

FEDERAL AND STATE AFFAIRS COMMITTEE

February 11, 1969

The meeting was called to order by the Chairman, who introduced Representative Harper of Sedgwick, who stated that H.B. 1073 is a rather fundamental bill. He introduced Mr. Charles House who is Assistant Managing Editor of the Wichita Beacon, who stated that he was speaking primarily for the Delta Sigma Chi professional society. (See memo in exhibit file) He stated that he believes legislative business, city commissions, school boards or any other governmental function is the business of the public and that the press should be permitted to cover the meetings. He said it was the view of his organization that the public should know what the elected representatives are saying, doing and voting.

Professor Elmer Beth of the K.U. Journalism school appeared, stating that he represents no group but that Mr. Harper had asked him to study the bill and make comments. He expressed the opinion that it is about time the State of Kansas make some provision to meet this objective; that this is a relatively mild bill since it does provide certain instances where executive sessions would be sanctioned. He suggested the terminology in line 8 was fuzzy; that he believed it meant "nullify any action" and suggested it should be clarified. Concerning invasion of privacy, he stated that anyone has the right to take action against anyone for invasion of privacy. He stated that there are a lot of disorders and he believes what they are "yelling" about is that they are "sick and tired" of being made to live under rules they had no part in setting.

Mr. Tom Kienne of the Capital-Journal stated that in his long career as a newspaperman, he has always believed the government's business was the peoples' business; he states that even if there are executive sessions there is almost always a leak because a good newspaperman will have his sources, and they may not be as reliable as if they were covered openly.

Rep. Turner, one of the sponsors of the bills, stated that the biggest job anyone has is to preserve the Republic; that as government becomes larger the job is more important and that this kind of legislation makes it possible for the public to control big government.

Mr. McGill inquired if the secret ballot provision would prohibit secret ballots in committee meetings and Mr. Harper explained that it did under section 1, lines 8 and 9; that it is his opinion we are elected to represent a large number of people and if secret ballot is used they have no way of knowing if they are being represented. The Chairman expressed the opinion then that there should be some provision to make everyone vote; that there are always those that will abstain. Mr. Harper stated he believed this could be handled in the bill.

Mr. Keenan suggested it might help if the news media reported those abstaining. Mr. Everett stated that he believed for example in the case of a city commission trying to attract industry, they sometimes need to have executive sessions and commit themselves before announcing it to the public; that the industry itself most often demands secrecy to prevent skyrocketing of prices where they might want to locate.

Mr. Turner stated that he believed there could be informal negotiations; and also, that the commission could take the news media into their confidence and tell them they would handicap negotiations if they printed a story; and that it has been his experience that they are cooperative.

Mr. Unruh stated that sometimes when an individual's vote is reported, the news media will make an implication and that he believed it would be reasonable to ask for an opportunity to explain the vote. Rep. Bower stated that there is some precedence of equal time. Mr. Ungerer stated that if you have ever been on a City Commission where an industry is looking at several locations, it becomes very important to have no publicity or everyone would end up broke.

After further discussion, the meeting was adjourned.

M E M O R A N D U M

exhibit 1073
2-11-69

TO: The Federal and State Affairs Committee Members
Kansas House of Representatives
The Honorable Jess Taylor; Chairman

FROM: The Kansas Professional Chapter
Sigma Delta Chi
Freedom of Information Committee
Ron (Scott) Sickler; Chairman

RE: Sigma Delta Chi support of House Bill 1073

February 11, 1969

BACKGROUND

Our purpose here today is to urge favorable action by this committee on House Bill 1073, the so-called "Open Meeting" bill, sponsored by Representatives Harper, Turner, Bower, King, Buchele and Moline.

Sigma Delta Chi has long recognized the importance of conducting the public's business in public. Our organization's efforts, along with those of able and progressive legislators in many states have succeeded in eliminating the secret ballot and closed meeting in all but nine (9) states. Unfortunately, Kansas is one of the nine.

NEED

Traditionally, legislative and administrative meetings have been open. But far too often, government officials have retreated from the heat of their actions behind closed doors, secure in the prerogative of the secret ballot.

For example, last year the Wichita City Commission sought to restrict the flow of significant background information on public issues. Affected citizens were left with only an "after-the-fact" hearing once public decisions, involving public tax money, were made.

Significant state issues, including Daylight Savings Time, open housing and liquor-by-the-drink have been

decided by the secret ballot. Even bills designed to eliminate the secret ballot have twice been killed by that very process.

Obviously, the safeguards implied by tradition are no longer sufficient to guarantee public access to public information during the decision-making process. That access is the cornerstone of the democratic process. It is the characteristic that most distinguishes our form of government from totalitarian forms.

A secret ballot and closed meeting means simply that a government official refuses to let the electorate know how he votes and the reasoning by which that vote was reached. Admittedly, it is a far easier way to conduct public business; but also far less honest. Elected officials are direct extensions of the people, and the people must know what their officials are doing and why.

EXCEPTIONS

Naturally there are meetings properly not open to whimsical review. House Bill 1073 recognizes these exceptions as provided in the statutes. But apart from these exceptions, there is no place for the closed meeting or the secret ballot, save the closed meeting a voter has with his conscience and the secret ballot he casts on election day.

BROADCAST MEDIA

Through House Bill 1073, for the first time the legislature will establish guidelines for broadcast coverage of public meetings at all levels of Kansas government. Section 5 of the bill reflects the media's collective concern with preserving, rather than disrupting meeting decorum.

SUMMARY

House Bill 1073 is progressive legislation. Its passage will place Kansas along side of 41 other states which now have similar bills on the statute books. But more important, its passage will stimulate more responsive government now very much in the minds of each member of the electorate.

Public officials will act under public scrutiny, subject to the praise or criticism their actions warrant consistent with the very essence of representative government.

Its passage will serve to eliminate the growing public mistrust of government, based on the public ignorance fostered by closed meetings and secret ballots.

We are confident favorable committee action on this bill will result in its approval on the floor of the House. When it is law, public officials will still draw public praise and criticism. But along with that praise and criticism will come public respect for conducting the public's business where it rightly belongs, in full public view.

Respectfully submitted
February 11, 1969

TUESDAY, MARCH 14, 1967

It's Your Business

When the pressure goes on, the door closes on too many legislative committees.

Committee members have retreated from the heat of their own actions several times this session. They have approved or rejected by secret ballot such bills as open housing, liquor by the drink, daylight savings time, to create a Kansas Department of Aeronautics and—of all things—to require meetings of public agencies to be public.

A secret ballot means the legislator refuses to let his electors know how he is casting his committee votes. He is ducking public repercussions. It is easier, for example, to leave the impression with minority groups he voted for fair housing, then persuade opponents he voted against it, but it is far less honest.

An elected state representative is a direct extension of the people. If they do not know what he is doing, in effect they do not know what they are doing. The secret ballot has no place in committee hearing rooms of the statehouse or in any other public action.

Legislators who find it painful to cast their votes in full view of the public that gave them their positions should not be so exposed. Hardier souls should be named to replace them.

The idea of the secret ballot is to protect the private citizen from pressure from those bigger than he is. It was not designed and should not be used to protect a public official from scrutiny of his constituents.

It all began in an election booth. It should be kept there.

Open Meetings Important

Rep. Jerry Harper, R-Wichita, is trying for the third time to get his open meeting bill through the Legislature.

A public hearing before the House State Affairs Committee will be held today in Topeka.

Harper, a weekly newspaper publisher and a lawmaker, knows the problems of secrecy from both sides. His concern is for the people who have a right to know what public officials are doing.

Kansas has a law which makes all written public records open to the public, but the statutes are silent on public meetings.

Opponents of the bill say it isn't needed because most public meetings

are open anyway. Citizens of Wichita know from experience with local government that this is not always so.

Harper's bill requires meetings of all boards, commission and other public bodies spending public funds to be open to all citizens.

It specifically exempts meetings where personnel matters are to be discussed, but provides that all final action must be taken in open session.

This is in keeping with our concept of an open society. Government business is public business and should be conducted in full view of a public served by government officials.

A Legislature that believes public business is the people's business would pass the bill.



"Tut-tut, dear boy! What you don't know won't hurt me!"

3/14/67 2-11-69

(Model Open Meetings Law)

A BILL
TO BE ENTITLED

AN ACT REQUIRING ALL MEETINGS OF THE GOVERNING BODIES OF MUNICIPALITIES, COUNTIES, BOARDS OF PUBLIC INSTRUCTION, BOARDS OF COUNTY COMMISSIONERS, AND OTHER BOARDS, BUREAUS, COMMISSIONS OR ORGANIZATIONS, EXCEPT GRAND JURIES, SUPPORTED IN WHOLE OR IN PART BY PUBLIC FUNDS OR EXPENDING PUBLIC FUNDS TO BE PUBLIC MEETINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF _____.

Section 1. All meetings of the governing bodies of all municipalities located within the State of _____, Boards of County Commissioners of the counties in the State of _____, Boards of Public Instruction of the counties in the State of _____, and all other boards, bureaus, commissions or organizations in the State of _____, excepting grand juries, supported wholly or in part by public funds or expending public funds shall be public meetings.

Section 2. Any person or persons violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding _____ dollars or by imprisonment in the county jail for a period not exceeding _____, or by both such fine and imprisonment.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Section 4. If any provision of this act or its application to any person, board, bureau, commission or organization shall be held unconstitutional, such decision shall not affect the constitutionality of any other portion of the act or its application to any other municipality, board, bureau, commission or organization.

Section 5. This act shall become a law upon its passage and approval by the governor or become a law without such approval.

A BILL TO BE ENTITLED

An act requiring all meetings of the governing bodies of municipalities, counties, boards of public instruction, boards of county commissioners, and other boards, bureaus, commissions or organizations, except grand juries, supported in whole or in part by public funds or expending public funds, to be public meetings; providing for exceptions and the procedure for same; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section 1. All meetings of the governing bodies of all municipalities located within the state of Kansas, boards of county commissioners of the counties in the state of Kansas, boards of public instruction of the counties in the state of Kansas, and all other boards, bureaus, commissions or organizations in the state of Kansas, excepting grand juries, supported wholly or in part by public funds or expending public funds shall be public meetings.

Section 2. Except as otherwise provided in section 3, all meetings defined in section 1 shall be open and public and all persons shall be permitted to attend any meeting defined in section 1.

Section 3. Nothing contained in this section shall be construed to prevent bodies defined in section 1 from holding executive sessions to consider the appointment, employment or dismissal of a public officer employer or to hear complaints or charges brought against such officer or employe by another public officer, person or employe unless such officer or employe requests a public meeting.

Section 4. Any governing body named in section 1 of this act shall go into an executive session only upon a motion duly made, seconded and passed by a majority of the governing body in open session convened. Such motion, second and roll call shall be duly recorded in the minutes of such meeting together with the time of convening and adjourning the open session and the time of commencement and conclusion of the executive portion thereof. Any formal action of any type, including expenditure of funds, adopted or taken at any meeting other than while open to the attendance of the public, shall be void.

Section 5. Any person or persons violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$100 or by imprisonment in the county jail for a period not exceeding 30 days or by both such fine and imprisonment.

Section 6. All laws or parts of laws in conflict herewith are hereby repealed.

Section 7. If any provision of this act or its application to any person, board, bureau, commission or organization shall be held unconstitutional, such decision shall not affect the constitutionality of any other portion of the act or its application to any municipality, board, bureau, commission or organization.

Section 8. This act shall become law upon its being printed in the official state statute book.

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Government Secrecy Swells as State Problem

This is the first article in a three-part series on secrecy in government in Kansas and problems resulting from lack of a state law governing open meetings. The series was written by Leroy Towns of the Topeka Daily Capital.

As a property owner in a residential district, you receive notice your next-door neighbor wants his zoning changed so he can construct a service station or a tavern, or a rooming house.

You dutifully appear at a public hearing of the local zoning commission and lodge your protest. The members listen, thank you, then order you out while they deliberate and vote. You wake up the next morning to find the zoning request was granted. Startled, you have no idea why the action was taken or who voted for it.

Think it can't happen? It has and does once each month when the Topeka-Shawnee County Regional Planning Commission meets for public hearings and private votes.

IMAGINE YOU are an ardent Washburn University football fan, a taxpayer who supports the university and a regular contributor to the WU sports program.

One morning you wake up and find that the WU regents, in a secret meeting without advance warning to anyone, have abolished football from the university's regular sports program.

Think it can't happen? It

happened exactly that way last March in Topeka.

THESE ARE two examples of secrecy in government—the conduct of the public's business by public officials in secret.

They are not isolated cases. Others are documented almost weekly in editorials and newspaper headlines around Kansas. Still more go unreported, either because local news outlets ignore or infrequently report local government news or because editors regularly close their eyes to the closed door in the city hall and county courthouse.

At issue in each of the cases is whether government officials, serving at the pleasure of the community and spending the taxpayers' money, have the right to conduct public business in a closed, executive or secret session.

SOME ELECTED and appointed officials say government cannot operate unless it has the right to do part of its business quietly in private.

Editors and newsmen, whose job it is to transmit information from the government to the people, argue that public business should be conducted in public view.

Kansas law speaks only indirectly and sometimes not at all on the subject of meetings by government officials. Some meetings by law are required to be open to the public, some are not.

Kansas is one of only eight

states without a law requiring all meetings of government officials to be open to the public. The entire matter is a gray area which leaves officials, newsmen and often the public confused.

ALL TOO frequently, the public views the subject of closed or secret meetings as a family battle between the press and government officials.

Nothing could be further from the truth. Only the private citizen is harmed when elected officials go behind closed doors: the citizen whose zoning was changed by a secret vote in a closed-door meeting, the citizen who wakes up to find his taxes increased by officials meeting in private.

The press, however, has a stake too. As the instrument which disseminates information, the press' job is made more difficult when doors are closed in its face.

OBVIOUSLY, every citizen cannot attend every government meeting. Thus, when the press is barred from attending and reporting a meeting of government officials, the private citizen is shut out also.

Secret or private meetings, of course, are not the only source of secrecy in government. By law, Kansas Juvenile Court records, along with several other classes of records, are required to be kept confidential. Guidelines set down by law of officers, attorneys, and judges have made it increasingly difficult to transmit criminal and court news to the public.

But the closed-door meeting, directly and by itself, stands out as a major roadblock in the flow of information from the government to the citizens.

HOW FREQUENTLY do government officials in Kansas conduct public business in secret, closed or executive session?

The question is difficult to answer.

First, there is no record of the number of government meetings from which the press and the public are barred. Also, there is a problem with the definition of "secret meeting" itself.

Most newsmen regularly reporting government news consider a secret, executive or closed meeting any meeting of elected or appointed officials where public business is discussed and from which the press and the public is barred.

MAYOR CHARLES Wright of Topeka, like many other men in government, has a different definition.

"My impression of a secret meeting," he said recently, "is when it's held in commission chambers with the city clerk and all the commissioners in attendance, with a recorded vote taken and with the doors locked and the public barred from attending."

By that definition, he said, there never has been a secret meeting in Topeka's City Hall.

Yet, several days before Wright made that statement, he and three fellow commissioners

met behind closed doors and voted against placing the question of whether Topeka should have city manager government on the November general election ballot.

MOST NEWSMEN agree that local governments — school boards and city and county commissions — are quickest to bar the public and the press from meetings.

State government and the Kansas Legislature, on the other hand, operate almost totally in public view. All legislative committee meetings and regular daily sessions are open to public attendance. Both the House and the Senate, as a courtesy, allow newsmen access to the floor.

Several Kansas editors and publishers telephoned recently indicated they believe closed-door meetings at the local government level constitute a relatively minor but still serious problem.

"BUT I SENSE a trend among local elected government officials to try and keep their actions away from the public," said Henry Jameson, publisher of the Abilene Reflector-Chronicle.

Bill Brown, publisher of the Garden City Telegram, said, "I haven't had much trouble with meetings here being closed. But I keep hearing reports from other places in the state, especially from small communities where the press doesn't cover meetings regularly."

For a view of how widespread the problem of secret government meetings are in Kansas, consider these:

Nearly 10 years ago, although there are no records to prove it, Herington city commissioners and city utility employees met behind closed doors. Apparently, commissioners and employees reached an agreement to let employees turn back their electric meters in lieu of pay controversy when the secret action came to light recently has torn apart this sedate, central Kansas community.

Several years ago in Colby, the local school board refused to admit concerned taxpayers into a meeting where board members were discussing a drastic curriculum change — specifically, abolishing vocational agriculture from the school's program. The taxpaying parents were told to leave or the meeting would be moved.

Rep. Jerry Harper, R-Wichita, has reported that a Wichita area school board regularly holds meetings from which the public and the press are excluded.

The Washington University Board of Regents in Topeka meets once each month in open session. But decisions, even to the point of how votes will be cast, are made beforehand in

executive sessions from which attendance by the public is barred.

There are dozens of other examples, ranging from mail conference telephone among city commissioners all-fledged meetings where

citizens are physically locked out.

WHY SHOULD meetings of elected and appointed government officials be open to public attendance? Newsmen and editors give a two-fold answer.

First, any political science textbook will tell you that citizen participation in government is vital in a democratic society.

"I'm an elected representative of the people," Harper said. "Those people who elected me to office should have the right to know how I vote on an issue."

"When elected representatives of the people go behind closed doors for their decisions, the whole process of who is responsible to whom in government breaks down."

The net result, in modern terms, has been called a communications gap.

AND FINALLY, secrecy in government often breeds distrust and suspicion toward officials, if not downright dishonesty by the officials themselves.

It doesn't necessarily follow that a governing body which conducts part of its work in private is dishonest. But American history is rife with the story of a closed door which has turned a public trust into a private gain.

Says Jerry Waltrip, city hall reporter for Topeka's WIBW television, "I never operate from the premise that a public official is dumb or dishonest. But if he doesn't want me in a meeting where public business is being considered, then I have to wonder why."

NEXT: Are there times when public officials have a legitimate reason for barring the public from meetings? Some officials and newsmen discuss the dilemma.

(MORE)

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FROM JERRY HARPER, STATE REPRESENTATIVE, 76TH DISTRICT

Officials Want Some Privacy For Meetings

This is the second article in a three-part series on secrecy in government in Kansas and problems resulting from lack of a state law governing open meetings. The series was written by Leroy Towns of the Topeka Daily Capital.

Ask a public official why some meetings of government agencies should be closed to the public, and chances are he'll be ready with a fistful of answers.

Ask a newsman if there are times when citizens should be barred from a meeting of public officials and he'll answer with a qualified "no."

"Of course a public body has an obligation to conduct regular public meetings," said Charles Marling, chairman of Topeka's Washburn University Board of Regents.

"BUT THAT public body must also have closed meetings. If it cannot meet privately for deliberation of confidential matters, then why have the board at all? Why not just go back to the old town meeting system of government?"

The WU regents have made no secret of the fact that much of their deliberation and decision-making is conducted away from public views.

A typical Washburn Board of Regents meeting is conducted like this, Judy Corcoran, Topeka Capital-Journal education writer has reported:

Regular meetings are scheduled on the third Thursday each month. Committee meetings begin privately about 4:30 p.m. Then the full board holds a dinner meeting at the WU Student Union. Reporters are barred from the dinner meeting and the committee meetings.

"THIS IS WHERE the decisions actually are made," Mrs. Corcoran said. "At the public meeting afterward, votes are taken and there usually is a minimum of discussion."

She said the WU regents also meet sporadically and privately throughout the month.

Topeka Mayor Charles Wright compared the conduct of public business to the conduct of business and family affairs.

"The informal conference is a must in any type of business operation," he said. "I like to compare it to the times my wife and I discuss in private things we don't want the kids to overhear."

THE POINT being made by Marling, Wright and various other local officials is twofold.

Some subjects, by their nature, require private discussion by public officials because it is in the best public interest.

And on some other subjects, public officials say they will feel more free to express opinions if they are certain what they say never reach public print.

To some extent, newsmen, whose job is to transmit government news to the citizens, agree with public officials that some government meetings should take place in private.

IN CONTENTION, however, is where the line should be drawn between which meetings should be open and which may be closed.

The question is compounded by the fact that Kansas law is almost silent on the subject of meetings of public officials. A few are required to be open to the public; most are not.

Kansas is among only eight states with no law requiring meeting of public officials to be open to the public.

Newsmen and public officials appear to agree that specific personnel matters may be discussed in private — such as a school board considering an unproved morals complaint against one of its teachers.

"PERSONALLY, I think school boards and other government groups should be able to conduct executive sessions for personnel problems," said Don McNeal, publisher of the Council Grove Republican.

"Especially in a small community, it's very easy in those types of cases to set one person against another."

Bill Brown, publisher of the Garden City Telegram, said, "Sometimes public officials have to go into executive session to discuss personnel problems. That's all there is to it."

OTHER EDITORS and all public officials questioned recently agree. But editors add that any final action, even on personnel matters, should be taken at a public meeting.

Agreement is not so easily reached, however, in other areas.

"Discussion of land acquisition shouldn't be public," said Topeka Mayor Wright. "Also, cases where attorneys are conferring on suits filed against the city and negotiations on land condemnation should be held in private."

But Henry Jameson, publisher of the Abilene Reflector-Chronicle, said recently, "Any meeting of public officials where there is a discussion of public funds should be open to the public. It's as simple as that."

THERE IS NO problem, then, when the public interest is being served by private meetings of government officials. The problem, at least from the standpoint of the private citizen, comes when the secret meeting syndrome is carried to extremes.

"If every meeting of the (Washburn University) regents were held in public, you would never get free and open discussion," said WU Board Chairman Marling. "And you would never get some of the decisions made."

"It is better to keep the discussion in private. Then, as soon as the decision is made, you let the public know about it," he said.

"A BOARD OF regents wants the public to know what it's doing. But at the same time we have to preserve our right for free discussion of these matters among ourselves," he said.

That attitude, proponents of open meeting laws say, is exactly the problem. When discussion of public policy is held in secret, there is no chance for citizens to participate in the decision-making process.

And it's easy for public officials, once they fall into the habit of closed meetings, to carry the closed door to extremes. Many times a group of public officials will go behind closed doors every time a minor controversial issue arises, simply to spare themselves the embarrassment of public discussion.

MAYOR WRIGHT himself has said several times, "Why should we be airing our dirty linen in public?"

The answer, of course, is that business discussed by public officials belongs not to the officials but to the public. Marling, Wright and other officials counter by saying citizens have the ballot box as a recourse. "Or they can go down to the city commission or the school board and ask that certain regents be replaced," Marling said.

At least part of the blame for closed-door meeting of public officials rests with the press. Jameson sees the problem as a failure of the press to sufficiently explain its role both to the public and to public officials.

"NEWSPAPERS, radio and television have failed to educate officials and the public on exactly why meetings of public officials need to be open to all persons," Jameson said.

Jameson also pointed out that the press itself can hinder a public flow of information and force public officials to make a public using unprofessional actions.

"Reporters can conduct a secret meeting by asking stupid questions, being arrogant and selling themselves up as a court and jury."

"I think that is the exception rather than the rule, but it does happen," he said.

NEXT: A lawmaker discusses the need for an open meeting law in Kansas.

(MORE)

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Closed Meetings Prohibited in Most States

(EDITOR'S NOTE: This is the last article in a three-part series on secrecy in government in Kansas and problems resulting from lack of a state law governing open meetings.)

By LEROY TOWNS
Legislative Writer

A Republican legislator, Jerry Harper of Wichita, plans this year to make a third attempt to carry an open meeting bill through the Kansas Legislature.

If he succeeds and the bill becomes law, Kansas will finally join 42 other states which already have laws requiring

meetings of public officials to be open to the public.

But Harper, with one eye on a Legislature which has been reluctant to pass such a law, is not overly optimistic about his bill's chances.

Harper's own bill has been killed in the House State Affairs Committee twice—in 1967 and again in 1968.

In 1957, an open meeting bill backed by the Kansas Press Assn. was soundly defeated. However, a companion bill requiring official government records to be available to the public was passed.

Thus, Kansas has legislation which requires public disclosure of government records, yet it lacks a law requiring that public officials take public action in public view.

Objections to open meeting legislation in Kansas have hinged on the contention that such a law is not needed. Traditionally, public officials also have been reluctant to tie themselves to a law specifically requiring all meetings to be conducted openly.

A growing number of Kansas newsmen and editors, however, argue that government business

is public business and thus should be conducted in full view of a public served by government officials.

In addition, proponents say an open meeting law would shift part of the burden of guarding against government secrecy to the courts.

"Without open meeting legislation, reporters trying to fulfill their assigned tasks are at a great disadvantage," says a statement of Sigma Delta Chi, a nationwide professional journalistic society.

"This means that the public suffers from inadequate

knowledge because of the handicaps reporters are forced to work under. In states with no general freedom of information statutes, a reporter must prove his right to attend meetings. All too frequently the reporter finds that he has no clear-cut right to certain information.

"In states with open meeting statutes, the burden of proof is shifted from the reporter to the public official.

"This changes the emphasis and balance and puts the responsibility for interpreting the law where it should be—on the public officials themselves."

In the United States and in Kansas, there is little constitutional guarantee that public information must be easily obtainable—either through open meetings or open records.

The constitution, of course, provides for freedom of the press. But the right of the press and citizens to attend meetings of public officials is not inherent in that guarantee.

Nearly 150 years ago, Congress gave the press access to the Senate and the House as a matter of grace. Only that grace still exists.

There is a similar situation in

Kansas, where the Senate and the House have extended to reporters the courtesy of floor rights, and where local boards and commissions let reporters sit through meetings as a courtesy.

In states without specific open meeting laws, officials of Sigma Delta Chi point out, there is constant danger that public officials will suddenly revoke the courtesy and close their doors to the public.

Thus in Kansas, a citizen wakes up to find his zoning

changed—the action taken by a secret vote in a closed meeting. Or as a taxpayer, he finds himself locked out of a meeting of the local school board, the city commission or the county commission.

In Kansas, however, a few laws speak on the matter of public meetings. County commissioners, for example, are required to conduct their regular meetings "with open doors." City commissions, although not specifically required to hold open meetings, must pass ordinances before the public with a recorded vote.

And meetings of the new State Board of Education are required to be public.

Open meeting laws in other

states range from simple statements of policy to statutes requiring boards and commissions to give public notice of each time and place — every time a majority of the public officials gather.

Some laws provide misdemeanor penalties for public officials who violate the laws by conducting closed or secret meetings. Others simply provide injunctive relief for citizens barred from a meeting.

For example, the declaration of public policy in the Arkansas law says, "It is vital in a democratic society that public business be performed in an open and public manner so that the electors shall be advised of the performance of public officials and of the decisions that

(MORE)

are reached in public activity and in making public policy.

"Toward this end, this act is adopted, making it possible for them, or their representatives, to learn and to report fully the activities of their public officials."

Most newsmen and editors agree that the press, as the most vocal group seeking open meeting legislation, is not seeking a special privilege for itself.

"We wouldn't want a law that allowed only the press to attend meetings," said Clayton Keller, city editor of the Topeka Daily Capital. Ultimately, it is the public at large — the private citizen — who is most affected by closed meetings of government officials, Keller pointed out.

Another criticism of open meeting legislation is that it is hard to make effective.

"From a practical point of view, there is no way you can force a public body to make all of its decisions at public meetings," said Charles Marling, chairman of the Washburn University Board of Regents.

"Two or more members of any public body can get together on the telephone, visit at lunch or just happen to meet on a street corner," he said.

The criticism probably is valid — to the extent that if a public official is dishonest anyway he would most likely ignore a law making him bare his actions to the public.

At the very least, proponents say, an open meeting law would

make it tougher for dishonesty to creep into government.

Basically, Harper's bill, tattered by two previous defeats, is patterned after laws in other states.

It requires meetings of all boards, commissions and other public bodies spending public funds to be open to all citizens.

It specifically exempts meetings where personnel matters are to be discussed, but provides that all final action must be taken in open session.

After the bill was killed by the Legislature in 1967, Harper added a provision that action by public officials must be taken with a public vote.

In the 1968 session, Harper entered a committee room to explain the bill and was met

with looks of disdain. Glancing around, Harper began gamely, "Just a minute. Before you kill this bill in a secret meeting, let me explain some of its merits."

The committee listened, then promptly killed the bill by using a secret ballot.

Harper's efforts to get the bill passed this year will be bolstered by a growing number of newsmen and at least two professional press organizations in the state.

Several Kansas editors questioned recently replied that they would support attempts at getting open meeting legislation passed. And they said they believe such legislation is needed.

"Part of the problem in past

years was getting support for the bill from state citizens and editors," Harper said. "Even the Kansas Press Assn. showed a marked lack of interest in the bill."

But Harper, who has been rounding up support for his bill for several weeks, sees at least a slim chance it can pass.

"This time will be the third time," he said. "Pretty soon they are going to get tired of me coming back with it."

"You know," he said, "when they killed the bill by using a secret vote — I would agree that was sort of ironically funny at the time."

"If I didn't think this was such a serious matter I even would have enjoyed the fun."