to the Twenty-first Legislature before its convening in January 1947 that the needed impetus to activate the Legislative Council in Oklahoma was brought about. This report was to a large degree responsible for the passage of an appropriation which vitalized the Oklahoma State Legislative Council as proposed in 1939.

This provided \$3,500 for necessary Council expenses for the remainder of the 1946-1947 fiscal year and made for the payment of a compensation of \$6.00 per day to Council members for time spent in attending Council and Committee meetings.⁴

Following this move toward activation, James C. Nance, President Pro Tempore of the Senate from Purcell, representing McClain and Cleveland Counties, appointed the Senators who were to serve on the Council. Senators appointed were: Raymond Gary, Madill, District 27, comprising Love and Marshall Counties; Bill Logan, Lawton, District 26 from Commanche and Cotton Counties; James A. Rinehart, El Reno, District 14, Canadian County; Floyd E. Carrier, District 8, Garfield County; Everett S. Collins, Sapulpa, District 11, Creek and Payne Counties; Thomas D. Finney, Idabel, District 24, McCurtain and Pushmataha Counties; Perry Porter, Miami, District 30, Ottawa and Delaware Counties; A. E. Anderson, Elk City, District 2, Roger Mills, Ellis and Dewey Counties; and Phil H. Lowery, Loco, District 17, Stephens and Jefferson Counties.

House members appointed by its Speaker, C. R. Board, Boise City, Cimarron County, were: John W. Russell, Okmulgee, Okmulgee County; J. H. Jarman, Okla-

3. Ibid., p. 24.

4. Session Laws, 1947, p. 612.

homa City, Oklahoma County; Paul Harkey, Idabel, McCurtain County; J. H. Arrington, Stillwater, Payne County; Paul Ballinger, Holdenville, Hughes County; E. Dunlap, Red Oak, Latimer County; A. R. Larason, Fargo, Woodward County; Walter Billingsly, Wewoka, Seminole County; James M. Bullard, Duncan, Stephens County; R. Rhys Evans, Ardmore, Carter County; D. L. Jones, Eldorado, Jackson County; Lloyd H. McGuire, Tulsa, Tulsa County; Joe E. Musgrave, Tulsa, Tulsa County; Claud Thompson, Antlers, Pushmataha County; and Streeter Speakman, Sapulpa, Creek County. Other officials of the Oklahoma Legislative Council who made its beginning operations were J. William Cordell, Secretary of the Senate and by virtue of this office, Secretary of the Council and L. D. Melton, Director of the Council with Jack A. Rhodes, Assistant Director of the Council and Director of Research.⁵

It was the duty of the Council to collect information concerning the government and general welfare of the state, examine the effects of previously enacted statutes and recommend amendments, deal with important issues of public policy and questions of state-wide interest, and to prepare a legislative program in the form of bills or otherwise, in its opinion the state might require.⁶ Although bill drafting was suggested as a duty of the Council it did not exercise this right. The Council has never drafted any of its recommendations into bill form but confined its recommendations to ideas and suggestions and statements of policy leaving to individual legislators the responsibility of preparing and introducing such measures. In all respects the Council was most circumspect in avoiding any action which might be misconstrued as an infringement of the duties

5. The Oklahoma State Legislative Council, First Biennial Report, (Oklahoma City: 1948), p. 3.

6. Oklahoma Statutes, 1941, Title 74, Section 452.

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of the legislature and its prerogatives.

The membership of the Council as originally organized was composed of ten Senators and fifteen Representatives appointed by the President Pro Tempore of the Senate and Speaker of the House, respectively, before the close of each session of the legislature. These appointments were to be approved by a majority vote of each house and so chosen that the membership of the Council would include representation from each of the State's Congressional Districts.⁸

These Councilmen, as previously named, were appointed at the close of the Twenty-first Legislature to serve during the next interim between that session and the next and make its report to the Twenty-second Legislature which was to convene in 1949. Compensation for these Councilmen was provided at the rate of \$6.00 per diem and during this first interim of study it amounted to \$1,878.00.⁹ This figure would indicate that little was done or the members of the Council did not present claims for their compensation. Such was not the case. The amount above stated covered the period between the first meeting in June 1947 and continuing until June 30, 1948, covering the 1947-1948 fiscal year. For the period covered by the first sessions of Council study, from June 30, 1947, to June 30, 1948, the Council appropriation was \$3,500 and for the succeeding bienniums to 1951,¹⁰ \$25,000 per year. In no year has the Council expenditures come up to this appropriation. The first year showed a surplus of \$11,449.71, the second \$15,578.27, the third, \$9,523.00 and the fourth, the 1950 fiscal year, \$21,082.46.¹¹

7. State Legislative Council, op. cit., p. 7.

8. Oklahoma Statutes, 1941, Title 74, Section 451.

9. State Legislative Council, op. cit., p. 103.

10. In 1951 the amount was increased to \$50,000 per year for the 1951-1953 biennium.

11. For further data see Tables V and VI on following pages.

TABLE V

FINANCIAL STATEMENT, OKLAHOMA LEGISLATIVE COUNCIL, 1947-48 ^{11A}

	July 1, 1947 to June 31, 1948	July 1, 1948 to December 1, 1948	
COUNCIL APPROPRIATIONS	\$28,500.00	\$25,000.00	\$53,500.00
EXPENDITURES			
Supplies	22.00		
Communication	284.57	187.34	
Per Diem	1,969.00	9.00	
Travel	1,026.85	558.67	
Library and Subscriptions	22.10	9.00	
Salaries	13,575.77	8,060.52	
Express		8.28	
Publications		250.32	
Special Services	250.00	338.73	
Total Expenditures	<u>\$17,050.29</u>	<u>\$9,421.73</u>	
Balance	<u>\$11,449.71</u>	<u>\$15,578.27</u>	\$27,027.98
EXPENDITURES OF COUNCIL FROM SENATE APPROPRIATIONS			
Communications		7.20	
Supplies	923.61	538.55	
Postage	508.64	405.99	
Travel	<u>2,249.15</u>	<u>791.46</u>	
Total from Senate	<u>\$3,681.40</u>	<u>\$1,743.20</u>	
EXPENDITURES OF COUNCIL FROM HOUSE APPROPRIATIONS (Travel Only)	\$3,044.22	\$1,556.67	
GRAND TOTAL EXPENDITURES (To December 1, 1948)	<u>\$23,775.91</u>	<u>\$12,721.60</u>	<u>\$36,497.51</u>

11A. Oklahoma Legislative Council, First Biennial Report, (December 4, 1948), p. 103.

TABLE VI

FINANCIAL STATEMENT, OKLAHOMA LEGISLATIVE COUNCIL, 1949-1950^{11B}

COUNCIL APPROPRIATIONS

Unexpended Balance	\$11,822.80	\$ 9,523.00
Appropriation	<u>25,000.00</u>	<u>25,000.00</u>
Total	\$36,822.80	\$34,523.00

EXPENDITURES

Salaries	\$20,151.67	\$11, 163.10
Travel	2,176.10**	947.33
Per Diem	None	None
Books and Periodicals	92.82	10.65
Office Supplies	432.95	348.62
Office Equipment	27.31	
Membership Dues	25.00	
Communication	1,052.00	642.11
Printing and Publications	1,607.05***	250.98
Repairs	22.77	
Fees and Wages	1,724.69	50.00
Contractual Services	<u>48.44</u>	<u>27.75</u>
	\$27,359.80	\$13,440.54
	<u>\$ 9,523.00</u>	<u>\$21,082.46</u>

** Included \$640.70 travel claims for Commissioners on Uniform State Laws.

*** Included \$745.80 Journal printing costs for 1947-1948 and ~~1948-1949~~.

11B. Oklahoma Legislative Council, Second Biennial Report, 1949-1950 (December 2, 1950), p. 101.

After the adoption of an amendment to the Oklahoma Constitution placing all state legislators on a monthly salary of \$100.00 per month between sessions,¹² the Council unanimously passed a resolution declaring that no member should receive this additional per diem compensation.¹³ Later the legislature made this declaration statutory when they provided that "members of the State Legislative Council - - - receive no compensation for their services other than that due them as members of the legislature."¹⁴ This same act allowed the reimbursement of Council members for expenses incurred in travel authorized by the Council.

2. COMMITTEES OF THE OKLAHOMA LEGISLATIVE COUNCIL

The Legislative Council, like the legislature, functions through a number of active committees. Standing committees are named at the close of each regular session and special committees are named as the need for them arises. At the first organizational meeting in 1947, fourteen standing committees were appointed through which the Council studies were carried on.¹⁵ These committees appointed were: Agriculture; Appropriations and Budget; Conservation; Constitutional Survey; Education; Insurance, Judiciary; Labor, Commerce and Industry; Legislative Methods and Procedure; Public Health and Welfare; Public Safety; Revenue and Taxation; Roads and Highways; State and Local Government, and Veterans' Affairs.

A total of fifty committee meetings were held and the whole Council assembled in eight sessions during the first biennium of the Legislative Council in Oklahoma.

12. State Question 329, Adopted July 6, 1948.

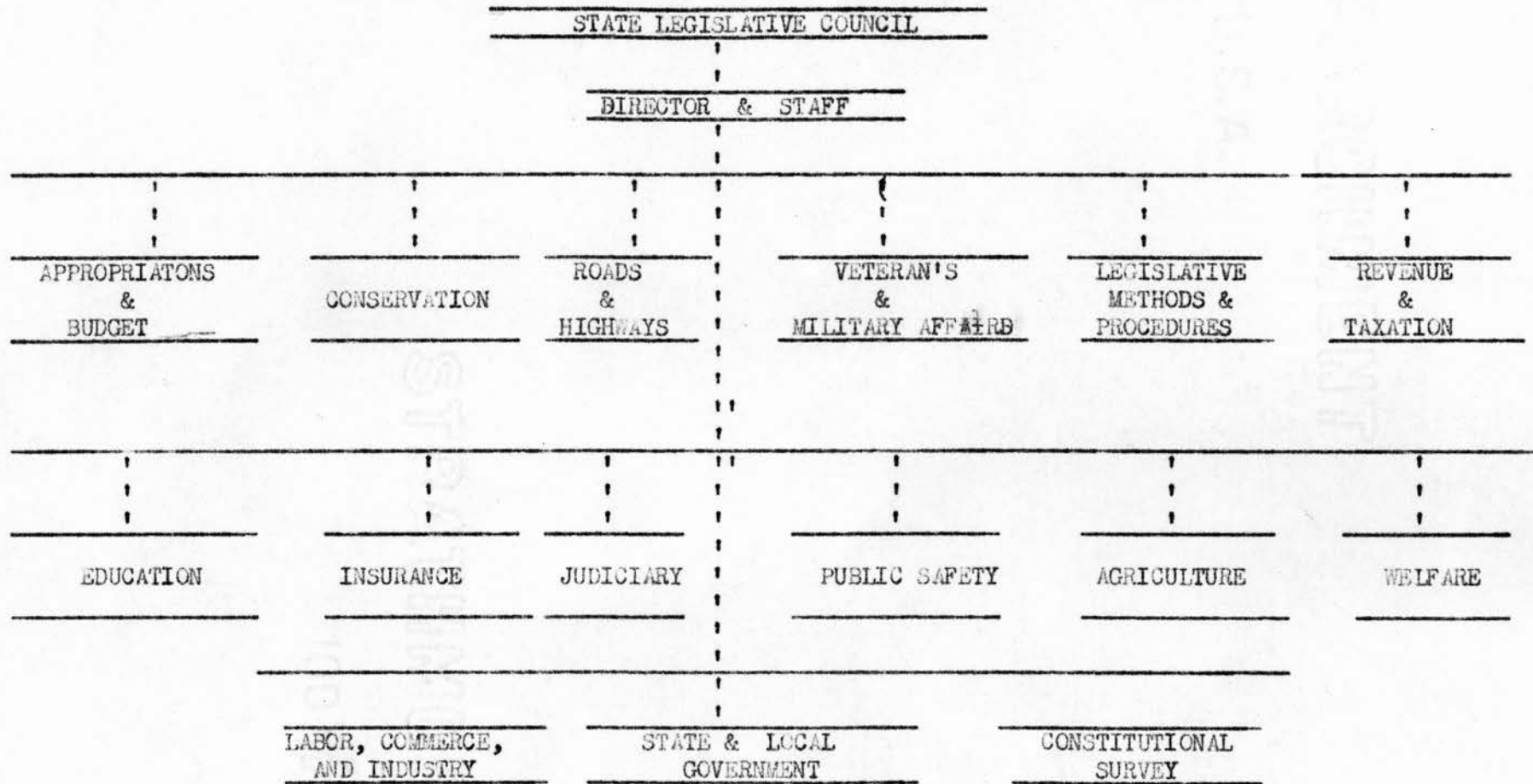
13. State Legislative Council, op. cit., p.7.

14. Senate Bill No. 68, Twenty-second Oklahoma Legislature, 1949.

15. State Legislative Council, op. cit., p. 9.

TABLE VII

ORGANIZATION OF THE OKLAHOMA STATE LEGISLATIVE COUNCIL 1947-1949^{15A}



15A. Constructed by the writer from data in The First Biennial Report, 1947-1949, Oklahoma Legislative Council.

Committee procedure was to survey state problems within their respective fields of study. Progress reports were made and discussed by the committees before the entire Council. Ultimately final reports and recommendations were submitted by each committee for Council consideration and action.¹⁶

All Committee and Council meetings were at all times open to the public and leaders in the area of discussion were invited to participate. Appearing before these committees have been state and local officials, business organizations, trade associations, labor groups and informed citizens from all walks of life. Unlike meetings of legislative committees during the sessions of the legislature, the Council's committee meetings were conducted on an informal basis.¹⁷ As there was no rush such as that attending a session of the legislature this atmosphere was more easily obtained.

Although they were permissible, no special committees were used by the Oklahoma Legislative Council during its first biennium of study.

The Council followed the practice of holding meetings out over the state wherever possible, and accepted invitations from several state cities to meet with them. This plan was undertaken originally as an experiment, but proved to be very beneficial. Council reports indicate that these meetings were well attended by local business men and have done much to improve the public relations of the legislature and bring about a better understanding and appreciation on the part of the citizens regarding the problems of the legislature.¹⁸

This maiden attempt to improve Oklahoma's legislative process undertook many phases of study and made many recommendations concerning improvement in

16. Ibid.

17. Ibid.

18. Ibid.

state government. In its final report the first Legislative Council made 161 separate recommendations to the Twenty-second Legislature. Of these recommendations the Council listed fourteen which they felt deserved special mention and emphasis. These were: revision of the school law and modernization of Oklahoma's public school system; a highway safety program; streamlining of legislative organization methods and procedures; a sound highway program with reform of the waste of the out-moded commissioner's district system of County highway administration; improvement of state purchasing methods to get the most for the taxpayer's dollar; a comprehensive program for Oklahoma agriculture with emphasis on the farm youth programs and new methods of financing an enlarged program of agricultural research; emphasis on the legislative needs of Oklahoma's rapidly growing municipalities; a progressive public health and welfare program with emphasis on child welfare and child abandonment; research studies on constitutional revision; improvement of the workingmen's compensation laws, conservation of vital water resources; veteran's assistance through a state program supplementing the federal benefits; provide an administrative office for state courts tighten up tax administration with emphasis on closing existing loopholes.¹⁹

One committee, the Committee on Labor, Commerce and Industry, made no specific recommendations to the Council. The Committee, due to circumstances beyond its control for the purpose of deciding upon its recommendations and so concluded that the proper course was to submit its proposals directly to the legislature without recommendations. These proposals which the Committee decided to present directly to the Twenty-second Legislature, circumventing the Legislative Council, were made to the Committee by the State Commissioner of Labor, the Oklahoma Bankers Association and the Oklahoma Liquefied Petroleum Gas Association.

19. Ibid., pp. 11-12.

Because of the numerous recommendations made by the Committees and subsequently the Council and the wide publicity which they received it would be impractical and unnecessary to attempt a summary of the accomplishments and recommendations of these committees; however, due to the outstanding nature of their recommendations, three of the committees of the first session of the Council deserve mention and commendation.

It was the recommendation of the Committee on Education and subsequently the Legislative Council that all statutes affecting the common schools be revised and incorporated into a single school code, eliminating conflicting and repetitious matter and embodying progressive ideas on school organization and administration, reorganization and finance. It further suggested the abolition of the office of County Superintendent of Public Instruction as an elective office and providing for filling this position by appointment by a committee known as a County Education Committee which would be composed of five members elected by and from the Boards of Educations of the schools of the County; compulsory attendance for students until reaching the age of eighteen or completing high school. The reorganization aspect of this recommendation provided for annexation of districts in accordance with the transportation areas of high school districts. The full program of reorganization of this committee on Education of the Council was not accepted but a limited program was undertaken and completed. A comprehensive school program for Oklahoma's schools did result and has been ranked among the best.

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The other committees commanding special mention were those of Public Safety and Constitutional Survey. It was the recommendation of the Committee on Public Safety that a Uniform Traffic Code be enacted, the Highway Patrol be expanded, a

20. Ibid., pp. 37-39.

birthday plan of renewing driver's licenses and mechanical inspection of vehicles.²¹ As to the purpose of passing the Uniform Traffic Code, its passage was to give the public maximum legislative protection against highway hazards. The Committee believed that uniformity in Oklahoma's traffic statutes would:

"(1) directly result in fewer traffic injuries and deaths, reduce property damage, and thus save a substantial economic loss to the people of Oklahoma; (2) reduce the need for arrests and foster good will toward law enforcement agencies. Many good drivers are now stopped for unintentional violations due to conflicting laws; (3) eliminate highway barriers. This will facilitate the transportation of agricultural and industrial products both within the state and interstate commerce; (4) aid Oklahoma motorists traveling in other states, especially in those states which have adopted the uniform traffic code; (5) remove any reason for extension of Federal control over highway traffic."²²

One of the most outstanding things regarding the work of this committee is that three of its four recommendations have been accomplished. The Uniform Traffic Code has been enacted into Oklahoma's Traffic Code,²³ the driver's license is now purchased in the month containing the birthday of the driver,²⁴ and the highway patrol has been expanded. Each of their recommendations except the compulsory mechanical inspection of motor vehicles is included in Oklahoma's traffic code, which according to the National Safety Council report in 1952,²⁵ ranks fourth in the Nation.

The third and perhaps the most notable of the Committees of the first Oklahoma Legislative Council was that of the Constitutional Survey Committee. This Committee is the only committee of the Legislative Council as a direct re-

21. Ibid., p. 75.

22. Ibid., p. 76.

23. Oklahoma Statutes, 1951, Title 47, Sections 121.00-121.10.

24. Ibid., Section 298.

25. Durant Daily Democrat, January 13, 1952.

26

sult of an act of the legislature. The Committee came into being pursuant to a Senate Resolution adopted in 1947 providing that the Legislative Council be requested to make a study and analysis of the Constitution with the view of making recommendations to the Governor and the Twenty-second Legislature as to the need of revising, altering and amending the Constitution or completely re-writing the document. It was further suggested that the Council study the probable costs of calling and holding a Constitutional Convention should such a convention be found necessary.

In carrying out the above assignment, every member of the Legislative Council was appointed a member of the Constitutional Survey Committee. The Council also considered it advisable to seek the counsel and advice of a large and representative group of prominent state citizens and requested the Governor to appoint one citizen from each county to serve as a member of a Citizen's Advisory Committee to sit with the Constitutional Survey Committee in its study. In addition, forty more citizens of the state were selected by the committee at large to participate in the study.

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Consequently those engaged in this survey of the Constitution consisted of 117 citizens and the complete membership of the Legislative Council, at this time consisting of 27 members.

Five meetings of this committee were held. A very wide field of constitutional law and social problems were covered. For purposes of study it was found necessary that subcommittees be appointed. Seven sub-committees were appointed to deal with the long ballot; ex-officio boards in state government; state institutions and institutional control; state financial organization and management;

26. Oklahoma Legislature, Twenty-second Session, 1947, Senate Resolution 17.

27. State Legislative Council, op. cit., p. 34.

legislative apportionment; the state judiciary; and local government.²⁸

Assisting the Committee in research was the Department of Government of the University of Oklahoma. Helping this department was Dr. H. V. Thornton, the Director of the University's Bureau of Government Research; Dr. E. Foster Dowell, of the Political Science Department of Oklahoma Agricultural and Mechanical College; Dr. John Paul Duncan, Political Science Department of the University of Oklahoma and Dr. W. V. Holloway, Professor of Political Science at the University of Tulsa. Dr. Charles F. Spencer, President of East Central State College also assisted in this research and headed the sub-committee on Local Government.²⁹

The research staff and the sub-committees made eighteen separate reports. So valuable were these reports considered, a motion was made by former Governor Henry S. Johnston, a member of Oklahoma's original Constitutional Convention in 1906-1907, and adopted requesting that these reports be consolidated and published in a single volume.³⁰ This request was realized in 1950 when the book was published.³¹

To complete its duties, the committee, in its final meeting recommended that the Twenty-second Legislature submit to the people the question of calling Constitutional Convention.³² Although the question of calling a new constitutional convention was defeated by the people the work of the committee still

28. Ibid., pp. 35-36.

29. Oklahoma Constitutional Survey and Citizen's Advisory Committees of the Oklahoma State Legislative Council, Oklahoma Constitutional Studies, (Guthrie: Co-operative Publishing Company, 1950), p. xii.

30. State Legislative Council, First Biennial Report, op. cit., p. 5.

31. Cited in Note 26 above, p. 63.

32. State Legislative Council, First Biennial Report, p. 36.

remains as a guide and valuable research document for future legislation.

Upon concluding its period of study, the Legislative Council prepared its first biennial report and on December 4, 1948, transmitted it to the legislature as required by law. Their letter of transmittal restated the purpose of the Council. They defended their actions by stating "The recommendations contained herein do not represent a 'cut and dried' program in any sense of the word; with many of them individual legislators—even council members—will not fully agree."³³ They continue:

"The legislative business of state government has become much too complex to be successfully handled during the four or five months out of every twenty-four. New legislative methods have been needed for a number of years, to match this growth in governmental problems. It may be that Oklahoma has found at least one answer to this problem, in the devise of interim study by legislators themselves, through the legislative council."³⁴

In conclusion they stated:

"With the submission of this report, the Council brings to a close one of the most interesting experiments in the history of our young and promising state. With this experience behind us, we may confidently predict that by diligent interim study and with the necessary technical assistance, the Oklahoma Legislature is fully capable of its tasks, and that nothing can stop Oklahoma from achieving its true destiny in this great commonwealth of states."³⁵

With this optimistic statement they presented the fruits of their labors to a group which stood ready not only to destroy what had been accomplished but to destroy the Council as well.

3. THE LEGISLATIVE COUNCIL AND THE TWENTY-THIRD LEGISLATURE

On the eighth day of the Twenty-third Legislature, January 17, 1949, a

33. Ibid., Letter of transmittal, p. 4.

34. Ibid.

35. Ibid.

bill was introduced by Senator Orville Grim, Cheyenne, District 2, Roger Mills, Ellis and Dewey Counties, to provide for the seating of all members of the legislature on the Legislative Council.³⁶ The bill was referred to the Rules and Committees Committee where it was reported "Do Pass."³⁷ When presented on third reading an attempt was made by Senator M. O. Counts, McAlester, District 25, Pittsburg County, and Senator Dwight Leonard, Beaver, Cimarron, Harper and Texas Counties, to amend the measure to place a limit on appointments to the Executive Committee to two years and make a member ineligible to succeed himself.³⁸ On the question of final passage the bill carried, thirty-eight to one with five excused or absent. Following this action the bill was transmitted to the House.³⁹ It passed in transit a similar bill being sent to the Senate from the House.⁴⁰ This House approved bill was introduced on April 22, 1949, and bore the endorsement of some thirty-three members of the House. This bill, as introduced, carried primarily the same text as did the Senate Bill. By speedy action the House passed the bill and had it ordered sent to the Senate before the Senate approved measure reached the House. Upon receipt of the bill the House advanced it direct to the calendar. In the Committee of the Whole the bill was considered and reported "Do Pass." The bill was passed by a vote of ninety-eight voting "Aye" and only two opposing votes with fifteen either absent or excused.⁴¹

36. Oklahoma Legislature, Twenty-second Session, 1949, Journal of the Senate, p. 107. Senate Bill 68, Twenty-second Oklahoma Legislature, 1949.

37. Ibid., p. 696.

38. Ibid.

39. Ibid.

40. Ibid., Journal of the House of Representatives.

41. Ibid.

On May 16, this bill, following second reading was referred to the Committee on Revenue and Taxation where it was reported out of the Committee without recommendation eight days later. This was the end of the House Bill intended to change the basis structure of the Legislative Council.⁴²

Listed among the co-authors of the Senate Bill, which became law, was every member of the Legislative Council who had been re-elected, with the exception of Everett S. Collins, Sapulpa, representing Creek and Payne Counties, and he voted in favor of the enlargement.⁴³ Among the co-authors of the House Bill were also found all of the former Council members who were returned to that body with the exception of three: D. L. Jones, Okemah, Okfuskee County; James M. Bullard, Duncan, Stephens County; and R. Rhys Evans, Ardmore, Carter County, and each of these voted for the change.⁴⁴

Opposition to the measure was very light as the voting would indicate. Every one seemed to want a seat on the Legislative Council.^{44A} Some violent repercussions were felt after the news of the passage of the enlarged Council bill reached the press. In an editorial one state paper expressed its views as:

"Abolition of the Oklahoma Legislative Council is a strong possibility. It started under the impetus of a good idea but it has proven to be abortive, farcial and futile. The differences between a council and a mob war speedily ignored is the general desire to hobnob at the capitol every four months. The body is overgrown and thus it becomes inutile.

"Chairman Logan made his disgust very plain in a formal statement He said the 'full council' sessions are unwieldy and ineffectual like a mass meeting. The original plan was to have a carefully selected group round up the legislative situation at intervals . At

42. Ibid.

43. Ibid., Journal of the Senate.

44. Ibid. Journal of the House of Representatives.

44A. For an account of the enlarged Oklahoma Legislative Council see the article of Director Don L. Bowen "They All Get Into the Show", National Municipal Review, XXXIX (October 1950) p. 450.

first there was a general study council but it drifted, pretty fast from its moorings. The body was set up by statute or resolution and they it was set up to suit the notions of a majority of the members of the legislature—more than 150. Thus the council was doomed to the pulling and hauling of a regular session.

The main idea at the outset was 'interim study', a plan which seems to have worked successfully in other states. Such a study group is necessarily small. Forcing every member of the legislature into the proceedings, regardless of qualifications was a certain way to kill the system. The degeneration was unto an endless series of wrangles, horse play and probably some 'good times' down-town."⁴⁵

4. THE OKLAHOMA LEGISLATIVE COUNCIL IN 1949^{45A}

The first regular meeting of the enlarged Council was held on July 15, 1949. At this organizational meeting twelve standing committees were appointed. These were: Agriculture; Appropriations and Budget; Conservation; Education; Judiciary; Labor, Commerce and Industry; Legislative Methods and Procedure; Public Health and Welfare; Revenue and Taxation; Roads and Highways; State and Local Government; and Veterans and Military Affairs.⁴⁶

Immediately following this first meeting, Senator Henry W. Worthington, a member of the opposition of the Council from its beginning in the legislature, in a letter to Senator Bill Logan, Council Chairman, announced his resignation from the Council and predicted this would become the "most unpopular thing ever created in this state." Worthington continued, "I predict that the Council will fall apart unless it is reorganized into the old interim group to make studies and present the facts to the legislature."⁴⁷ This letter was released shortly after the first meeting of the enlarged council which was severely criticized in

45. Holdenville News, August 24, 1949. Reprint from the Tulsa World.

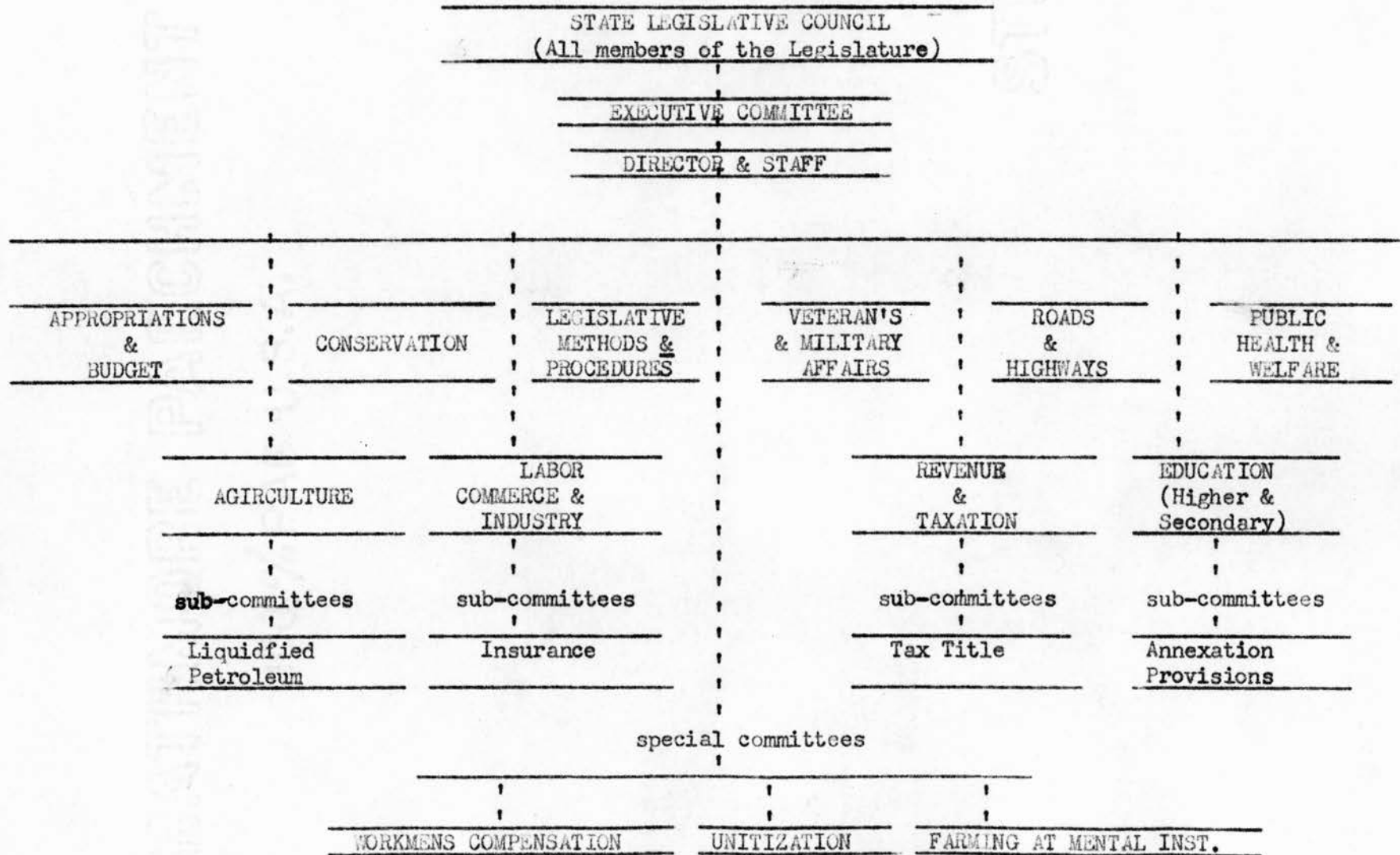
45A. The Third Biennial Report, 1951-1952 of the Oklahoma Legislative Council (December 6, 1952), had not been released when this thesis was written.

46. State Legislative Council, Second Biennial Report, Ibid., p. 8.

47. An AP Release as printed in the Miami News Record, July 20, 1949.

TABLE VIII

ORGANIZATION OF THE OKLAHOMA STATE LEGISLATIVE COUNCIL 1949-1950^{47A}



47A. Oklahoma Legislative Council, Second Biennial Report, 1949-1950, p. 102.

the press as was the reorganization bill when it passed the legislature.

Fear that the Legislative Council might degenerate into an unwieldy and ineffective debating society was expressed privately in the State House and made public in the press of the next day. Senator Bill Logan, referring to the first meeting of the enlarged Council was quoted as strongly believing that the Council had been dealt a death blow.

Viewing the results of that meeting most leaders agree that the decision to call the full Council to the organizational meeting was a mistake. When the proposal to let the entire Oklahoma Legislature set on the Council was made, the intention was that the Executive Committee become the policy directing group of the Council. The other members of the Council would sit on individual committees. There was no requirement of law that a full dress Council meeting be called to establish the rules of procedure by which the Council would be governed. This was believed to be the duty of the Executive Committee.⁴⁸

However, when the Councilmen showed up at the meeting, the Chairman, Bill Logan, found it impossible to restrict the voting to the twenty-seven members of the Executive Committee without causing a full-scale rebellion.⁴⁹ The full council immediately assumed control of the organizational meeting and proceeded to vote for at least one Council meeting every four montys, to deny the Executive Committee the right to pigeon-hole proposals or appoint special committees and give the Council--rather than the Executive Committee--the right to change the

48. Senate Bill No. 68 which became Title 74, Section 456, 1949 Session Laws, p. 629, provided that "An Executive Committee of the State Legislative Council be formed with the authority to act for and on the behalf of the Council with respect to all duties enjoined upon the Council by law". The Executive Committee is required to name the standing committees and appoint special committees as the need arises. All Committee appointments made by the Chairman and Vice Chairman are subject to its confirmation. A copy of this bill is included in the Appendix.

49. The Daily Oklahoma, July 16, 1949.

rules of procedure.

In defense of the first meeting and this change in Rules, Representative Edwin Langley, Muskogee, representing Muskogee County, and author of the controversial resolution which placed control of the Council in the full Council, stated:

"Recent statements attributed by the press to 'legislative leaders' to the effect that the legislative council is now unwieldy and unworkable and apt to fall apart are wholly unwarranted. All of us receive \$100 a month during the interim between sessions and there is nothing with letting us earn it."⁵¹

He continued that he could see no reason wherein 159 persons could not do better work than 27. As to the quarterly full council meetings, he said: It was adopted because most of the members want to get together periodically to discuss developments, find out what is being done by other committees, maintain contact with others and in general be as well informed as possible." As to the curtailment of the powers of the Executive Committee he replied, "I cannot imagine what the committee might want to do that it cannot."⁵²

The move behind this change of Council membership is rather apparent. Although such a motive was never expressed publicly, jealousy on the part of the non-council members of the Legislature were responsible for this action. Senator Raymond Gary, Madill, representing Marshall and Love Counties, when asked to comment on the situation stated:

"The Legislature enacted into law some of the measures the council recommended but there was a lot of criticism from members of the legislature and for a while it looked like they would muster enough strength to abolish the Council. It was brought about

50. Minutes of the Legislative Council, 1949-1950, July 15, 1949.

51. The Daily Oklahoman, July 23, 1949.

52. Ibid.

of course by jealousy on the part of non-members."⁵³

Other comments hold somewhat to the same opinion. Representative Walter Billingsly, Wewoka, Seminole County, Speaker of the House of Representatives at the time of the enlargement of the Council and its Vice Chairman during its first biennium following the enlargement, declared that the enlargement destroyed the Council and that jealousy on the part of non-members was responsible for the enlargement.⁵⁴ Senator Roy E. Grantham, successor to the Grant and Kay County seat in the Senate held by Senator Duffy, the author of the original Legislative Council act, was now a member of the Legislative Council under the enlarged plan. Senator Grantham stated that jealousy of non-council members caused the unpopularity of the Council during its earlier stages of operation and was responsible for the enlargement of the membership of the Council.⁵⁵

That jealousy on the part of non-members was responsible for the enlargement of the Council cannot be denied in the face of these statements. To further substantiate this claim of the presence of jealousy let us consider a reason as to why non-members would be jealous of members having Council connections. It was a rather common act for the Council member to use his membership as campaign material. One example of this is A. R. Larason, State Representative from Fargo, Woodward County. In a series of newspaper articles published by a newspaper in his district, Mr. Larason stated:

53. Letter from Senator Raymond Gary to the writer, July 18, 1951. Mr. Gary is State Senator from Madill, representing Marshall and Love Counties in the Twenty-first and Twenty-second Legislatures, 1947-1949.

54. Statement by Walter Billingsly, Former Representative from Wewoka, Seminole County, 1949, to the writer, personal interview, March 12, 1952, Durant, Oklahoma.

55. Statement by Roy Grantham, State Senator, Grant and Kay Counties in the Twenty-second Legislature, 1949, to the writer, interview, July 9, 1951, Ponca City.

"Several definite problems that the next legislature will face have been mentioned in previous articles. If you have read these articles you can readily see that I have claimed to be the best man in the race for representative."⁵⁶

He then listed his duties and assignments of the previous session and then continues:

"I was a charter member of the Legislative Council which consist of interim committees that serve as a fact finding and advisory groups between sessions of the legislature, without additional pay, relative to possible legislation to be presented to the ensuing legislature. I an now a member of the executive board of this council, as well as a member of numerous committees."⁵⁶

Although Mr. Larason was not the type of legislator to use his Council membership as campaign material, his actions serve as an example as to what was going on to arouse the jealousy of non-council members of the legislature.

Although it had been reorganized the fundamental principles of the Council remained the same, namely to function as a regular standing committee of the legislature during the interim between sessions. The bill which enlarged the membership of the Council created an Executive Committee of fifteen Representatives and ten Senators, appointed by the Speaker of the House and President Pro Tempore of the Senate respectively. Appointments were made before the close of each regular session, with approval by a majority vote of the respective houses just as was the original members of the Legislative Council. The Chairman and Vice Chairman of the Council are ex-officio Chairman and Vice Chairman of the Executive Committee.⁵⁷ It was intended that the Executive Committee name the standing and special committees but the Legislative Council removed by resolution this function from the duties of the Executive Committee. Follow-

56. Gage Oklahoma Record, October 19, 1950.

57. Senate Bill No. 68, Twenty-second Oklahoma Legislature, op. cit.

ing this action their principal function was to co-ordinate the work of all standing and special committees and to act for and on behalf of the Council in carrying out its statutory duties.

Thirty-nine meetings were held by the standing and special committees. The special committees holding fourteen of these.⁵⁸ This represents an average of more than three meetings per committee, approximately one every ten days throughout the interim following the adjournment of the Twenty-second Legislature. In addition there were two sessions of the full Council which were held and three meetings of the Executive Committee to determine matters of policy and co-ordination of committee studies.⁵⁹ A majority of the committee meetings were held in Oklahoma City at the Capitol Building, although a few committees did find it advisable to meet at various places both within and without the state.⁶⁰ Out-of-state meetings included a meeting of the Agriculture Committee in Memphis, Tennessee, in order to study farming at mental institutions using for observation the Shelby County institution for the care of mental patients.⁶¹ The Committee on Unitization made trips into Arkansas, Louisiana and Texas.⁶² Numerous state trips were made to Norman, Oklahoma, by the Appropriations Committee to study building needs at the University of Oklahoma and the Central State Hospital.⁶³ This Committee later made another trip to Norman to study

58. State Legislative Council, Second Biennial Report, op. cit., p. 9.

59. Ibid.

60. Ibid.

61. The Daily Oklahoman, March 9, 1950.

62. Duncan Banner, June 2, 1950.

63. Norman Transcript, October 28, 1949.

University housing.⁶⁴ The Education Committee also made numerous trips over the state including one to Tahlequah to inspect the Northeastern State College and the Negro institutions located there.⁶⁵

The final report of the Council contained some 160 recommendations to the Twenty-third Legislature, although some were repeat measures on which no action was taken by the Twenty-second Legislature. Included in this group of repeat recommendations were those calling for improved legislative procedures; increased emphasis on the legislative needs of local units of government and a reasonable assistance program to veterans supplementing Federal benefits.⁶⁶

Three special committees were appointed to supplement the work of the fourteen standing committees. These were a Unitization Committee to study unitization and unitized operations in oil producing areas; farming operations and Revolving Funds at State Institutions under the control of the Mental Health Board; and Workman's Compensation. These latter two reported directly to the Twenty-third Legislature.⁶⁷

The major recommendations which highlighted the study period were concerned with the enactment of a Model State Civil Defense Code; a comprehensive legislative program for Oklahoma Agriculture; amendments to oil and gas unitization laws; a revised state purchasing policy; increased fire protection against forest fires; conservation of vital water resources; a veteran's assistance program; attention to the legislative needs of local government units; and other matters touching on the administration and the organization of minor state

64. Ibid., December 8, 1949.

65. Tahlequah Citizen, October 27, 1949.

66. State Legislative Council, Second Biennial Report, op. cit., p. 11.

67. Ibid., p. 8.

agencies.

5. THE RESEARCH STAFF OF THE OKLAHOMA LEGISLATIVE COUNCIL

The Research Department is possibly the nerve center of a Legislative Council. It is a permanent legislative office, working under the supervision of the Council and the Executive Committee. Its services are available to all members of the legislature at any time. Council research studies and factual data from many states are available for committees and individual members of the legislature. The principal function of the Research Department is to serve the committees, the legislature and the individual members in an impartial and objective fact-finding capacity. Its success will be determined on how well it serves and its existence will depend upon the confidence with which the legislature accepts its work.⁶⁹ Without full confidence of the legislators the reports of the Council's research would be made useless for practical purposes.

It has been observed by Senator Raymond Gary, Madill, Marshall and Love Counties that the average legislator does not take enough advantage of the research reports but he feels that now more members are calling upon the Research Department of the Legislative Council for information. After they learn that they can call upon this department for reliable information, they will gradually use it more and more, concludes Senator Gary.⁷⁰

The Department of Research of the Oklahoma Legislative Council was first organized by Mr. L. D. Melton. Mr. Melton was well qualified by experience for this new position. Public research had been his occupation for quite a number

68. Ibid., pp. 11-12.

69. Ibid., p. 10.

70. Letter from Senator Gary, op. cit., p.70

of years. In 1935 he organized the Research Division of the State Tax Commission and served as its director during the Marland and Kerr administrations. During the period between 1942 and 1945 he served as a member of the research staff of the United State Treasury Department. Upon returning to Oklahoma in 1945 he was appointed Secretary to a joint legislative commission that drafted a series of tax adjustments aimed toward aiding the industrial development of the state; immediately before coming to Oklahoma City to head the newly organized Department of Research of the State Legislative Council, he was research manager of the Tulsa Chamber of Commerce. Mr. Melton was assisted by Jack A. Rhodes who assumed the duties of Research Director upon the organization of the Council in 1947. Prior to accepting this position Mr. Rhodes was associated with the Department of Government of the University of Oklahoma. He served as Research Director until August 1, 1950, with the exception on one year spent at Sidney Sussex, Cambridge, England which he spent in study as a Fullbright Scholar. During this period of absence from the Council, the post was filled by Mr. Don Bowen, of the Government Department of the University of Oklahoma, who served as Research Director until the resignation of Mr. Melton in December 1948. At this time Mr. Bowen became Acting Director which position he retained until the return of Mr. Rhodes from England. Chosen to assist Mr. Bowen as research associate was Mr. Jack W. Strain from the Government Department of the University of Oklahoma. Upon returning from England, Mr. Rhodes assumed the duties of Council Director, replacing Mr. Bowen. Mr. Strain remained with the Council. Heading the office force of the Council from its beginning was Mrs. Louise Stockton.

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71. This information on the personnel of the Council Staff was taken from the personal files of Mr. Jack Rhodes, Director of the Legislative Council, interview, July 12, 1951, Oklahoma City, Oklahoma.

6. THE LEGISLATIVE AUDIT COMMITTEE OF THE LEGISLATIVE COUNCIL 1951

The only committee of the Oklahoma Legislative Council to have a statutory origin and status is the Legislative Audit Committee which was added to the Council in April of 1951 by the Twenty-third Legislature. The Committee was created within the State Legislative Council and provision was made that it should consist of not less than five members, the exact number to be determined by the Executive Committee, who were to be appointed in the same manner as members of the other Committees of the Council. Members of this Committee received the same mileage allowance as did the other Committees of the Council.⁷²

It was the duty of the Committee to compile fiscal information for the Senate and House of Representatives and to make a continuous audit and analysis of the state budget, revenue and expenditures during and between the sessions of the legislature. They were further charged with the duty of ascertaining facts and making recommendations to the legislature concerning its post audit findings, and the revenue and expenditures of the state with the view of reducing the costs of state government and securing greater efficiency.⁷³

The Executive Committee of the Council was authorized to appoint an officer to be known as the Legislative Auditor who shall act as secretary of the Audit Committee, assist it in its duties, and compile the information for it. During the interim between sessions, the Legislative Auditor shall conduct a continuous selective post-audit of expenditures by state departments, agencies, boards, commissions, authorities and sub-divisions. During the sessions of the legislature the Auditor shall analyze and compile information for the House of Repre-

72. House Bill No. 414, Twenty-third Legislature, 1951. Session Laws, 1951, Title 74, Chapter 16, pp. 258-259.

73. Ibid.

sentatives and the senate and perform such other duties as the Legislature may deem necessary.

The House members appointed to serve during the 1951-1952 interim were: Paul Harkey, Idabel, McCurtain County; J. W. Huff, Ada, Ponotoc County; Edwin Langley, Muskogee, Muskogee County; Clint E. Livingston, Marietta, Love County; Floyd Sumrall, Beaver, Beaver County; Virgil Young, Norman, Cleveland County; and Senate members on this Committee were: Joe Bailey Cobb, Tishomingo, Johnston and Murray Counties; Raymond Gary, Madill, Marshall and Love Counties; Roy Grantham, Ponca City, Grant and Kay Counties; Leroy McClendon, Idabel, McCurtain and Pushmataha Counties. Paul S. Cooke was appointed Legislative Auditor and Mrs. Vera Agent is secretary to Mr. Cooke.⁷⁴ Although this Committee and its Auditor have been operative for several months its works are not in general circulation and are not presently available for presentation in this thesis.

74. Oklahoma Statutes, 1951, xodi.

CHAPTER V
EVALUATIONS AND CONCLUSIONS REGARDING THE
OKLAHOMA LEGISLATIVE COUNCIL

The Oklahoma State Legislative Council has, in its few short years of existence, encountered and overcome, many obstacles threatening its very being. Three times was the idea presented to the legislature before the opposition was finally overcome and the Legislative Council given a belated trial in Oklahoma. Just how effective this trial has been cannot be determined at this early date. As a matter of fact the basic structure has not remained constant enough to permit an analysis of what it can do toward improving Oklahoma's legislative processes. It was the purpose of the Legislative Council to improve legislation through a period of interim study during which the Council would provide the machinery for an effective legislative partnership with the executive branch in formulation of policy and in the study of and research in matters of state interest. The Council's ability to convene between sessions provides continuing leadership, the absence of which would deprive the legislature, as contrasted with the Executive, of a full opportunity for public service. The Council should also provide a means—through research reports, hearings, accounts of meetings, etc.—by which the legislature can obtain a basis of fact upon which to base its deliberations. This objective is furthered when there is available a competent, adequately-supported and adequately-staffed legislative reference service to serve the legislators in general.¹ It is then the duty of the Council to bring these matters before the legislature, and present them with its recommendations to the legislature for their consideration.

1. The Book of the States, 1950-1951, op. cit., p. 125.

The Oklahoma Council, due to structural changes, cannot operate as intended by the National Municipal League's Model. In fairness to the Oklahoma Legislative Council I must say that while the Oklahoma Council and the Council as proposed by the Model State Constitution² differ in structure the Oklahoma Council was not established to complement the National Municipal League plan but to fill what was felt to be a definite need of the Oklahoma Legislature. Although I have made repeated comparisons of the Oklahoma Council with the Council proposed by the Model State Constitution and the Councils active in other states, it was not my intention to infer that the Oklahoma Council was of no value or benefit to the State. After my period of study I cannot truthfully make such a statement. I find that the Legislative Council has been of great value if nothing but the improved feeling now existing between the people and the legislature which was brought about by the Council's going to the people to determine what they wanted and needed in the way of legislation, was considered. Many new statutes are now our laws because of the Legislative Council. Legislatively speaking, our state has come a long way in the past several years and a large measure of this credit must go to our Legislative Council. It truly has done a great work. After this praise I must also state that I believe much of the effectiveness of the Legislative Council was removed when the entire legislature was admitted to the Council. Legislative jealousy by those in the legislature did remove from the scene the small interim group form of Council as it was originally organized and understood. In its place was substituted a Council with the same membership and the same size as the State Legislature, and because of this enlargement the sessions of the Legislative Council could not escape some of the evils which generally accompany a regular session of the legislature.

2. Model State Constitution, op. cit., pp. 10-12 above.

Where formerly a select committee of four or five met to investigate and discuss problems in a quiet manner, now because of the large membership of the Council and each member scrambling to get the best in the form of committee assignments, it became necessary to increase the size of these committees to a membership of from twenty-five to thirty or more members. This is, of course, no fault of the Legislative Council but results from the fact that but few of the members whom we elect to our state legislature subordinate personal interests and ambitions and strive instead to become statesmen who earnestly seek to improve their state rather than themselves.

The effect of a Legislative Council on a program of legislation and its effect on legislative progress cannot be proved. The Council's research staff is working on a survey of its accomplishments in regard to recommendations which have become law, but at this time³ it is not available. It is, however, the unanimous comment of those questioned by the writer that the Council has improved the quality of legislation. Some statements indicative of this agreement conclude that:

"The Legislative Council has improved quality definitely. As to quantity, members still introduce their pet measures and other bills requested by their constituents."⁴

Of course the introduction of bills requested by one's constituents is a part of the duty of a member of the legislature. If he is to represent his district, it is up to him to present its problems to the legislature. However, there is some distinction between what would be in the interest of his district, the Senate and the private interests of the constituent.

Another legislator commented:

3. July 1, 1952.

4. Statement by Roy Grantham, op. cit., p. 70.

"Quality has advanced; I cannot say about quantity, although that is unimportant if quality legislation is passed."⁵

A veteran legislator and Council member added:

"I would say that quality of legislation has improved but the quantity has not been reduced."⁶

The Council in evaluating its work states that the value of its studies does not lie merely in the information and recommendations as presented to the legislature in its reports. This involves a three-fold measure of value of the Legislative Council.

In the first place its value is measured by focusing public attention on state problems throughout the entire period when the legislature is not in session.⁷ It is a commonly agreed fact that sessions of the legislature create uncertainty, particularly among those who have interests in, or who manage business concerns, or those who own property of considerable extent. They contend that one session in two years is enough.⁸ Since the Legislative Council, as organized in Oklahoma, does not have the power to legislate or to issue ordinances, the Oklahoma Legislature enjoys somewhat of a continuous preparatory session without arousing fears which a regular session would cause. Many of the citizens of the state, formerly having no interest in legislative affairs of the state, except during election periods, are now informed, through reading the press accounts of the activities of the Legislative Council, as to what to expect in the next session of the legislature and are looking forward to the

5. Letter to the writer from James E. Douglas, July 16, 1951. Mr. Douglas represented Bryan County in the Twenty-first, Twenty-second and Twenty-third Oklahoma Legislatures.

6. Letter from Raymond Gary, op. cit., p. 70.

7. State Legislative Council, First Biennial Report, op. cit., p. 10.

8. Ibid., Oklahoma Constitutional Studies, op. cit., p. 57.

time when these measures will be presented to the legislature. Many of these folk to whom I have talked do not realize that there is a "State Legislative Council" by that name, but they do know that someone is studying and discussing with them problems which they the people have presented to these men of the Legislative Council. The Council in its first biennial report stated:

"It is highly significant that at least ninety per cent of all proposals submitted to the Council for legislative study have come, not from members of the legislature, but from the people themselves—expressed both in their individual capacities and through the many organizations and associations by means of which people in all walks of life make their needs and desires known nowadays."

"The scope of subjects handled by the fifteen standing committees of the Council have therefore not been restricted just to items which committee members or individual legislators have had a personal interest but on the contrary comprehend numerous matters of state-wide public interest."⁹

In the second place the value of the Legislative Council may be measured by information and different points of view gained by the individual legislator at the meetings he has attended. Here the legislator receives a course of instruction on public questions, and on the problems of the various segments of Oklahoma's economy. Here again a unanimous affirmative answer was received when members of the legislature were queried as to whether or not the Legislative Council, through its meetings or research department had been of any help in aiding the legislator to more adequately represent his district.

A final value of the Council lies in forming the habit and establishing the practice of setting down with groups of citizens to discuss proposed legislation affecting the entire state. The Legislative Council has provided an open legislative forum to be used in the interim between formal sessions.

9. Ibid., First Biennial Report, op. cit., p. 8.

10. Ibid., p. 10.

11. Ibid.

Individuals and organizations now have the opportunity while the legislature is not in session to point out inequalities in the present laws and to suggest solutions directly to committees of the legislature. It is among the major purposes of a Legislative Council to provide such a forum where the people and their representatives can discuss state problems and utilize the best thoughts in particular fields in advance of the session. This is profitable to all who participate and produces a better legislative product and better government.

In the course of the long history of state government various forms and devices have been advanced to improve the efficiency of the legislative branch and its responsiveness to the popular will have been advanced, often with claims for their merits, which in the light of subsequent experience, seem over-enthusiastic. However, these reforms, with the exception of Nebraska's unicameral legislature, have had no direct bearing on the principles of legislative organization. They have taken the form of legislative aids—reference bureaus and libraries, revisors of statutes, bill drafting agencies—or they have effected some procedural change such as the split session. Notwithstanding their merits, these reforms have not greatly enhanced the responsiveness of the legislature to the popular will nor improved the leadership of the legislature in the field
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of policy determination.

Although the Legislative Council has been in operation in the United States since 1933 and has proven itself of some value in the states using it, its future in Oklahoma is still rather uncertain. Its basic structure has been changed so that it is now hard to recognize when compared to the small interim study group as found in a majority of the states having Legislative Councils. Jealousy on the part of non-members of the Council in the legislature almost destroyed it.

12. Ibid., Oklahoma Constitutional Studies, p. 56.

In the words of Senator Raymond Gary, a member of the first Legislative Council meeting in Oklahoma in 1947, as previously quoted:

"...there was a lot of criticism from members of the legislature and for a while it looked like they would muster enough strength to abolish the Council. It was brought about, of course, by jealousy of non-members."¹³

As to the present organization of the Council, Senator Gary added: "At this time I do not have any recommendations to make regarding changes in the present organization,"¹⁴ indicating that he might be considering the possibility of a few changes being in order. Another comment on the future of the Council came from a former member of the House and former Speaker, Walter Billingsly, who served on the Council during its first biennium as a member and in the second biennium as Vice Chairman of the Council and its Executive Committee. He declares that the enlargement of its membership destroyed the Council. He believes that as presently organized it is too unwieldy and ineffective. "The small Council," said Mr. Billingsly, "could consider and screen out what it considered undesirable or untimely proposals."¹⁵ With the enlargement of the Council screening became impossible because of the feeling of enmity between some council members. It seems that each member of the legislature is sent there with a special mandate from the people of his district to secure the passage of some local measure and when he fails to gain for it Council consideration he turns against the Council and opposes its recommendations when presented in the legislature.¹⁶ It seems that some of them cannot understand that the Council should apply its consideration to state-wide prob-

13. Letter from Raymond Gary, op. cit., p. 70.

14. Ibid.

15. Statement by Walter Billingsly, op. cit.

16. Statement by Roy Grantham, op. cit.

lems, which, if properly studied, will not allow time for considering purely local measures.

Although Former Senator Duffy never served on the Council or in the legislature during a session in which the Council operated, he feels that the enlargement bill "emasculated" the type of Legislative Council which it was his intention to create. He believes that for all practical purposes the Council is dead, and, the act creating it should be repealed. He prefers abolishing
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the Council than allowing its continued existence as now organized.

The success of the Legislative Council suggests that it constitutes a device by which some of the fundamental weaknesses of the legislature may be overcome. Since the Oklahoma Council included the entire membership of both houses of the legislature it is possible that the differences between the House and the Senate may become less extreme. Therefore it seems reasonable to conclude that the Legislative Council will materially reduce the use of the Conference Committee of the regular session with its accompanying evil, the secrecy of its meetings. This outcome may be reasonably anticipated because the interim studies of the Council should bring about a degree of common understanding in the two houses concerning the character of the legislation to be introduced. Furthermore, there probably will be a tendency on the part of the legislature to refer any controversial measures to the Council for future study rather than to submit to the hasty decisions of the Conference Committee.
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One of the important advantages of the Legislative Council which would be greatly missed were the Oklahoma Council abolished, is its provision for research and investigation. The Research Department has been termed one of the

17. Letter and Statement by Charles Duffy, op. cit.

18. State Legislative Council, Oklahoma Constitutional Studies, op. cit., p. 54.

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"strongest points of the Legislative Council." It is also Senator Gary's belief that the average legislator does not take enough advantage of the research reports, but he has noted that in recent years more members of the Council are calling upon the Research Department of the Council for information. He feels that after they learn that they can call upon this department for reliable information they will use it more. Dr. H. V. Thornton, of the University of Oklahoma's Bureau of Government Research believes, that, while not always sufficient, factual information in this complex age is perhaps the "Legislator's best defense against prejudice and the extreme demands of partisan or selfish interests".²⁰ He concluded that it might be difficult to overstate the value of the Council once it has been permanently established as a part of the legislative machine.

Of almost equal significance perhaps is the fact that the Legislative Council provides a means whereby the legislature can develop its own leadership. However, the value of this aid is materially reduced without responsible and purposeful direction. Unless the legislature is equipped to direct its own leadership and activities, the alternative is forms of external leadership, particularly by the Chief Executive.

Dr. E. Foster Dowell of the Political Science Department of the Oklahoma Agricultural and Mechanical College believes from his observation that:

"The Oklahoma Legislative Council has definitely established its position in the State Government and its value to members of the legislature, public officials, and the general public. Its continued existence and increased prestige may be anticipated if the following conditions prevail: (1) No unexpected 'political storms' develop around the Council; (2) it continues to be staffed by qualified personnel; (3) it closely adheres to its proper research and

19. Letter from Senator Raymond Gary, op. cit.

20. State Legislative Council, Oklahoma Constitutional Studies, op. cit., p. 55.

legislative planning functions and does not become diverted into performing petty services for legislators; (4) It does not embark upon special projects too extensive for its resources, such as, for example, the administrative reorganization of the State Government now being undertaken by the interim Governor's Joint Committee on the Reorganization of the State Government and; (5) The majority of the members of the Legislature remain content to allow a minority to do the real work of the Legislative Council and do not insist upon attending all its meetings or being active on all its committees."²¹

Dr. Dowell does not believe that the functions of the Oklahoma Legislative Council conflict with the political and legislative leadership of the Governor. He feels that this leadership of the Chief Executive will continue to exist, with or without a Legislative Council, and that the Council device, if properly used, is an aid to the Governor in planning and securing the enactment of the legislative program of the administration. ✓

From previous experience in Oklahoma it has been found that little notice of the Council is taken by the Governor. It was during the first session of the legislature of the Turner Administration, the Twenty-second Legislature that Governor Roy J. Turner first showed an interest in the Council and brought about the appointment of the necessary members of the Council from the Senate and the House of Representatives which activated the Council.

In his message to the Twenty-third Legislature, Governor Turner said of the Council:

"A great deal of the fact finding work has been done by our legislative council and by the special committees authorized by the legislature. Research reports on many phases of state government have been compiled and are available for the information and use of every member of the legislature.

This work should prove to be of great assistance to you in your deliberations. Members of our legislature who served on the Council and on the special committees as well as to a very large number of private citizens who gave their time to this work, are to be most highly commended."

21. Letter from Dr. E. Foster Dowell, Department of Political Science, Oklahoma Agricultural and Mechanical College, to the writer, May 17, 1952.

Johnston Murray, Governor at the time of this writing, has taken perhaps the most realistic view of the Legislative Council than has any of our other Governors. He has declared himself to be a firm believer in the existence of such a body, realizing that the subject of the Legislative Council and its prerogatives and functions are primarily legislative and a question for the exclusive determination of the legislature. Governor Murray also believed that the Council had justified its existence if nothing else were considered than the fact that it furnished a constant source of information and education to the members of the legislative branch of our government. The Governor was critical of the failure of the Council to complete its report in time for him to study it prior to the convening of the Legislature. On this Governor Murray said:

"It is the desire of both the Legislative and Executive Branches of our Government that they may be able to work together in a spirit of harmony and full cooperation. This is as it should be. But, in order to do this, there should be a time lapse between the completion of the work of the Legislative Council and the convening of the Legislature in order to give the Governor of the State a reasonable opportunity to examine the conclusions of the Council before preparing his own message to the Session."²²

This would, according to Governor Murray, afford the Governor an opportunity to concur with the Council in its recommendations, in most cases, and to give the Legislature a frank discussion of the reasons why he did not concur, if such should be the case. At the time the above statement was made, Governor Murray had not been able to get a final report of the Legislative Council during the 1951-53 biennium. He had been advised that such a report would not be available for some time. Another consideration calling for an earlier release of the report, thought Governor Murray, would be that the public would generally have an opportunity to examine the report and give individual legislators the benefit of

22. Message and Report by Johnston Murray, Governor of Oklahoma, to the Twenty-fourth Oklahoma Legislature, January 6, 1953, p. 19.

public reaction. Regarding this, Governor Murray said:

"You must remember that all matters presented to you are presented by the persons interested in the action. Some of these matters might meet with public disapproval if they became publicly known and I think paramount importance should be attached to the right of the public to see, study, understand, approve or criticize at its pleasure, the acts and doings of the Council. Beyond doubt it would be in the best interest of all parties, including the public, if this sort of a program could be put into effect."²³

The true values and worth of a Legislative Council in Oklahoma may not be measured until years to come, but it is my opinion that it has been of remarkable service to the people of Oklahoma. Many benefits have been gained by our state through its few short years of operating a Legislative Council. Unless some unforeseen foe appears, it will probably have many years of continued and productive service to the legislators, the State and its people.

23. Ibid.

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APPENDIX A

SENATE BILL NO. 122, By DUFFY, ET. AL.
Sixteenth Oklahoma Legislature, 1937

AN ACT RELATING TO THE CREATION OF A LEGISLATIVE COUNCIL
AND PRESCRIBING ITS POWERS AND DUTIES, MAKING AN
APPROPRIATION THEREFOR: AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA

Section 1. There is hereby created a State Legislative Council, which shall consist of ten Senators and fifteen Representatives, to be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, before the close of the Regular Session of the Sixteenth Legislature and during and before the close of each Regular Session thereafter. Such appointments shall be approved by a majority vote of the respective Houses. The President Pro Tempore of the Senate shall be ex-officio member and chairman, and the Speaker of the House shall be ex-officio member and vice chairman. The President Pro Tempore of the Senate and the Speaker of the House shall prepare their lists of appointees so that the whole membership of the council shall include representation from each of the Congressional Districts.

Section 2. It shall be the duty of the Council to collect information concerning the government and general welfare of the State, examine the effects of previously enacted statutes and recommend amendments thereto, deal with important issues of public policy and questions of state-wide interest, and to prepare a legislative program in the form of bills or otherwise, as in its opinion the welfare of the State may require, to be presented at the next session of the legislature.

Section 3. It shall be the duty of the Council: (1) to investigate and study the possibilities for consolidations in the state government, for elimi-

nation of all unnecessary activities and all duplication in office personnel and equipment, and the co-ordination of departmental activities, and of methods of increasing efficiency and of effecting economies. (2) To investigate and study the possibilities of reforming the system of local government with a view to simplifying the organization of government. (3) To co-operate with the Administration in devising means of enforcing the law and improving the effectiveness of administrative methods.

Section 4. In the discharge of any duty herein imposed the Council shall have the authority to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of disobedience on the part of any person to comply with any subpoena issued in behalf of the Council, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county, or the judge thereof, on application of a member of the Council, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court or a refusal to testify therein. Each witness who appears before the Legislative Council by its order, other than a state officer or employee, who shall receive only their mileage, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses, duly audited by the Secretary and approved by the Chairman or Vice-chairman of the Council.

Section 5. Each officer, board, commission or department of state government, or any local government, shall make such studies and publish such reports

for the Council as it may require and as can be made within the limits of its appropriation.

Section 6. The Council shall meet as often as may be necessary to perform its duties; Provided, that in any event it shall meet at least once in each quarter. Fifteen members shall constitute a quorum, and a majority thereof shall have authority to act in any matter falling within the jurisdiction of the Council.

Section 7. The Governor shall have the right to send a message to that session of the Council convening next after the adjournment of the Regular Session of the legislature, and may from time to time send additional messages containing his recommendations and explaining the policy of the Administration.

Section 8. The Secretary of the Senate shall act as secretary of said Council and said Council may require the services of the state library as a legislative reference library and require the services and assistance of any state department in legislative research. The Council may delegate any of its members or chairman or vice-chairman, to do research work within or without the state and may employ such assistants and engage the services of such research agencies as it may deem advisable, and its appropriation permits, in the preparation of a program of legislation or in regard to any matters of statewide public importance within the jurisdiction of the legislative branch.

Section 9. The Council shall keep complete minutes of the meetings and shall make periodic reports to all members of the legislature, and keep said members fully informed of all matters which may come before the Council, the actions taken thereon, and the progress made in relation thereto. Any member of the legislature shall have the right to attend any of the sessions of the Council, and may present his views on any subject which the Council may at any particular time be considering.

Section 10. The recommendations of the Council shall be completed and made public at least thirty days prior to any session of the legislature at which such recommendations are to be submitted; and a copy of said recommendations shall be mailed to the post office address of each member of the legislature, to each elective state officer, and to the state library.

Section 11. Members of the Council and the Chairman and Vice-chairman shall be compensated for the time expended in attending the sessions of the Council and in research duly authorized by the Council at the rate of Six (\$6.00) Dollars per day. The compensation of the members, the Chairman or Vice Chairman and employees of the Council, and all necessary expenses of the Council shall be paid out of the funds herein appropriated. Such claims shall be audited by the Secretary and approved by the Chairman or Vice-Chairman of the Council.

Section 12. The Senate Chamber of the Capitol of the State of Oklahoma is hereby designated as the meeting place of said State Legislative Council.

Section 13. For the purpose of paying the per diem, and the expenses of said State Legislative Council as herein provided, there is hereby appropriated out of the General Revenue Fund of this State, not otherwise appropriated, the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars for the fiscal year beginning July 1, 1939.

Section 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full power from and after its passage and approval.

APPENDIX B

SENATE BILL NO. 20, by DUFFY, ET. AL.
Seventeenth Oklahoma Legislature, 1939

AN ACT RELATING TO THE CREATION OF A LEGISLATIVE COUNCIL
AND PRESCRIBING ITS POWERS AND DUTIES: MAKING AN
APPROPRIATION THEREFOR: AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

This bill consists of fourteen sections and is an exact
duplicate of Senate Bill No. 122, by Duffy, et. al.
Sixteenth Oklahoma Legislature, 1937, presented
on pp. 88-91.

APPENDIX C

SENATE BILL NO. 83, by COMMITTEE ON REVENUE AND TAXATION
Twenty-First Oklahoma Legislature, 1947

AN ACT RELATING TO THE STATE LEGISLATIVE COUNCIL; AMENDING 74 O.S. 1941.() () 461 and 462; PROVIDING THAT OFFICE SPACE SHALL BE SET ASIDE ON THE FOURTH FLOOR OF THE STATE CAPITOL FOR THE ADMINISTRATIVE OFFICERS AND EMPLOYEES OF THE COUNCIL; CREATING AN EXECUTIVE COMMITTEE OF THE COUNCIL, AND DESIGNATING ITS DUTIES; MAKING AN APPROPRIATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Section 1. 74 O.S. 1941 () 461, be and the same is hereby amended to read as follows:

"() 461. Members of the Council and the Chairman and Vice-Chairman shall be compensated for the time expended in attending the sessions of the Council and in research duly authorized by the Council at the rate of Six (\$6.00) Dollars per day. The compensation of the members, the chairman, vice chairman and employees of the Council, and all necessary expenses of the Council, shall be paid out of funds appropriated therefor. Such claims shall be audited by the Secretary and approved by the Chairman and the Vice-Chairman of the Council. The Chairman and the Vice-Chairman and Secretary shall constitute an Executive Committee of the Council with authority to incur necessary expenses of the Council between meetings thereof, to employ technical assistants, and to perform other such duties as the Council may direct."

Section 2. 74 O.S. 1941 () 462, be and the same is hereby amended to read as follows:

"() 462. The Senate Chamber of the Capitol of the State of Oklahoma is hereby designated as the meeting place of said State Legislative Council. The Secretary of the Council shall select and set aside on the fourth floor of the Capitol adequate space for the administrative officers and employees of the

Council."

Section 3. There is hereby appropriated out of the "Emergency Appropriation Fund" for the fiscal year ending June 30, 1947, the sum of Thirty-five hundred (\$3,500.00) Dollars for the purpose of paying the compensation of the members of the State Legislative Council, Chairman, Vice-Chairman and employees, and all necessary expenses of the Council. There is also hereby appropriated out of the General Revenue Fund of the State of Oklahoma the sum of Twenty-five Thousand (\$25,000) Dollars for each of the fiscal years ending June 30, 1948, and June 30, 1949, for the purpose of paying the compensation of the members of the State Legislative Council, the Chairman, Vice-chairman and employees of the Council and all necessary expenses of the Council. Said appropriations shall be non-fiscal, and after the same become effective may be expended at any time within two and one-half (2 1/2) years after the passage of this act.

Section 4. If any section or part of any section of this act is declared to be unconstitutional the remainder of the Act shall not be invalidated thereby.

Section 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in force from and after its passage and approval.

APPENDIX D

SENATE BILL NO. 68 by GRIM, LOWERY, LOGAN, NANCE, ET. AL.
Twenty-Second Oklahoma Legislature, 1949

AN ACT RELATING TO THE STATE LEGISLATIVE COUNCIL, AMENDING
74 O.S. 1941, SECTIONS 451 AND 456 AND 74 O.S. 1941
SECTION 461, PROVIDING THAT THE STATE LEGISLATIVE
COUNCIL SHALL CONSIST OF ALL MEMBERS OF THE LEGIS-
LATURE, AND FOR THE REIMBURSEMENT OF TRAVEL EXPENSES
INCURRED IN THE PERFORMANCE OF THEIR DUTIES; CREATING
AN EXECUTIVE COMMITTEE OF THE COUNCIL AND PRESCRIBING
ITS DUTIES; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Section 1. 74 O.S. 1941, Section 451, is hereby amended to read as
follows:

"Section 451. There is hereby created a State Legislative Council which shall consist of all members of the Legislature *** the President Pro Tempore of the Senate shall be ex-officio *** Chairman and the Speaker of the House shall be ex-officio *** Vice Chairman of the Council and of the Executive Committee. Beginning with the interim following regular Twenty-second Session of the Oklahoma State Legislature, and thereafter shall alternate in these capacities after each regular session."

Section 2. 74 O.S. 1941, Section 456, is hereby amended to read as
follows:

"Section 456. An Executive Committee of the State Legislative Council is hereby created, to be composed of ten (10) Senators and fifteen (15) Representatives, to be appointed by the President Pro Tempore of the Senate and the Speaker of the House, respectively, before the close of each regular session of the Legislature. Appointments shall be made to said Executive Committee in such manner as to give each congressional district representation therein, and shall be approved by a majority vote of the respective houses. The Executive Committee shall meet as often as may be ^{ne}cessary to perform its duties; Provided that

in any event it shall meet at least once in each quarter. Fifteen (15) members shall constitute a quorum, and a majority thereof shall have authority to act in any matter falling within the jurisdiction of said Executive Committee. Said Executive Committee, shall within sixty (60) days following adjournment of each regular session, name the respective standing committees of the Council and the Chairman and Vice Chairman thereof, and may from time to time appoint special committees as the needs arise. Each member of the Council shall be entitled to membership on two standing committees of his choice, provided that members of the Council may be appointed to additional committees by the Chairman and Vice-Chairman of the Council, subject to the confirmation by the Executive Committee. Reports of standing and special committees shall be prepared in writing and transmitted by the research department to all members of the Legislature, to the Governor and the heads of state departments and agencies. The Executive Committee shall have authority to act for and on behalf of the Council with respect to all duties enjoined upon the Council by law."

Section 3. 74 O.S. 1941, Section 461, as amended by 74 O.S. Supp. 1947, Section 461, is hereby amended to read as follows:

"Section 461. Members of the State Legislative Council shall receive no compensation for their services other than that due them as members of the legislature, but shall be reimbursed for expenses incurred in authorized travel in the performance of their duties as members of the Council from funds appropriated therefor, as provided by law for other state employees. The compensation of *** employees of the Council, and all necessary expenses of the Council, shall be paid out of funds appropriated for such purposes. Such claims shall be audited by the Secretary and approved by the Chairman or Vice Chairman of the Council. The Chairman and Vice Chairman, *** of the Council shall *** have authority to incur necessary expenses of the Council between meetings, *** subject to the

approval of the Executive Committee, to employ technical assistants and to perform such other duties as the Executive Committee may direct."

Section 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

APPENDIX E

HOUSE BILL NO. 531 by RUSSELL, BILLINGSLEY, SMAILEY, ET. AL.
 Twenty-second Oklahoma Legislature, 1949

AN ACT RELATING TO THE STATE LEGISLATIVE COUNCIL, AMENDING
 74 O.S. 1941, SECTIONS 451 and 456, AND 74 O.S. 1941,
 SECTION 461, AS AMENDED BY 74 O.S. SUPP. 1947, SECTION
 461, PROVIDING THAT THE STATE LEGISLATIVE COUNCIL SHALL
 CONSIST OF ALL MEMBERS OF THE LEGISLATURE, AND FOR RE-
 IMBURSEMENT OF ALL MEMBERS OF THE LEGISLATURE, AND FOR
 TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
 DUTIES; CREATING AN EXECUTIVE COMMITTEE OF THE COUNCIL
 AND PRESCRIBING ITS DUTIES; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

(This bill consists of four sections and is an exact duplicate of
 Senate Bill No. 68 by Grim, et. al., Twenty-second Oklahoma Legislature,
 1949, as is presented on the preceeding page with the following
 exception:)

Section 2. 74. O.S. 1941, Section 456, is hereby amended to read as

follows:

"Section 456. An Executive Committee of the State Legislative Council is
 hereby created to be composed of eight (8) Senators and sixteen (16) Repre-
 sentatives, to be appointed by the President Pro Tempore of the Senate and the
 Speaker of the House, respectively, before the close of each regular session of
 the Legislature....."

APPENDIX F

HOUSE BILL NO. 34, by EASON, ET. AL.
Fifteenth Oklahoma Legislature, 1935

This bill, the original Legislative Council Bill introduced in Oklahoma is not available. In content it is very similar to the Duffy measure with the exception that it more broadly defines the duties of the Legislative Council.

VITA

James Andrew Houston
candidate for the degree of
Master of Arts

Thesis: THE ORIGIN OF THE OKLAHOMA LEGISLATIVE COUNCIL AND ITS
DEVELOPMENT TO 1951.

Major: Political Science

Minor: Economics

Biographical and other Data:

Born: September 28, 1928 at Bokchito, Oklahoma

Undergraduate Study: Southeastern State College, 1946-1950

Graduate Study: Oklahoma Agricultural and Mechanical College, 1950-1951

Experiences: Employed by the Oklahoma Employment Security Commission, 1952.

Date of Final Examination: May, 1953

THESIS TITLE: THE ORIGIN OF THE OKLAHOMA LEGISLATIVE COUNCIL AND
ITS DEVELOPMENT TO 1951

AUTHOR: James A. Houston

THESIS ADVISER: Dr. E. Foster Dowell

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TYPIST: Jo Ann Powell