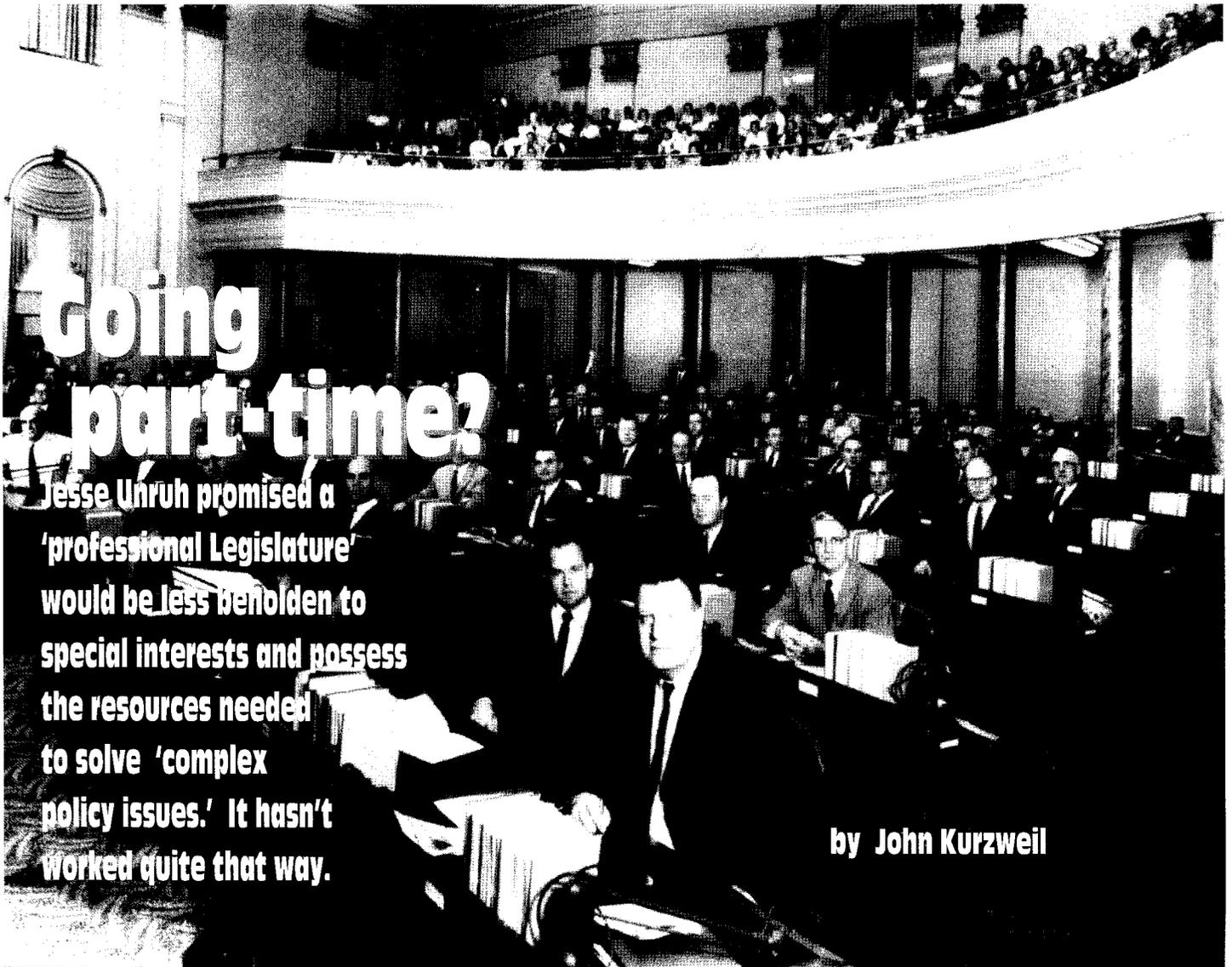


Dysfunctional institution



Going part-time?

Jesse Unruh promised a 'professional Legislature' would be less beholden to special interests and possess the resources needed to solve 'complex policy issues.' It hasn't worked quite that way.

by John Kurzweil

The California Assembly, 1963-64 session. Seated, immediate foreground, is Speaker Jesse Unruh, nicknamed 'Big Daddy.'

Californians continue to show themselves far more conservative than liberal politicians, pressure groups, and the media would have us believe. In our supposedly "left-wing" state, nearly three-fourths of respondents (72 percent) last September told pollsters from the Public Policy Institute of California (PPIC) that "the state is heading in the wrong direction." In case anyone is unsure about that direction, it is sharply left. As Hector Barajas of the California Republican

Party put it two years ago: "... for the past 12 [now 14] years, Democrats have controlled both houses of the state Legislature. They have been in complete control of setting the legislative agenda and appointing the membership of every legislative committee, including those that deal with health care; transportation; education; aging; public safety; *and* budget, taxes, and revenue. We have arrived at today's budget crisis under decades of legislative control by the

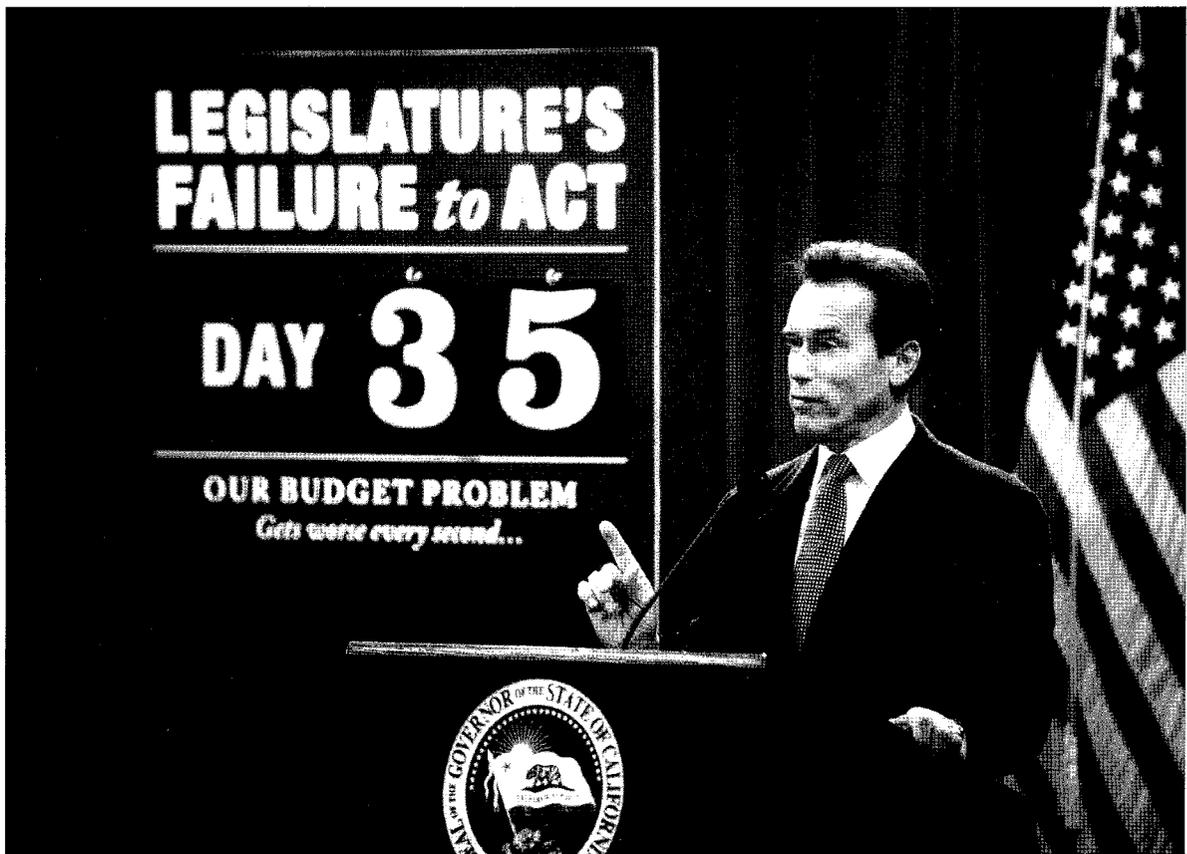
John Kurzweil is California Political Review's editor.

Democrats in Sacramento *[emphasis added]*.” Barajas said state government spending increased 44 percent during the then just-past four years.

Now, it need hardly be pointed out that spending skyrockets *every* year, Democrat pressure groups — left-fringe ideologues (“environmentalists,” for instance, more anti-people than pro-environment, starving Central Valley farmers for water), trial lawyers growing fat on unconscionable legal awards given not according to any actual culpability for injury on the part of the payers but simply based on who or what has money to take and, above all, the spending lobbies (primarily Big Labor) that pretty much run the state Capitol. (Public employee unions at budget hearings openly threaten to “take back” the seats of Democrat lawmakers who fail to support their spending demands, an upside-down “process” run at the expense, but not for the benefit, of the ordinary people the whole system is *supposed* to serve.) Unsurprisingly (unless you think California is a “liberal” state), “... most (80 percent) Californians said the state budget process is in need of major changes,” ac-

ording to PPIC, “a steady increase since March 2008 (65 percent March 2008, 65 percent May 2008, 76 percent September 2008, 78 percent May 2009). *This view is held across political parties, demographic groups, and regions [emphasis added].*”

These circumstances have the people in the mood for radical surgery: 69 percent favored either “major” (33 percent) or “minor” (36 percent) changes to the state constitution, with only 24 percent saying the constitution is fine as it is. And, as we all know, “the negative views about the direction of the state are reflected in views about state leaders.” Approval ratings: the governor, 30 percent (his disapproval rating hit a new high of 61 percent), and the Legislature, 21 percent. And even though voters typically give their *own* legislators high marks, only 34 percent of Californians signaled approval of their local reps, a number, again according to PPIC, that “remains near its lowest level (32 percent March 2009).”



Consensus about solutions to the crisis does not exist, a point the punditry seizes upon the “prove” the people are liberal, but that conclusion is based on faulty logic. The people want to reverse the state’s (and the nation’s) current left-wing direction, but don’t yet know the best

Consensus about solutions to the crisis does not exist, a point that supposedly “proves” the people are liberal, but that conclusion relies on faulty logic. The people want to reverse the state’s (and the nation’s) left-wing direction, but don’t yet know the best way to do it.

way to do it. Rallying popular support for *specific* reforms requires leaders, a commodity in short supply among Republicans — defining “leaders” as individuals and groups capable of understanding and explaining our available choices, choosing wisely among them, and, most importantly, sufficiently committed to the peoples’ cause to withstand the furious pressure the establishment (which always favors the *status quo*) exerts against anyone who tries to stand firmly against it.

The people are justifiably suspicious, not to say cynical, about “Republican” leaders who promise real change when seeking office and who forget all about it once they’re elected. The most embarrassingly glaring example of this sort of duplicity is our very own current governor who won office pledging to “blow up the boxes” and now behaves as one every bit as enslaved to the Sacramento Power Structure as the lowliest Democrat beholden for his legislative seat to coerced union dues and union-generated propaganda in his district.



PART-TIME LEGISLATURE

Retired state Senator H.L. Richardson once told me that if he could enact any single policy reform to fix the state’s overall dysfunctionality, it would not, as I thought he might say, directly involve the key issues he has championed over the years (defense of the Second Amendment, for example, or the rule of law in court). He said his single solution would be to return to a part-time Legislature.

Since statehood, California has experimented with both the frequency and length of sessions for which the Legislature would meet. Lawmakers were on a part-time basis in 1966 when California voters amended the state Constitution to provide for a full-time Legislature without limitation on the how long a session could run. Regular readers are certainly familiar with former state Senator Ray Haynes’ often-repeated critique of the state budget process and of the way Sacramento operates in general: the incentives of people in office and in staff positions in state government all reward them when they act to aggrandize their power, not when they serve the people. That means they do well when they pass laws that interfere with people’s lives. That gives them leverage over those people. Every sort of ordinary Californian finds that he must go to Sacramento (or send representatives from the dreaded “lobbyist” community) to try to regain as much of their freedom as possible — freedom that is diminished or threatened by the bills the office holder threatens to engineer through the Legislature and onto the governor’s desk. As Governor Schwarzenegger said recently



Even Democrat Treasurer Bill Lockyer called most Democrat bills 'garbage.'

in Hawaii, endorsing the idea of a part-time Legislature, lawmakers spend "so much time in Sacramento without anything to do, then out of that comes strange bills." Strange bills indeed: "We have the Legislature interested in such things as legislating the size of children's backpacks [and] the amount of water dishwashers can use," said Ralph Rossum, director of the Rose Institute of State and Local Government, at a 2004 conference. "One of the finest pieces of legislation proposed," he continued, "would adopt *Feng Sui* in state building codes. John Burton ... said the worst bill he could remember came when it was still a part-time Legislature ... [he] nicely left out ... that when it comes to stupid legislation he carried a bill that would have made it a crime to be poor."

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Because we have a full-time Legislature, lawmakers actually hurt their own interests when they help relieve people of the burden of big government. To the extent they succeed, they remove themselves from the center of the equation: they no longer play a determining role in those peoples' lives and can safely be ignored, and that is often just what part-time legislators want. They have real lives and businesses they're eager to get back to. But no full-time politician can long survive in such circumstances. His power, his career, his future

all depend upon ever-increasing numbers of people looking to him for "solutions" to every last problem they face. These lawmakers' *strongest* incentive, therefore, is never actually to solve any problems whatever (although they must give every appearance of "struggling" to overcome them) while continually inventing new ones crying out for solutions that only he can provide as the peoples' indispensable champion. Coupal noticed that even prominent Democrats "have

weighed in on the dysfunctional and corrupt nature of the California Legislature. Commenting on the negative regulatory environment in our state, Attorney General Jerry Brown said the state has adopted 30,000 laws since he was governor. "We're overloaded by too many rules," he said in a speech. And even Treasurer Bill Lockyer, a former state senator, told a meeting of Democratic lawmakers several weeks ago that most of their legislation was 'garbage.' So the burning question is: If all the legislators left the Capitol and closed the door behind them, how long would it take anyone to miss them?"

POLITICAL DYNAMICS

While making his comments in Hawaii, Schwarzenegger suggested a part-time Legislature might be less inclined to waste time on "strange" bills. Former Governor Pete Wilson echoed him in a speech, saying that, although the Legislature probably cannot be induced to go part-time on its own, "I think the public is ready. When you have a part-time Legislature, they are by necessity required to concentrate on the most important issues. I think we would see many fewer bills. We would see far less spending."

Wilson's point that fewer bills would mean less spending is dead on, but the causes of these useless bills run much deeper than that lawmakers have too much time on their hands. Given loads of time, the Legislature can't get its work done, the budget being chronically late for instance, because, as we've seen, the electeds have no incentive to get it done. Instead, they find

time for the weird legislative regulating and taxing that serves their power. Former Assembly Republican Leader Pat Nolan was closer to the truth when he suggested — only half jokingly — we amend the Constitution to prohibit anyone from serving in the Legislature if it's the best job he ever had. There's something to that idea — *and* it has something to it of the idea behind a part-time Legislature. It is also an almost universally popular idea, among voters at least. Every politician wants to be *known* as merely a "citizen" who happens to be in politics — never (God forbid!) as a professional pol. Most of them are as fully professional as it is possible for pols to be, but, also for most of them, voter perceptions are the only realities that matter (that's one reason our politics so often resembles a leap with Alice down the rabbit hole) and they know of few crowd pleasers that can compete with the label "citizen politician" — applied to themselves.

But the important point in all this, with regard to putting the Legislature on a part-time basis is that it represents the peoples' most promising mechanism actually to minimize the incentives that go with politics *as a profession*. It gives them their best shot to replace these political careerists with genuine citizen pols. If lawmakers' personal interests are served not by their skill in inventing new ways of harassing people but, rather, by engaging in some business or other productive activity independent of the state political and policy power structure, then those lawmakers are far less likely to forget about the interests of the voters that elected them. Ronald Reagan, shortly after he became California governor, asked a cadre of successful men and women — entrepreneurs, professionals, experts in a variety of endeavors — to come to Sacramento to be assigned some sector of state government fitting their expertise, and then hunt through those sectors, looking for dysfunctional operations, overall inefficiencies, and, generally, anything that wasted taxpayers' money. They were to do whatever it took to root out the problems, putting government on as much a business basis as possible. The whole idea was heretical and caused vehement protest among Democrats for

whom government is more employment agency (for them and their friends) than any sort of servant of the people. Of course, Reagan resolutely ignored Democrat howling, much to ordinary Californians' delight, and, in later years, he told of a man who appeared at his gubernatorial office one day, dropped the keys of his agency on Reagan's desk, announced that, having eliminated the waste at his assigned government operation, along with anything not serving a legitimate public function (as defined in the laws that created it), *nothing remained!* He'd terminated operations, locked the doors, and left to go home, stopping only to leave the keys with the governor. "To this day," Reagan said, "I don't know what government operation he'd closed, and nobody seemed to miss it once it was gone." I can't imagine a better illustration of a real "citizen politician" approach — or one more diametrically opposed to the prevailing Sacramento sub-culture — than that exhibited by this man, who may finally have answered Jon Coupal's question. The answer is: never.

Now, then ... it *is* true, as full-time Legislature proponents argue, that potential conflicts of interest arise when a bill directly impacting a "citizen legislator's" *own* livelihood crosses his desk. But such instances will (and should) be few and far between, and an office holder conflicted in this way can recuse himself. If government returns to serving and maximizing the most important of all public interests — human freedom — such instances, as I say, will be relatively rare. If they are not, it simply will mean the state is still meddling too much in the details of our supposedly free, American way of life. And certainly, these strictly limited, strictly personal conflicts fade to near invisibility next to the daily, ubiquitous pressures pushing full-time legislators to prosper by horning in on and disrupting our lives at every opportunity. Besides all this, the dynamics of full-time legislating militate against true citizen lawmakers in another way. As Jon Coupal of the Howard Jarvis Tax-

payers Association pointed out in a recent column, California's 37 million residents certainly include large numbers of potential candidates for public office who, "like those who serve in our armed forces or the Peace Corps, see service as a sacrifice on behalf of the entire community?"

Texas lawmakers don't try to micro-manage every aspect of Texans' lives as California lawmakers do and, not coincidentally but for that very reason, Texas lawmakers succeed — without working full-time.

.... Candidates who have actually demonstrated success in the private sector and are willing to take a pay cut to go to Sacramento to do the right thing on behalf of the voters who sent them there."

Coupal maintains, with ample plausibility, that literally millions of Californians would be "more qualified to hold office than those now representing us, but are *unable or unwilling to make legislating a full-time job.* [*emphasis added*]" The California effort to go part-time is spearheaded by a group called Citizens for California Reform (CCR) (www.reformcal.com), which is preparing to gather signatures to qualify a part-time Legislature ballot initiative that, in addition, would cut lawmakers' pay to match their new, reduced work load. Web surfers can aid the signature drive by downloading petitions at the CCR Internet site and/or by contributing financial resources to their effort. The site also provides a wealth of information on the history, key issues, players, and political dynamics of the controversy. "Since statehood," the group says,

"California has experimented with how frequently and for what periods of time the Legislature should meet in session. Sessions have been one year or two years, limited and unlimited in duration, with and without mandatory intervening recesses, and limited to certain legislative matters during specific types of legislative sessions.

"The biggest change came in 1966 when California voters enacted a sweeping revision of the state Constitution, including a provision providing for a full-time Legislature with no limitation on the duration of a legislative session." Its record, the group contends, proves that "our full-time Legislature has failed the people of California. The result is a Legislature dominated by career politicians beholden to special interests. A part-time Legislature will replace professional politicians with citizen legislators," in the process breaking the special interests' "stranglehold" on California.

THE CURRENT PROPOSAL

Herewith the operative sections of the proposed new law:

Section 3 Constitutional Amendment

Section 3.5 of Article IV of the California Constitution is added to read as follows:

Sec. 3.5(a) The Legislature shall reconvene in regular session on the first Monday in January of each year for a period not to exceed 30 calendar days, whereupon the Legislature shall stand in recess. The Legislature shall reconvene in regular session on the first Monday in May for a period not to exceed 60 calendar days.

(b) Notwithstanding subdivision (a), the Legislature may reconvene for an additional period of 5 days following recess or adjournment to reconsider bills vetoed by the governor pursuant to section 10.

(c) On or before the end of the fiscal year 2012, the California Citizens Compensation Commission shall, pursuant to section 8 of Article III, reduce the annual salary of Members of the Legislature by at least fifty percent of the salary established for the fiscal year in which this section becomes effective. Thereafter, the Commission may increase the annual salary of Mem-

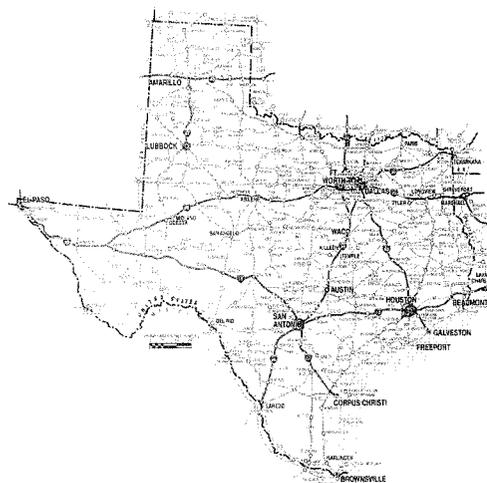
bers of the Legislature to account for any increase in the cost of living, and may reduce such salary at its discretion, pursuant to section 8 of Article III.

And, to provide context, some relevant data: The National Conference of State Legislatures says the average salary of part-time lawmakers is \$15,984, with New Hampshire taking the prize as most economical at a mere \$100 a year. South Dakota pays \$6,000 annually while Rhode Island taxpayers fork out \$11,236 for a year's worth of legislating. "Some states also cover daily expenses," according to published reports, "and some only pay a certain amount for each day in session. *Only California, Michigan, New York, and Pennsylvania have full-time Legislatures*" [emphasis added], with taxpayers also providing their career statesmen with "large personal staffs" and salaries averaging \$68,599 (See: <http://www.stateline.org/live>). Mr. Coupal adds that California has "the highest paid lawmakers in all 50 states at nearly \$100,000 annually along with a car and another \$30,000 a year in tax-free expense money." He contrasts California's circumstances with those of Texas, where the Legislature is part-time, the tax burden is much lower than here (no income tax), and so-called public services are no worse and sometimes better. He adds that Texas "public schoolchildren are one to two years of learning ahead of California students of the same age."

ARE 'PROFESSIONALS' REQUIRED?

But opponents of part-time pour cold water on all this, saying that California, at the time it went "professional" was already proving itself incapable of doing its job in the increasingly complex world of modern public policy. Sherry Bebitch Jeffe, senior scholar in USC's School of Policy, Planning, and Development, gave a "history lesson" along these lines in 2004, writing in the *Los Angeles Times*:

As someone who went to Sacramento in 1966 to help build the staff of California's new, professional Legislature, I have a little history lesson for our novice governor.



Texas, with a part-time Legislature, enjoys a much lower tax burden than here, often with better public services. Students in government schools, for instance, surpass their California counterparts by up to two years.

From its admission to the Union in 1850 until Proposition 1A passed, California's Legislature met part time. By the 1960s, however, it was increasingly in session long after the constitutional deadline for adjournment; special session after special session was called to deal with burgeoning and complex policy issues.

Jesse Unruh, then the Assembly speaker, spearheaded the reform drive. Proposition 1A, Unruh contended, would institutionalize a *de facto* full-time Legislature and give it the authority to meet its responsibilities and the resources necessary to exercise that authority.

By offering legislators a full-time job with a full-time salary, Unruh hoped to steer them away from conflicts of interest inherent in outside employment and to make lawmakers less dependent on lobbyists' largess."

I've already dealt with this last pipe dream, specifically with regard to the sort of conflicts supposedly plaguing lawmakers dependent on "outside employment." It only remains to ask what could be more laughable than the idea that these Sacramento "professionals" are today "less dependent on lobbyists' largess" under the full-time regime.

In any event, Jeffe's analysis appears at best to be the minority report from the "architects" of California's full-time arrangements. Ad-

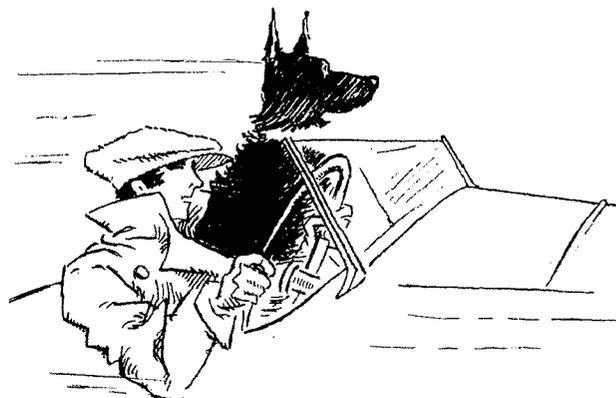
dressing more or less all the issues Jeffe raised, the Rose Institute's Gary Kovall told the 2004 conference quoted above that: "the architects of the reforms of the '60s and '70s, Bob Monagan and others ... regret what has been done. Every one of them that is still alive today looks at it [and] says this has not worked; it did not bring about the intended results, which were a more professional Legislature, more capable of dealing with the big issues, more capable of representing California's interest even in the national political process, in the so-called backwaters of the Congress." As for the "increasing complexity" wheeze, the Institute's Mr. Rosen noted that part-time Legislature Texas (where lawmakers get by on \$7,200 per year from the state)

managed to do some pretty complex energy deregulation that really worked, whereas our professional full-time Legislature managed to make an absolute hash of it. It is interesting, Reliant Energy, indicted just a couple of weeks ago for manipulating energy prices in California at the height of our difficulties four years ago, is a Texas-based corporation. They weren't indicted for manipulating energy costs in Texas because with a truly deregulated system you can't manipulate the market that way. They were accused of doing it in California that had set up this elaborate scheme that just invited unscrupulous individuals to take full advantage of our gullibility.

Rosen's point hits the nail square on: Texas lawmakers don't try to micro-manage every aspect of Texans' lives as California lawmakers do, and, not coincidentally but *for that very reason*, Texas lawmakers succeed — *without* working full-time.

And this brings me to my final point: whatever good might come from going part-time in Sacramento, it will avail the state nothing as long as we continue to elect the same sort of social misfits — ideologically left, estranged from every institution of American freedom — that have run most of what goes on in the state Capitol for so long. The normal, human incentives to serve the public rather than themselves would be in place, but committed lefties will ignore them. They'll plow ahead with their policy agenda, which is nothing if not blind to evidence of its ubiquitous counter-productivity and consistent failure. (I'm speaking here of those few lefties, mostly liberals really, who at least think they sincerely want to serve the state's best interests. Most true leftists, of course, are far too devoted to accumulating personal wealth and power ever to back any move, no matter how beneficial to the people, that might diminish it.)

This means that the people of California will have to take state government more seriously than they have in the past, studying key issues (such as part- versus full-time Legislatures). Californians have largely brought the bane of incompetent, oppressive government on themselves by largely abdicating the job of *self-government*. The grass root will have to become more generally active across the board and those millions of qualified potential candidates Mr. Coupal mentioned will have to step forward and actually fill those part-time seats. Do enough of them in our famously "laid back" state actually "see service as a sacrifice on behalf of the entire community" — one they are willing to make? This could be the most crucial question of all. CPR





**National
Grassroots
Movement:**
*Pro-Second
Amendment
rally in the
rotunda of the
Pennsylvania
state capitol.*

Reversing the assault on the Second Amendment

***With the Supreme Court having ruled that the
'right to keep and bear arms' defines a right of individuals,
the way may be clear to overturn a multitude of
unconstitutional efforts against that right.***

Editor's note:

The United States Supreme Court's landmark 2009 Second Amendment decision in District of Columbia v. Heller held that the Second Amendment's right to keep and bear arms protected an individual, not a collective, right, held by "the people." However, as handed down, Heller applied only to jurisdictions directly under federal control such as the District of Columbia. To insure that the Second Amendment's vitally important guarantee that the right to keep and bear arms protects all Americans, a lawsuit (McDonald v. City of Chicago) has been filed challenging a Chicago city ordinance that would ban possession of a handgun for individual self-defense. The suit argues that Chicago, in this law, having violated the primary holding in Heller, also violates the 14th Amendment's "privileges or immunities" clause. If this challenge succeeds, the protections Heller recognized for D.C. residents will be effectively extended to all U.S. citizens, no matter which jurisdiction within the United States threatens them.

With the Supreme Court now having agreed to hear and rule on these challenges and considering the momentous potential effects the High Court's decision will carry for the nation, California Political Review here publishes a summary of an amicus ("Friend of the Court") brief filed by Gun Owners of California in support of the pro-Second Amendment forces seeking relief in Chicago. If the Court, in this case, strikes down Chicago's unconstitutional gun law, a road will be opened to overturn literally thousands of similarly anti-Second Amendment laws passed in states, cities, and counties across the country, including those in California